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REPORT
108–61

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003

APRIL 8, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

[To accompany H.R. 1528]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1528) to amend the Internal Revenue Code of 1986 to protect taxpayers and ensure accountability of the Internal Revenue Service, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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19–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Protection and IRS Accountability Act of 2003".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE I—PENALTY AND INTEREST REFORMS

SEC. 101. FAILURE TO PAY ESTIMATED TAX PENALTY CONVERTED TO INTEREST CHARGE ON ACCUMULATED UNPAID BALANCE.

(a) PENALTY MOVED TO INTEREST CHAPTER OF CODE.—The Internal Revenue Code of 1986 is amended by redesignating section 6654 as section 6641 and by moving section 6641 (as so redesignated) from part I of subchapter A of chapter 68 to the end of subchapter E of chapter 67 (as added by subsection (e)(1) of this section).

(b) PENALTY CONVERTED TO INTEREST CHARGE.—The heading and subsections (a) and (b) of section 6641 (as so redesignated) are amended to read as follows:

"SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

"(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

"(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

"(2) DETERMINATION OF INTEREST RATE.—

"(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

"(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term 'installment underpayment period' means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

"(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

"(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.".

(c) INCREASE IN SAFE HARBOR WHERE TAX IS SMALL.—

(1) IN GENERAL.—Clause (i) of section 6641(d)(1)(B) (as so redesignated) is amended to read as follows:

"(i) the lesser of—

"(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $1,600, or".

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6641 (as so redesignated) is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of subsection (e) (as redesignated by subsection (c)(2)) and subsection (h) of section 6641 (as so designated) are each amended by striking "addition to tax" each place it occurs and inserting "interest".

(2) Section 167(g)(5)(D) is amended by striking "6654" and inserting "6641".

(3) Section 460(b)(1) is amended by striking "6654" and inserting "6641".

(4) Section 3510(b) is amended—

(A) by striking "section 6654" in paragraph (1) and inserting "section 6641";

(B) by amending paragraph (2)(B) to read as follows:

"(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $1,600 amount specified in section 6641(d)(1)(B)(i)(II).";

(C) by striking "section 6654(d)(2)" in paragraph (3) and inserting "section 6641(d)(2)"; and

(D) by striking paragraph (4).

(5) Section 6201(b)(1) is amended by striking "6654" and inserting "6641".

(6) Section 6601(h) is amended by striking "6654" and inserting "6641".

(7) Section 6621(b)(2)(B) is amended by striking "addition to tax under section 6654" and inserting "interest required to be paid under section 6641".

(8) Section 6622(b) is amended—

(A) by striking "PENALTY FOR" in the heading; and

(B) by striking "addition to tax under section 6654 or 6655" and inserting "interest required to be paid under section 6641 or addition to tax under section 6655".

(9) Section 6658(a) is amended—

(A) by striking "6654, or 6655" and inserting "or 6655, and no interest shall be required to be paid under section 6641,"; and

(B) by inserting "or paying interest" after "the tax" in paragraph (2)(B)(ii).

(10) Section 6665(b) is amended—

(A) in the matter preceding paragraph (1) by striking ", 6654,"; and

(B) in paragraph (2) by striking "6654 or".

(11) Section 7203 is amended by striking "section 6654 or 6655" and inserting "section 6655 or interest required to be paid under section 6641".

(e) CLERICAL AMENDMENTS.—

(1) Chapter 67 is amended by inserting after subchapter D the following:

"Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

"Sec. 6641. Interest on failure by individual to pay estimated income tax.".

(2) The table of subchapters for chapter 67 is amended by adding at the end the following new items:

"Subchapter D. Notice requirements.
"Subchapter E. Interest on failure by individual to pay estimated income tax.".

(3) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6654.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to installment payments for taxable years beginning after December 31, 2003.

SEC. 102. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139 the following new section:

"SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

"(b) EXCEPTION.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

"(c) SPECIAL RULE FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME.—For purposes of this title, interest not included in gross income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 139 the following new item:

"Sec. 139A. Exclusion from gross income for interest on overpayments of income tax by individuals.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received in calendar years beginning after the date of the enactment of this Act.

SEC. 103. ABATEMENT OF INTEREST.

(a) ABATEMENT OF INTEREST WITH RESPECT TO ERRONEOUS REFUND CHECK WITHOUT REGARD TO SIZE OF REFUND.—Paragraph (2) of section 6404(e) is amended by striking "unless—" and all that follows and inserting "unless the taxpayer (or a related party) has in any way caused such erroneous refund.".

(b) ABATEMENT OF INTEREST TO EXTENT INTEREST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of section 6404 is amended—

(1) in the subsection heading, by striking "PENALTY OR ADDITION" and inserting "INTEREST, PENALTY, OR ADDITION"; and

(2) in paragraph (1) and in subparagraph (B) of paragraph (2), by striking "penalty or addition" and inserting "interest, penalty, or addition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing on or after the date of the enactment of this Act.

SEC. 104. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS.

(a) IN GENERAL.—Subchapter A of chapter 67 (relating to interest on underpayments) is amended by adding at the end the following new section:

"SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

"(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44

which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

"(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

"(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

"(d) PAYMENT OF INTEREST.—

"(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

"(2) DISPUTABLE TAX.—

"(A) IN GENERAL.—For purposes of this section, the term 'disputable tax' means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of the maximum amount of any tax attributable to disputable items.

"(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

"(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

"(A) DISPUTABLE ITEM.—The term 'disputable item' means any item of income, gain, loss, deduction, or credit if the taxpayer—

"(i) has a reasonable basis for its treatment of such item, and

"(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

"(B) 30-DAY LETTER.—The term '30-day letter' means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

"(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

"(e) USE OF DEPOSITS.—

"(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

"(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 67 is amended by adding at the end the following new item:

"Sec. 6603. Deposits made to suspend running of interest on potential underpayments, etc.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to deposits made after the date of the enactment of this Act.

(2) COORDINATION WITH DEPOSITS MADE UNDER REVENUE PROCEDURE 84–58.—In the case of an amount held by the Secretary of the Treasury or his delegate on the date of the enactment of this Act as a deposit in the nature of a cash bond deposit pursuant to Revenue Procedure 84–58, the date that the taxpayer identifies such amount as a deposit made pursuant to section 6603 of the Internal Revenue Code (as added by this Act) shall be treated as the date such amount is deposited for purposes of such section 6603.

SEC. 105. EXPANSION OF INTEREST NETTING FOR INDIVIDUALS.

(a) IN GENERAL.—Subsection (d) of section 6621 (relating to elimination of interest on overlapping periods of tax overpayments and underpayments) is amended by adding at the end the following: "Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accrued after December 31, 2003.

SEC. 106. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME UNINTENTIONAL MINOR ERRORS.

(a) IN GENERAL.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(i) TREATMENT OF FIRST-TIME UNINTENTIONAL MINOR ERRORS.—

"(1) IN GENERAL.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

"(A) the individual has a history of compliance with the requirements of this title,

"(B) it is shown that the failure is due to an unintentional minor error,

"(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

"(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

"(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

"(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

"(C) the failure is the lack of a required signature.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2004.

SEC. 107. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

"SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

"(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

"(1) such person files what purports to be a return of a tax imposed by this title but which—

"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

"(2) the conduct referred to in paragraph (1)—

"(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

"(B) reflects a desire to delay or impede the administration of Federal tax laws.

"(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

"(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

"(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

"(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission is based on a position which the Secretary has identified as frivolous under subsection (c).

"(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

"(i) a request for a hearing under—

"(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

"(II) section 6330 (relating to notice and opportunity for hearing before levy), and

"(ii) an application under—

"(I) section 7811 (relating to taxpayer assistance orders),

"(II) section 6159 (relating to agreements for payment of tax liability in installments), or

"(III) section 7122 (relating to compromises).

"(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

"(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

"(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

"(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.".

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

"Sec. 6702. Frivolous tax submissions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. 108. CLARIFICATION OF APPLICATION OF FEDERAL TAX DEPOSIT PENALTY.

Nothing in section 6656 of the Internal Revenue Code of 1986 shall be construed to permit the percentage specified in subsection (b)(1)(A)(iii) thereof to apply other than in a case where the failure is for more than 15 days.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

SEC. 201. PARTIAL PAYMENT OF TAX LIABILITY IN INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—

(1) Section 6159(a) (relating to authorization of agreements) is amended—

(A) by striking "satisfy liability for payment of" and inserting "make payment on", and

(B) by inserting "full or partial" after "facilitate".

(2) Section 6159(c) (relating to Secretary required to enter into installment agreements in certain cases) is amended in the matter preceding paragraph (1) by inserting "full" before "payment".

(b) REQUIREMENT TO REVIEW PARTIAL PAYMENT AGREEMENTS EVERY TWO YEARS.—Section 6159 is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

"(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into on or after the date of the enactment of this Act.

SEC. 202. EXTENSION OF TIME FOR RETURN OF PROPERTY.

(a) EXTENSION OF TIME FOR RETURN OF PROPERTY SUBJECT TO LEVY.—Subsection (b) of section 6343 (relating to return of property) is amended by striking "9 months" and inserting "2 years".

(b) PERIOD OF LIMITATION ON SUITS.—Subsection (c) of section 6532 (relating to suits by persons other than taxpayers) is amended—

(1) in paragraph (1) by striking "9 months" and inserting "2 years", and

(2) in paragraph (2) by striking "9-month" and inserting "2-year".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) levies made after the date of the enactment of this Act, and

(2) levies made on or before such date if the 9-month period has not expired under section 6343(b) of the Internal Revenue Code of 1986 (without regard to this section) as of such date.

SEC. 203. INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC., ON INDIVIDUAL RETIREMENT PLAN.

(a) IN GENERAL.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

"(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

"(A) the amount of money returned by the Secretary on account of such levy, and

"(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

"(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

"(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

"(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

"(C) such deposit shall not be taken into account under section 408(d)(3)(B).

"(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

"(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid under subsections (b), (c), and (d)(2)(A) of section 6343 of the Internal Revenue Code of 1986 after December 31, 2003.

SEC. 204. SEVEN-DAY THRESHOLD ON TOLLING OF STATUTE OF LIMITATIONS DURING TAX REVIEW.

(a) IN GENERAL.—Section 7811(d)(1) (relating to suspension of running of period of limitation) is amended by inserting after "application," the following: "but only if the date of such decision is at least 7 days after the date of the taxpayer's application,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications filed after the date of the enactment of this Act.

SEC. 205. STUDY OF LIENS AND LEVIES.

The Secretary of the Treasury, or the Secretary's delegate, shall conduct a study of the practices of the Internal Revenue Service concerning liens and levies. The study shall examine—

(1) the declining use of liens and levies by the Internal Revenue Service, and

(2) the practicality of recording liens and levying against property in cases in which the cost of such actions exceeds the amount to be realized from such property.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

TITLE III—TAX ADMINISTRATION REFORMS

SEC. 301. REVISIONS RELATING TO TERMINATION OF EMPLOYMENT OF INTERNAL REVENUE SERVICE EMPLOYEES FOR MISCONDUCT.

(a) IN GENERAL.—Subchapter A of chapter 80 (relating to application of internal revenue laws) is amended by inserting after section 7804 the following new section:

"SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

"(a) DISCIPLINARY ACTIONS.—

"(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

"(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

"(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

"(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

"(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

"(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

"(A) any right under the Constitution of the United States;

"(B) any civil right established under—

"(i) title VI or VII of the Civil Rights Act of 1964;

"(ii) title IX of the Education Amendments of 1972;

"(iii) the Age Discrimination in Employment Act of 1967;

"(iv) the Age Discrimination Act of 1975;

"(v) section 501 or 504 of the Rehabilitation Act of 1973; or

"(vi) title I of the Americans with Disabilities Act of 1990; or

"(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

"(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

"(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

"(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

"(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

"(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

"(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

"(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

"(c) DETERMINATIONS OF COMMISSIONER.—

"(1) IN GENERAL.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

"(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an individual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

"(3) NO APPEAL.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

"(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

"(e) ANNUAL REPORT.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 80 is amended by inserting after the item relating to section 7804 the following new item:

"Sec. 7804A. Disciplinary actions for misconduct.".

(c) REPEAL OF SUPERSEDED SECTION.—Section 1203 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206; 112 Stat. 720) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Subsection (b) of section 6214 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doc-

trine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 303. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Section 6330(d)(1) (relating to judicial review of determination) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to judicial appeals filed after the date of the enactment of this Act.

SEC. 304. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS IN COMPROMISE.

(a) IN GENERAL.—Section 7122(b) (relating to record) is amended by striking "Whenever a compromise" and all that follows through "his delegate" and inserting "If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion".

(b) CONFORMING AMENDMENTS.—Section 7122(b) is amended by striking the second and third sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers-in-compromise submitted or pending on or after the date of the enactment of this Act.

SEC. 305. 15-DAY DELAY IN DUE DATE FOR ELECTRONICALLY FILED INDIVIDUAL INCOME TAX RETURNS.

(a) IN GENERAL.—Section 6072 (relating to time for filing income tax returns) is amended by adding at the end the following new subsection:

"(f) ELECTRONICALLY FILED RETURNS OF INDIVIDUALS.—

"(1) IN GENERAL.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

"(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

"(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

"(2) ELECTRONIC FILING.—Paragraph (1) shall not apply to any return unless—

"(A) such return is accepted by the Secretary, and

"(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

"(3) SPECIAL RULES.—

"(A) ESTIMATED TAX.—If—

"(i) paragraph (1) applies to an individual for any taxable year, and

"(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

"(B) REFERENCES TO DUE DATE.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.

"(4) TERMINATION.—This subsection shall not apply to any return filed with respect to a taxable year which begins after December 31, 2007.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed with respect to taxable years beginning after December 31, 2002.

SEC. 306. ACCESS OF NATIONAL TAXPAYER ADVOCATE TO INDEPENDENT LEGAL COUNSEL.

Clause (i) of section 7803(c)(2)(D) (relating to personnel actions) is amended by striking "and" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", and", and by adding at the end the following new subclause:

"(III) appoint a counsel in the Office of the Taxpayer Advocate to report solely to the National Taxpayer Advocate.".

SEC. 307. PAYMENT OF MOTOR FUEL EXCISE TAX REFUNDS BY DIRECT DEPOSIT.

(a) IN GENERAL.—Subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 3337. Payment of motor fuel excise tax refunds by direct deposit

"The Secretary of the Treasury shall make payments under sections 6420, 6421, and 6427 of the Internal Revenue Code of 1986 by electronic funds transfer (as defined in section 3332(j)(1)) if the person who is entitled to the payment—

"(1) elects to receive the payment by electronic funds transfer; and

"(2) satisfies the requirements of section 3332(g) with respect to such payment at such time and in such manner as the Secretary may require.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end the following new item:

"3337. Payment of motor fuel excise tax refunds by direct deposit.".

SEC. 308. FAMILY BUSINESS TAX SIMPLIFICATION.

(a) IN GENERAL.—Section 761 (defining terms for purposes of partnerships) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED JOINT VENTURE.—

"(1) IN GENERAL.—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

"(A) such joint venture shall not be treated as a partnership,

"(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

"(C) each spouse shall take into account such spouse's respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

"(2) QUALIFIED JOINT VENTURE.—For purposes of paragraph (1), the term 'qualified joint venture' means any joint venture involving the conduct of a trade or business if—

"(A) the only members of such joint venture are a husband and wife,

"(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

"(C) both spouses elect the application of this subsection.".

(b) NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) Subsection (a) of section 1402 (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.".

(2) Subsection (a) of section 211 of the Social Security Act (defining net earnings from self-employment) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by inserting after paragraph (15) the following new paragraph:

"(16) Notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 309. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) CONSUMER OPTIONS.—Paragraph (2) of section 35(e) is amended by inserting at the end the following new subparagraph:

"(C) WAIVER BY ELIGIBLE INDIVIDUALS.—With respect to any month which ends before January 1, 2006, subparagraphs (A) and (B) shall not apply with respect to any eligible individual and such individual's qualifying family members if such eligible individual elects to waive the application of such subparagraphs with respect to such month.".

(b) NO IMPACT ON STATE CONSUMER PROTECTIONS.—Nothing in the amendment made by subsection (a) supercedes or otherwise affects the application of State law relating to consumer insurance protections (including State law implementing the requirements of part B of title XXVII of the Public Health Service Act).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to months beginning after the date of the enactment of this Act.

SEC. 310. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

"(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

"(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

"(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) ERRONEOUS DESIGNATION.—

"(A) IN GENERAL.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the

operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

SEC. 401. COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN DISCLOSABLE TO EITHER SPOUSE BASED ON ORAL REQUEST.

(a) IN GENERAL.—Paragraph (8) of section 6103(e) (relating to disclosure of collection activities with respect to joint return) is amended by striking "in writing" the first place it appears.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 402. TAXPAYER REPRESENTATIVES NOT SUBJECT TO EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.

(a) IN GENERAL.—Paragraph (1) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended—

(1) by striking "Returns" and inserting the following:

"(A) IN GENERAL.—Returns", and

(2) by adding at the end the following new subparagraph:

"(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date which is 180 days after the date of the enactment of this Act.

SEC. 403. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS WHO ARE NOT PARTY TO SUCH PROCEEDINGS.

(a) IN GENERAL.—Paragraph (4) of section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new subparagraph:

"(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

"(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

"(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

"(iii) EXCEPTIONS.—Clause (i) shall not apply—

"(I) to any civil action under section 7407, 7408, or 7409,

"(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

"(III) to disclosure of third party return information by indictment or criminal information, or

"(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.".

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 6103(h) is amended by—

(1) by striking "PROCEEDINGS.—A return" and inserting "PROCEEDINGS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a return";

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively, and by moving such clauses 2 ems to the right; and

(3) in the matter following clause (iv) (as so redesignated), by striking "subparagraph (A), (B), or (C)" and inserting "clause (i), (ii), or (iii)" and by moving such matter 2 ems to the right.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

SEC. 404. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.

(a) GENERAL.—Paragraph (1) of section 6103(k) (relating to disclosure of certain returns and return information for tax administrative purposes) is amended by inserting "(other than the taxpayer's address and TIN)" after "Return information".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disclosures made after the date of the enactment of this Act.

SEC. 405. COMPLIANCE BY CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.

(a) IN GENERAL.—Section 6103(p) (relating to State law requirements) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

"(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

"(B) agrees to conduct an annual, on-site review (mid-point review in the case of contracts of less than 1 year in duration) of each such contractor or other agent to determine compliance with such requirements,

"(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

"(D) certifies to the Secretary for the most recent annual period that each such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract of the contractor or other agent with the agency, and the duration of such contract.".

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 6103(p)(8) is amended by inserting "or paragraph (9)" after "subparagraph (A)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to disclosures made after December 31, 2003.

(2) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (a), shall be made with respect to calendar year 2004.

SEC. 406. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE.

(a) IN GENERAL.—Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by adding at the end the following new paragraphs:

"(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section, sections 7213, 7213A, and 7431 if—

"(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

"(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

"(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

"(A) ensure that such return and return information is kept confidential,

"(B) use such return and return information only for the purpose for which it was requested, and

"(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

"(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

"(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

"(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

"(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.".

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to the Congress on compliance with the designation and certification requirements applicable to requests for or consent to disclosure of returns and return information under section 6103(c) of the Internal Revenue Code of 1986, as amended by subsection (a). Such report shall—

(1) evaluate (on the basis of random sampling) whether—

(A) the amendment made by subsection (a) is achieving the purposes of this section;

(B) requesters and submitters for such disclosure are continuing to evade the purposes of this section and, if so, how; and

(C) the sanctions for violations of such requirements are adequate; and

(2) include such recommendations that the Treasury Inspector General for Tax Administration considers necessary or appropriate to better achieve the purposes of this section.

(c) CONFORMING AMENDMENTS.—

(1) Section 6103(c) is amended by striking "TAXPAYER.—The Secretary" and inserting "TAXPAYER.—

"(1) IN GENERAL.—The Secretary".

(2) Section 7213(a)(1) is amended by striking "section 6103(n)" and inserting "subsections (c) and (n) of section 6103".

(3) Section 7213A(a)(1)(B) is amended by striking "subsection (l)(18) or (n) of section 6103" and inserting "subsection (c), (l)(18), or (n) of section 6103".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests and consents made after 3 months after the date of the enactment of this Act.

SEC. 407. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT.

(a) NOTICE TO TAXPAYER.—Subsection (e) of section 7431 (relating to notification of unlawful inspection and disclosure) is amended by adding at the end the following: "The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration substantiates that such taxpayer's return or return information was inspected or disclosed in violation of any of the provisions specified in paragraph (1), (2), or (3).".

(b) REPORTS.—Subsection (p) of section 6103 (relating to procedure and recordkeeping), as amended by section 405, is further amended by adding at the end the following new paragraph:

"(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

"(A) administrative investigations,

"(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

"(C) criminal prosecutions.".

(c) EFFECTIVE DATE.—

(1) NOTICE.—The amendment made by subsection (a) shall apply to determinations made after the date of the enactment of this Act.

(2) REPORTS.—The amendment made by subsection (b) shall apply to calendar years ending after the date of the enactment of this Act.

SEC. 408. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES.

(a) IN GENERAL.—Section 6103(i)(3)(B) (relating to danger of death or physical injury) is amended by striking "or State" and inserting ", State, or local".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 409. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES.

(a) IN GENERAL.—Paragraph (1) of section 6103(m) (relating to disclosure of taxpayer identity information) is amended by striking "and other media" and by inserting ", other media, and through any other means of mass communication,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 410. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State or Federal issues relating to the tax-exempt status of such organization.

"(3) USE IN ADMINISTRATIVE AND JUDICIAL CIVIL PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in administrative and judicial civil proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general, or

"(ii) any other State official charged with overseeing organizations of the type described in section 501(c)(3).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(2) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting ", or any appropriate State officer (as defined in section 6104(c))," before "or any other person",

(B) in subparagraph (F)(i), by inserting "or any appropriate State officer (as defined in section 6104(c))," before "or any other person", and

(C) in the matter following subparagraph (F), by inserting ", an appropriate State officer (as defined in section 6104(c))," after "including an agency" each place it appears.

(3) Paragraph (2) of section 7213(a) is amended by striking "6103." and inserting "6103 or under section 6104(c).".

(4) Paragraph (2) of section 7213A(a) is amended by inserting "or 6104(c)" after "6103".

(5) Paragraph (2) of section 7431(a) is amended by inserting "(including any disclosure in violation of section 6104(c))" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 411. CONFIDENTIALITY OF TAXPAYER COMMUNICATIONS WITH THE OFFICE OF THE TAXPAYER ADVOCATE.

(a) IN GENERAL.—Subsection (c) of section 7803 is amended by adding at the end the following new paragraph:

"(5) CONFIDENTIALITY OF TAXPAYER INFORMATION.—

"(A) IN GENERAL.—To the extent authorized by the National Taxpayer Advocate or pursuant to guidance issued under subparagraph (B), any officer or employee of the Office of the Taxpayer Advocate may withhold from the Internal Revenue Service and the Department of Justice any information provided by, or regarding contact with, any taxpayer.

"(B) ISSUANCE OF GUIDANCE.—In consultation with the Chief Counsel for the Internal Revenue Service and subject to the approval of the Commissioner of Internal Revenue, the National Taxpayer Advocate may issue guidance regarding the circumstances (including with respect to litigation) under which, and the persons to whom, employees of the Office of the Taxpayer Advocate shall not disclose information obtained from a taxpayer. To the extent to which any provision of the Internal Revenue Manual would require greater disclosure by employees of the Office of the Taxpayer Advocate than the disclosure required under such guidance, such provision shall not apply.

"(C) EMPLOYEE PROTECTION.—Section 7214(a)(8) shall not apply to any failure to report knowledge or information if—

"(i) such failure to report is authorized under subparagraph (A), and

"(ii) such knowledge or information is not of fraud committed by a person against the United States under any revenue law.".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 7803(c)(4) is amended by inserting "and" at the end of clause (ii), by striking "; and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

TITLE V—MISCELLANEOUS

SEC. 501. CLARIFICATION OF DEFINITION OF CHURCH TAX INQUIRY.

Subsection (i) of section 7611 (relating to section not to apply to criminal investigations, etc.) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by inserting after paragraph (5) the following:

"(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.".

SEC. 502. EXPANSION OF DECLARATORY JUDGMENT REMEDY TO TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 7428(a) (relating to creation of remedy) is amended—

(1) in subparagraph (B) by inserting after "509(a))" the following: "or as a private operating foundation (as defined in section 4942(j)(3))"; and

(2) by amending subparagraph (C) to read as follows:

"(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in subsection (c) (other than paragraph (3)) or (d) of section 501 which is exempt from tax under section 501(a), or".

(b) COURT JURISDICTION.—Subsection (a) of section 7428 is amended in the material following paragraph (2) by striking "United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia" and inserting the following: "United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to pleadings filed with respect to determinations (or requests for determinations) made after the date of the enactment of this Act.

SEC. 503. EMPLOYEE MISCONDUCT REPORT TO INCLUDE SUMMARY OF COMPLAINTS BY CATEGORY.

(a) IN GENERAL.—Clause (ii) of section 7803(d)(2)(A) is amended by inserting before the semicolon at the end the following: ", including a summary (by category) of the 10 most common complaints made and the number of such common complaints".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reporting periods ending after the date of the enactment of this Act.

SEC. 504. ANNUAL REPORT ON AWARDS OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

Not later than 3 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress which specifies for such year—

(1) the number of payments made by the United States pursuant to section 7430 of the Internal Revenue Code of 1986 (relating to awarding of costs and certain fees);

(2) the amount of each such payment;

(3) an analysis of any administrative issue giving rise to such payments; and

(4) changes (if any) which will be implemented as a result of such analysis and other changes (if any) recommended by the Treasury Inspector General for Tax Administration as a result of such analysis.

SEC. 505. ANNUAL REPORT ON ABATEMENT OF PENALTIES.

Not later than 6 months after the close of each Federal fiscal year after fiscal year 2003, the Treasury Inspector General for Tax Administration shall submit a report to Congress on abatements of penalties under the Internal Revenue Code of 1986 during such year, including information on the reasons and criteria for such abatements.

SEC. 506. BETTER MEANS OF COMMUNICATING WITH TAXPAYERS.

Not later than 18 months after the date of the enactment of this Act, the Treasury Inspector General for Tax Administration shall submit a report to Congress evaluating whether technological advances, such as e-mail and facsimile transmission, permit the use of alternative means for the Internal Revenue Service to communicate with taxpayers.

SEC. 507. EXPLANATION OF STATUTE OF LIMITATIONS AND CONSEQUENCES OF FAILURE TO FILE.

The Secretary of the Treasury or the Secretary's delegate shall, as soon as practicable but not later than 180 days after the date of the enactment of this Act, revise the statement required by section 6227 of the Omnibus Taxpayer Bill of Rights (Internal Revenue Service Publication No. 1), and any instructions booklet accompanying a general income tax return form for taxable years beginning after 2002 (including forms 1040, 1040A, 1040EZ, and any similar or successor forms relating thereto), to provide for an explanation of—

(1) the limitations imposed by section 6511 of the Internal Revenue Code of 1986 on credits and refunds; and

(2) the consequences under such section 6511 of the failure to file a return of tax.

SEC. 508. AMENDMENT TO TREASURY AUCTION REFORMS.

(a) IN GENERAL.—Clause (i) of section 202(c)(4)(B) of the Government Securities Act Amendments of 1993 (31 U.S.C. 3121 note) is amended by inserting before the semicolon "(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to meetings held after the date of the enactment of this Act.

SEC. 509. ENROLLED AGENTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7528. ENROLLED AGENTS.

"(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

"(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7528. Enrolled agents.".

(c) PRIOR REGULATIONS.—Nothing in the amendments made by this section shall be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other Federal rule or regulation issued before the date of the enactment of this Act.

SEC. 510. FINANCIAL MANAGEMENT SERVICE FEES.

Notwithstanding any other provision of law, the Financial Management Service may charge the Internal Revenue Service, and the Internal Revenue Service may pay the Financial Management Service, a fee sufficient to cover the full cost of implementing a continuous levy program under subsection (h) of section 6331 of the Internal Revenue Code of 1986. Any such fee shall be based on actual levies made and shall be collected by the Financial Management Service by the retention of a portion of amounts collected by levy pursuant to that subsection. Amounts received by the Financial Management Service as fees under that subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(7) of title 31, United States Code, and shall be collected and accounted for in accordance with the provisions of that section. The amount credited against the taxpayer's liability on account of the continuous levy shall be the amount levied, without reduction for the amount paid to the Financial Management Service as a fee.

SEC. 511. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 509, is further amended by adding at the end the following new section:

"SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.

"(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

"(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

"(2) other similar requests.

"(b) PROGRAM CRITERIA.—

"(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

"(A) shall vary according to categories (or subcategories) established by the Secretary,

"(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

"(C) shall be payable in advance.

"(2) EXEMPTIONS, ETC.—

"(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

"(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

"(i) made after the later of—

"(I) the fifth plan year the pension benefit plan is in existence, or

"(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

"(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

"(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

"(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

"(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

"(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

"(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

"Category	Average Fee
Employee plan ruling and opinion	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination	$275
Chief counsel ruling	$200.

"(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7529. Internal Revenue Service user fees.".

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7527 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

SEC. 601. LOW-INCOME TAXPAYER CLINICS.

(a) LIMITATION ON AMOUNT OF GRANTS.—Paragraph (1) of section 7526(c) (relating to special rules and limitations) is amended by striking "$6,000,000 per year" and inserting "$9,000,000 for 2004, $12,000,000 for 2005, and $15,000,000 for each year thereafter".

(b) PROMOTION OF CLINICS.—Section 7526(c) is amended by adding at the end the following new paragraph:

"(6) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.".

(c) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—Section 7526(c), as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(7) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the general overhead expenses of any institution sponsoring a qualified low-income taxpayer clinic.".

(d) ELIGIBLE CLINICS.—

(1) IN GENERAL.—Paragraph (2) of section 7526(b) is amended to read as follows:

"(2) ELIGIBLE CLINIC.—The term 'eligible clinic' means—

"(A) any clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

"(B) any organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 7526(b)(1) is amended by striking "means a clinic" and inserting "means an eligible clinic".

TITLE VII—FEDERAL-STATE UNEMPLOYMENT ASSISTANCE AGREEMENTS

SEC. 701. APPLICABILITY OF CERTAIN FEDERAL-STATE AGREEMENTS RELATING TO UNEMPLOYMENT ASSISTANCE.

Effective as of May 25, 2003, section 208 of Public Law 107–147 is amended—

(1) in subsection (a)(2), by inserting "on or" after "ending"; and

(2) in subsection (b), by striking "May 31" each place it appears and inserting "June 1".

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 1528, as amended, improves taxpayer protections and IRS accountability and makes other necessary changes to the tax laws.

B. BACKGROUND AND NEED FOR LEGISLATION

The provisions approved by the Committee reflect the need for providing increased fairness to taxpayers and enhancing the confidentiality of returns and return information.

The bill also contains various other provisions to reduce complexity and eliminate inequitable effects in the tax law.

C. LEGISLATIVE HISTORY

The House Committee on Ways and Means marked up the Taxpayer Protection and IRS Accountability Act of 2003 on April 2, 2003, and ordered the bill, as amended, favorably reported by voice vote.

TITLE I—PENALTY AND INTEREST REFORMS

A. FAILURE TO PAY ESTIMATED TAX

(Sec. 101 of the bill and new sec. 6641 of the Code)

1. Convert estimated tax penalty into an interest provision for individuals, estates, and trusts

PRESENT LAW

The Federal income tax system is designed to ensure that taxpayers pay taxes throughout the year based on their income earned and expenses. To the extent that tax is not collected through withholding, taxpayers are required to make quarterly estimated payments of tax. If an individual fails to make the required estimated tax payments under the rules, a penalty is imposed under section 6654. The amount of the penalty is determined by applying the underpayment interest rate to the amount of the underpayment for the period of the underpayment. The amount of the underpayment is the excess of the required payment over the amount (if any) of

the installment paid on or before the due date of the installment. The period of the underpayment runs from the due date of the installment to the earlier of (1) the 15th day of the fourth month following the close of the taxable year or (2) the date on which each portion of the underpayment is made. The penalty for failure to pay estimated tax is the equivalent of interest, which is based on the time value of money.

REASONS FOR CHANGE

The present-law penalties for failure to pay estimated tax are essentially a time value of money calculation which is not punitive in nature, but rather compensatory. Because the penalties for failure to pay estimated tax are calculated as interest charges, the Committee believes that conforming their title to the substance of the provision will improve taxpayers' perceptions of the fairness of the estimated tax payment system. Therefore, the Committee finds that the effect of the estimated tax penalties for individuals, estates, and trusts is more appropriately described as interest.

EXPLANATION OF PROVISION

The penalty for failure to pay estimated tax is converted into an interest provision for individuals, estates, and trusts.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2003.

2. Increase and revise estimated tax threshold

PRESENT LAW

Taxpayers are not liable for a penalty for the failure to pay estimated tax when the tax shown on the return for the taxable year (or, if no return is filed, the tax), reduced by withholding, is less than $1,000. This safe harbor does not apply, however, when a taxpayer has paid tax throughout the year solely through estimated tax payments. For such taxpayers, any tax shown on the return for the taxable year, net of estimated tax paid, could subject the taxpayer to the penalty for failure to pay estimated tax (unless another safe harbor applies).

REASONS FOR CHANGE

The Committee believes that by increasing the estimated tax payment threshold, fewer taxpayers will be required to make estimated tax payments. In addition, by including equally-paid estimated tax in the threshold calculation, the de minimis safe harbor will be available to more taxpayers, such as those who pay throughout the year exclusively through estimated tax.

EXPLANATION OF PROVISION

Under the bill, no interest will be charged for underpayments of estimated tax if the tax shown on the return for the taxable year (or, if no return is filed, the tax), reduced by both withholding and/or equally-paid estimated tax is less than $1,600.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2003.

3. Apply one interest rate per estimated tax underpayment period for individuals, estates, and trusts

PRESENT LAW

The present-law penalty for failure to pay estimated tax is equal to the underpayment interest rate multiplied by the number of days the underpayment is outstanding, which is the number of days between when the taxpayer should have made the estimated payment and the earlier of (1) the 15th day of the fourth month following the close of the taxable year or (2) the date on which each portion of the underpayment is made. The interest rate, which equals the Federal short-term rate plus three percentage points, is subject to change on the first day of each quarter, which is January 1, April 1, July 1, and October 1.

If interest rates change while an underpayment of estimated tax is outstanding, then taxpayers are required to make separate calculations for the periods before and after the interest rate change. Such calculations generally are needed to cover 15–day periods. For example, the July 1 interest rate occurs 15 days after the June 15 payment date (for calendar-year taxpayers). A change in interest rates, which occurs on the first day of each calendar quarter, would require the use of different interest rates during one estimated tax underpayment period and would increase the number of calculations that a taxpayer must make in calculating a penalty for failure to pay estimated tax.

REASONS FOR CHANGE

When interest rates change during an underpayment period, taxpayers must perform multiple calculations to account for the change in interest rate. Thus, the Committee finds that, if only one interest rate applied per underpayment period, complexity would be reduced because there generally would be only one interest calculation required per underpayment period.

EXPLANATION OF PROVISION

The interest rates are aligned so that, for any given estimated tax underpayment period, only one interest rate will apply. The underpayment interest rate in effect on the first day of the quarter in which the pertinent estimated payment due date arises is the interest rate that will apply during an entire underpayment period.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2003.

4. Provide that underpayment balances are cumulative

PRESENT LAW

Section 6654(b)(1) defines "underpayment" as the amount of an installment due over the amount of any installment paid (including

withholding) on or before the due date of the installment. In determining an underpayment penalty for a calendar year taxpayer, the period of underpayment runs for each underpayment from the payment's due date through the earlier of the date on which any portion of the payment is made or the 15th day of the fourth month following the close of the taxable year. Underpayment balances are not cumulative and must be tracked separately for each estimated tax underpayment period.

REASONS FOR CHANGE

Tracking underpayments separately results in additional complexity in calculating interest on underpayments of estimated tax. The Committee thus finds that the calculation of interest on underpayments of estimated tax would be simplified by providing that underpayment balances would roll into the next estimated tax period so that interest would be calculated once per cumulative underpayment, per period.

EXPLANATION OF PROVISION

The definition of "underpayment" is changed to allow existing underpayment balances to be used in underpayment calculations for succeeding estimated payment periods. Taxpayers will now calculate a cumulative underpayment at the end of each underpayment period.

EFFECTIVE DATE

The provision is effective for estimated tax payments made for taxable years beginning after December 31, 2003.

B. Exclusion From Gross Income for Interest on Overpayments of Income Tax by Individuals

(Sec. 102 of the bill and new sec. 139A of the Code)

PRESENT LAW

Overpayment interest

Interest is included in the list of items that are required to be included in gross income (sec. 61(a)(4)). Interest on overpayments of Federal income tax is required to be included in taxable income in the same manner as any other interest that is received by the taxpayer.

Cash basis taxpayers are required to report overpayment interest as income in the period the interest is received. Accrual basis taxpayers are required to report overpayment interest as income when all events fixing the right to the receipt of the overpayment interest have occurred and the amount can be estimated with reasonable accuracy. Generally, this occurs on the date the appropriate IRS official signs the pertinent schedule of overassessments.

Underpayment interest

A corporate taxpayer is allowed to currently take into account interest paid on underpayments of Federal income tax as an ordinary and necessary business expense. Typically, this results in a current deduction. However, the deduction may be deferred if the interest

is required to be capitalized or may be disallowed if and to the extent it is determined to be a cost of earning tax exempt income under section 265.

Section 163(h) of the Code prohibits the deduction of personal interest by taxpayers other than corporations. Noncorporate taxpayers, including individuals, generally are not allowed to deduct interest on the underpayment of Federal income taxes.

Temporary regulations provide that personal interest includes interest paid on underpayments of individual Federal, State or local income taxes, regardless of the source of the income generating the tax liability. This is consistent with the statement in the General Explanation of the Tax Reform Act of 1986 that "(p)ersonal interest also includes interest on underpayments of individual Federal, State, or local income taxes notwithstanding that all or a portion of the income may have arisen in a trade or business, because such taxes are not considered derived from conduct of a trade or business." The validity of the temporary regulation has been upheld in those Circuits that have considered the issue, including the Fourth, Sixth, Eighth, and Ninth Circuits.

Personal interest also includes interest that is paid by a trust, S corporation, or other pass-through entity on underpayments of State or local income taxes. Personal interest does not include interest that is paid with respect to sales, excise or similar taxes that are incurred in connection with a trade or business or an investment activity.

REASONS FOR CHANGE

The Committee believes that there should be consistency in the treatment of interest paid by the Federal government to an individual taxpayer and interest paid by an individual taxpayer to the Federal government. Allowing individual taxpayers to exclude interest on overpayments will treat all individual taxpayers consistently, whether or not they itemize deductions.

EXPLANATION OF PROVISION

The bill excludes overpayment interest that is paid to individual taxpayers on overpayments of Federal income tax from gross income. Interest excluded under the provision is not considered disqualified income that could limit the earned income credit. Interest excluded under the provision also is not considered in determining what portion of a taxpayer's social security or tier 1 railroad retirement benefits are subject to tax (sec. 86), whether a taxpayer has sufficient taxable income to be required to file a return (sec. 6012(d)), or for any other computation in which interest exempt from tax is otherwise required to be added to adjusted gross income.

The exclusion from income of overpayment interest does not apply if the Secretary determines that the taxpayer's principal purpose for overpaying his or her tax is to take advantage of the exclusion.

For example, a taxpayer prepares his return without taking into account significant itemized deductions of which he is, or should be, aware. Before the expiration of the statute of limitations, the taxpayer files an amended return claiming these itemized deductions and requesting a refund with interest. Unless the taxpayer can es-

tablish a principal purpose for originally overpaying the tax other than collecting excludible interest, the Secretary may determine that the principal purpose of waiting to claim the deductions on an amended return was to earn interest that would be excluded from income. In that case, the interest on the overpayment could not be excluded from income.

It is expected that the Secretary will indicate whether the interest is eligible to be excluded from income on the Form 1099 it provides that taxpayer for taxable year in which the underpayment interest is paid.

EFFECTIVE DATE

The provision is effective for interest received in calendar years beginning after the date of enactment.

C. ABATEMENT OF INTEREST

(Sec. 103 of the bill and sec. 6404 of the Code)

PRESENT LAW

In general

The Secretary of the Treasury can abate or suspend the accrual of interest in a number of situations. In general, the Secretary is authorized to abate interest that is not owed by the taxpayer, either because the interest was erroneously or illegally assessed, or because the interest was assessed after the expiration of the period of limitations. The Secretary also may abate interest that is attributable to certain unreasonable errors and delays by the Internal Revenue Service. The Secretary may abate interest where, in his judgment, the administration and collection costs involved do not warrant the collection of the amount due.

The Secretary is required to abate interest in the case of a declared disaster or certain erroneous refunds attributable solely to errors made by the IRS. The Secretary is required to suspend the accrual of interest if the IRS fails to contact the taxpayer in a timely manner and in the case of taxpayers serving in a combat zone.

Interest that is abated is not owed by the taxpayer and does not accrue additional interest through compounding or result in any additional penalties. If the accrual of interest is suspended for a period, then that period is not taken into account in determining the interest owed on an underpayment.

Abatement of interest that is erroneously or illegally assessed

Most abatements of interest are a result of adjustments to the underlying tax liability. Underpayment interest is assessed any time an underpayment is assessed. If the underlying tax liability is later adjusted, resulting in a reduction in the amount of the underpayment, the portion of the interest attributable to such adjustment must be abated.

Abatement of interest on erroneous refunds

The Secretary is required to abate interest on an erroneous refund for the period from the issuance of the refund until its return is demanded. Since the taxpayer has 21 days from the date of demand to pay without interest, no interest must be paid as the re-

sult of an erroneous refund if the taxpayer repays the refund within 21 days of the IRS asking for its return. If the taxpayer does not repay the refund within the 21 day grace period, interest must be paid from the date the return of the refund is demanded. The rule abating interest in the case of erroneous refunds does not apply if the taxpayer (or a related party) has in any way caused the erroneous refund or if the amount of the erroneous refund exceeds $50,000.

Abatement of penalties and additions to tax attributable to erroneous written advice given by the IRS

The Secretary is required to abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the IRS acting in his or her official capacity. The abatement applies only if (1) the advice is given in response to a specific written request made by the taxpayer, (2) the taxpayer reasonably relied on the advice, and (3) the taxpayer provided adequate and accurate information.

Only penalties and additions to tax that are attributable to erroneous written advice given by the IRS are abated under this rule. Interest is abated only to the extent that it is attributable to abated penalties and additions to tax. Interest attributable to an underpayment of tax, where such underpayment is the result of the taxpayer's proper reliance on written advice of the IRS, is not eligible for abatement.

Procedures for the abatement of interest

Taxpayers may apply for the abatement of interest by filing a claim on Form 843 with the Internal Revenue Service Center that has assessed the interest the taxpayer seeks to have abated.

Typically, interest is abated when the amount of tax assessed is reduced. Thus, any procedure that may result in the reduction of assessed tax may also result in an abatement of interest.

REASONS FOR CHANGE

The Committee believes that there are additional situations in which it is not appropriate for the Secretary to collect interest on an underpayment of tax.

EXPLANATION OF PROVISION

Allow for the abatement of interest in situations where the taxpayer is repaying an excessive refund based on IRS calculations without regard to the size of the refund

The provision eliminates the $50,000 threshold for abatement of interest on erroneous refunds. Under the provision, the Secretary is required to abate interest on any erroneous refund, provided the taxpayer has not in any way caused the erroneous refund to occur.

Allow the abatement of interest to the extent the interest is attributable to taxpayer reliance on written statements of the IRS

The provision requires the Secretary to abate interest on an underpayment where the underpayment is attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the IRS acting in his or her official capacity. It is antici-

pated that the abatement would apply to interest attributable to the period of time from the issuance of the erroneous advice through the day that is 21 days (10 days in the case of an underpayment in excess of $100,000) after the day the IRS gives written notice that its advice was erroneous. The provision does not eliminate the taxpayer's obligation to satisfy any underpayment of tax attributable to such erroneous advice.

EFFECTIVE DATE

The changes made by these provisions are effective with respect to interest accruing on or after the date of enactment.

D. Deposits Made To Suspend the Running of Interest on Potential Underpayments

(Sec. 104 of the bill and new sec. 6603 of the Code)

PRESENT LAW

Generally, interest on underpayments and overpayments continues to accrue during the period that a taxpayer and the IRS dispute a liability. The accrual of interest on an underpayment is suspended if the IRS fails to notify an individual taxpayer in a timely manner, but interest will begin to accrue once the taxpayer is properly notified. No similar suspension is available for other taxpayers.

A taxpayer that wants to limit its exposure to underpayment interest has a limited number of options. The taxpayer can continue to dispute the amount owed and risk paying a significant amount of interest. If the taxpayer continues to dispute the amount and ultimately loses, the taxpayer will be required to pay interest on the underpayment from the original due date of the return until the date of payment.

In order to avoid the accrual of underpayment interest, the taxpayer may choose to pay the disputed amount and immediately file a claim for refund. Payment of the disputed amount will prevent further interest from accruing if the taxpayer loses (since there is no longer any underpayment) and the taxpayer will earn interest on the resultant overpayment if the taxpayer wins. However, the taxpayer will generally lose access to the Tax Court if it follows this alternative. Amounts paid generally cannot be recovered by the taxpayer on demand, but must await final determination of the taxpayer's liability. Even if an overpayment is ultimately determined, overpaid amounts may not be refunded if they are eligible to be offset against other liabilities of the taxpayer.

The taxpayer may also make a deposit in the nature of a cash bond. The procedures for making a deposit in the nature of a cash bond are provided in Rev. Proc. 84–58.

A deposit in the nature of a cash bond will stop the running of interest on an amount of underpayment equal to the deposit, but the deposit does not itself earn interest. A deposit in the nature of a cash bond is not a payment of tax and is not subject to a claim for credit or refund. A deposit in the nature of a cash bond may be made for all or part of the disputed liability and generally may be recovered by the taxpayer prior to a final determination. However, a deposit in the nature of a cash bond need not be refunded

to the extent the Secretary determines that the assessment or collection of the tax determined would be in jeopardy, or that the deposit should be applied against another liability of the taxpayer in the same manner as an overpayment of tax. If the taxpayer recovers the deposit prior to final determination and a deficiency is later determined, the taxpayer will not receive credit for the period in which the funds were held as a deposit. The taxable year to which the deposit in the nature of a cash bond relates must be designated, but the taxpayer may request that the deposit be applied to a different year under certain circumstances.

REASONS FOR CHANGE

The Committee believes that an improved deposit system that allows for the payment of interest on amounts that are not ultimately needed to offset tax liability when the taxpayer's position is upheld, as well as allowing for the offset of tax liability when the taxpayer's position fails, will provide an effective way for taxpayers to manage their exposure to underpayment interest. However, the Committee believes that such an improved deposit system should be reserved for the issues that are known to both parties, either through IRS examination or voluntary taxpayer disclosure.

EXPLANATION OF PROVISION

In general

The bill allows a taxpayer to deposit cash with the IRS that may subsequently be used to pay an underpayment of income, gift, estate, generation-skipping, or certain excise taxes. Interest will not be charged on the portion of the underpayment that is paid by the deposited amount for the period the amount is on deposit. Generally, deposited amounts that have not been used to pay a tax may be withdrawn at any time if the taxpayer so requests in writing. The withdrawn amounts will earn interest at the applicable Federal rate to the extent they are attributable to a disputable tax.

The Secretary may issue rules relating to the making, use, and return of the deposits.

Use of a deposit to offset underpayments of tax

Any amount on deposit may be used to pay an underpayment of tax that is ultimately assessed. If an underpayment is paid in this manner, the taxpayer will not be charged underpayment interest on the portion of the underpayment that is so paid for the period the funds were on deposit.

For example, assume a calendar year individual taxpayer deposits $20,000 on May 15, 2005, with respect to a disputable item on its 2004 income tax return. On April 15, 2007, an examination of the taxpayer's year 2004 income tax return is completed, and the taxpayer and the IRS agree that the taxable year 2004 taxes were underpaid by $25,000. The $20,000 on deposit is used to pay $20,000 of the underpayment, and the taxpayer also pays the remaining $5,000. In this case, the taxpayer will owe underpayment interest from April 15, 2005 (the original due date of the return) to the date of payment (April 15, 2007) only with respect to the $5,000 of the underpayment that is not paid by the deposit. The taxpayer will owe underpayment interest on the remaining $20,000

of the underpayment only from April 15, 2005, to May 15, 2005, the date the $20,000 was deposited.

Withdrawal of amounts

A taxpayer may request the withdrawal of any amount of deposit at any time. The Secretary must comply with the withdrawal request unless the amount has already been used to pay tax or the Secretary properly determines that collection of tax is in jeopardy. Interest will be paid on deposited amounts that are withdrawn at a rate equal to the short-term applicable Federal rate for the period from the date of deposit to a date not more than 30 days preceding the date of the check paying the withdrawal. Interest is not payable to the extent the deposit was not attributable to a disputable tax.

For example, assume a calendar year individual taxpayer receives a 30-day letter showing a deficiency of $20,000 for taxable year 2004 and deposits $20,000 on May 15, 2006. On April 15, 2007, an administrative appeal is completed, and the taxpayer and the IRS agree that the 2004 taxes were underpaid by $15,000. $15,000 of the deposit is used to pay the underpayment. In this case, the taxpayer will owe underpayment interest from April 15, 2005 (the original due date of the return) to May 15, 2006, the date the $20,000 was deposited. Simultaneously with the use of the $15,000 to offset the underpayment, the taxpayer requests the return of the remaining amount of the deposit (after reduction for the underpayment interest owed by the taxpayer from April 15, 2005, to May 15, 2006). This amount must be returned to the taxpayer with interest determined at the short-term applicable Federal rate from May 15, 2006, to a date not more than 30 days preceding the date of the check repaying the deposit to the taxpayer.

Limitation on amounts for which interest may be allowed

Interest on a deposit that is returned to a taxpayer shall be allowed for any period only to the extent attributable to a disputable item for that period. A disputable item is any item for which the taxpayer (1) has a reasonable basis for the treatment used on its return and (2) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

All items included in a 30-day letter to a taxpayer are deemed disputable for this purpose. Thus, once a 30-day letter has been issued, the disputable amount cannot be less than the amount of the deficiency shown in the 30-day letter. A 30-day letter is the first letter of proposed deficiency that allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

Deposits are not payments of tax

A deposit is not a payment of tax prior to the time the deposited amount is used to pay a tax. Thus, the interest received on withdrawn deposits will not be eligible for the proposed exclusion from income of an individual. Similarly, withdrawal of a deposit will not establish a period for which interest was allowable at the short-term applicable Federal rate for the purpose of establishing a net

zero interest rate on a similar amount of underpayment for the same period.

EFFECTIVE DATE

The provision applies to deposits made after the date of enactment. Amounts already on deposit as of the date of enactment are treated as deposited (for purposes of applying this provision) on the date the taxpayer identifies the amount as a deposit made pursuant to this provision.

E. Expansion of Interest Netting for Individuals

(Sec. 105 of the bill and sec. 6621 of the Code)

PRESENT LAW

A special net interest rate of zero applies to the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by the same taxpayer. If both the underpayment and overpayment are unsatisfied, the interest rate applied to both will be zero. If either the underpayment or overpayment has previously been satisfied, the interest rate applicable to the unsatisfied amount will be equal to the interest rate applicable to the satisfied amount to the extent that interest was allowable or payable on both the underpayment and the overpayment for the same period.

Interest must be both payable and allowable for interest netting to apply. If interest is not payable by the taxpayer with respect to an underpayment of tax, or interest is not allowable to the taxpayer on an overpayment of tax, the interest netting rules will not apply.

For example, on July 1, 2007, a deficiency of $1,500 is determined with respect to an individual taxpayer's 2004 Federal income tax return, which the taxpayer pays within 21 days. In the meantime, the taxpayer has filed returns for 2005 and 2006, showing a refund due to overwithholding each year of $1,000. The IRS issues the appropriate refund checks on May 15 of each year, within 45 days of the due date of the return. Thus, interest is not allowable to the taxpayer with respect to either 2005 or 2006. In this case, the taxpayer owes interest on the $1500 year 2004 underpayment from the original due date of the return (April 15, 2005) until the underpayment is satisfied. Although, there are offsetting periods of overpayment (April 15, 2006 to May 15, 2006 and April 15, 2007 to May 15, 2007), there is no offsetting period for which interest is allowable on an overpayment.

REASONS FOR CHANGE

The Committee believes that individual taxpayers should be allowed to consider the period of time the Secretary is allowed to process a refund in determining a net interest rate.

EXPLANATION OF PROVISION

In the case of an individual taxpayer, the interest netting rules are applied without regard to the 45-day period in which the Secretary may refund an overpayment of tax without the payment of interest under section 6611(e). Solely for the purpose of the interest

netting computation, the portion of the 45-day period before repayment of the overpayment is considered as a period for which overpayment interest was allowable at a zero rate. The provision does not modify the period for which interest is payable or allowable for any other purpose.

In the example discussed as part of present law, above, a net interest rate of zero would be applied to $1,000 of the taxpayer's year 2004 underpayment for the periods between the due date of the 2005 and 2006 returns and the dates on which the refunds are made. The taxpayer in the example would owe interest at the underpayment rate for the periods from April 16, 2005, to April 16, 2006; May 16, 2006 to April 16, 2007; and from May 16, 2007 to July 1, 2007. For the periods April 16, 2006, to May 15, 2006 and April 16, 2007 to May 15, 2007, a zero net interest rate will apply.

EFFECTIVE DATE

The provision is effective for interest accrued after December 31, 2003.

F. Waiver of Certain Penalties for First-Time Unintentional Minor Errors

(Sec. 106 of the bill and sec. 6651 of the Code)

PRESENT LAW

Taxpayers who fail to file tax returns or pay taxes as required by the Code are subject to penalty (sec. 6651). The Code authorizes the IRS to waive these penalties for reasonable cause. There is no explicit statutory provision providing a waiver for first-time unintentional minor errors.

REASONS FOR CHANGE

The Committee recognizes that the Secretary has broad authority to abate penalties generally, as well as specific authority to waive these penalties for reasonable cause. The Committee believes that the Secretary has not always exercised this authority with respect to unintentional, minor errors that are committed by individual taxpayers. The Committee believes that it will promote effective tax administration to add to the Secretary's authority an explicit waiver for certain first-time unintentional minor errors. The Committee intends that this addition to the Secretary's authority not be considered to diminish or constrain in any respect the Secretary's authority to abate or waive these penalties under present law.

EXPLANATION OF PROVISION

The bill explicitly permits the IRS to waive these penalties for unintentional minor errors that are committed by an individual taxpayer with a good history of tax compliance and the penalty for which would be grossly disproportionate to the action or expense that would have been needed to avoid the error. Waiving these penalties under these circumstances must also promote tax compliance and effective tax administration. This waiver is applicable once to a taxpayer.

EFFECTIVE DATE

The provision is effective after December 31, 2003.

G. Frivolous Tax Returns and Submissions

(Sec. 107 of the bill and sec. 6702 of the Code)

PRESENT LAW

The Code provides that an individual who files a frivolous income tax return is subject to a penalty of $500 imposed by the IRS (sec. 6702). The Code also permits the Tax Court to impose a penalty of up to $25,000 if a taxpayer has instituted or maintained proceedings primarily for delay or if the taxpayer's position in the proceeding is frivolous or groundless (sec. 6673(a)).

REASONS FOR CHANGE

The Committee believes that adopting this provision from the President's budget proposal will improve effective tax administration.

EXPLANATION OF PROVISION

The bill modifies this IRS-imposed penalty by increasing the amount of the penalty to up to $5,000 and by applying it to all taxpayers and to all types of Federal taxes.

The provision also modifies present law with respect to certain submissions that raise frivolous arguments. The submissions to which this provision applies are requests for a collection due process hearing, installment agreements, offers-in-compromise, and taxpayer assistance orders. The provision permits the IRS to impose a penalty of up to $5,000 for such requests, unless the taxpayer withdraws the request within 30 days after being given an opportunity to do so.

The provision requires the IRS to publish a list of positions, arguments, requests, and proposals determined to be frivolous for purposes of these provisions.

EFFECTIVE DATE

The provision is effective for submissions made and issues raised after the date on which the Secretary first prescribes the required list.

H. Clarification of Application of Federal Tax Deposit Penalty

(Sec. 108 of the bill)

PRESENT LAW

In many instances, taxpayers are required to make deposits of Federal taxes (sec. 6302). Failure to do so is subject to a penalty (sec. 6656). The amount of that penalty depends on the length of time that the deposit was not made. The penalty is 2 percent of the underpayment if the failure to deposit is for not more than 5 days, 5 percent for 6 through 15 days, and 10 percent for more than 15 days. The IRS has stated its position that the 10 percent penalty

rate automatically applies if a deposit is not made in the manner required.

REASONS FOR CHANGE

The Committee believes that the position of the IRS does not reflect the intent of the Congress in enacting this penalty, that the rate of the penalty vary depending on the time of the failure, whether the failure being penalized is a failure to make a deposit in the manner required or a failure to make a deposit at all. The Committee considers it anomalous that the IRS would interpret this penalty so that individuals who make the correct deposit but not in the manner required are penalized at a higher rate than those that do not make a deposit at all until several days after the due date. The Committee believes it is more appropriate to penalize taxpayers in similar situations similarly.

EXPLANATION OF PROVISION

The application of the Federal tax deposit penalty is clarified so that the 10 percent penalty rate only applies in cases where the failure to deposit extends for more than 15 days. Thus, a taxpayer who makes a deposit on time but not in the manner required will be subject to a penalty of 2 percent.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE II—FAIRNESS OF COLLECTION PROCEDURES

A. AUTHORIZE IRS TO ENTER INTO INSTALLMENT AGREEMENTS THAT PROVIDE FOR PARTIAL PAYMENT

(Sec. 201 of the bill and sec. 6159 of the Code)

PRESENT LAW

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed (sec. 6159). An installment agreement does not reduce the amount of taxes, interest, or penalties owed. Generally, during the period installment payments are being made, other IRS enforcement actions (such as levies or seizures) with respect to the taxes included in that agreement are held in abeyance.

Prior to 1998, the IRS administratively entered into installment agreements that provided for partial payment (rather than full payment) of the total amount owed over the period of the agreement. In that year, the IRS Chief Counsel issued a memorandum concluding that partial payment installment agreements were not permitted.

REASONS FOR CHANGE

The Committee believes that clarifying that the IRS is authorized to enter into installment agreements with taxpayers which do not provide for full payment of the taxpayer's liability over the life of the agreement will improve effective tax administration.

The Committee recognizes that some taxpayers are unable or unwilling to enter into a realistic offer in compromise. The Committee believes that these taxpayers should be encouraged to make partial payments toward resolving their tax liability, and that providing for partial payment installment agreements will help facilitate this. The Committee also believes, however, that the offer in compromise program should remain the sole avenue via which taxpayers fully resolve their tax liabilities and attain a fresh start.

EXPLANATION OF PROVISION

The provision clarifies that the IRS is authorized to enter into installment agreements with taxpayers which do not provide for full payment of the taxpayer's liability over the life of the agreement. The provision also requires the IRS to review partial payment installment agreements at least every two years. The primary purpose of this review is to determine whether the financial condition of the taxpayer has significantly changed so as to warrant an increase in the value of the payments being made.

EFFECTIVE DATE

The provision is effective for installment agreements entered into on or after the date of enactment.

B. Extend Time Limit for Contesting IRS Levy

(Sec. 202 of the bill and sec. 6343 of the Code)

PRESENT LAW

The IRS is authorized to return property that has been wrongfully or mistakenly levied upon (sec. 6343). In general, monetary proceeds may be returned within 9 months of the date of the levy.

REASONS FOR CHANGE

The Committee understands that in many cases this 9-month period may be insufficient for taxpayers or third parties to discover a wrongful or mistaken levy and seek to remedy it. Accordingly, the Committee believes it is appropriate to provide for a longer period of time within which a person may contest a wrongful IRS levy.

EXPLANATION OF PROVISION

The bill extends this 9-month period to 2 years.

EFFECTIVE DATE

The provision is effective with respect to: (1) levies made after the date of enactment; and (2) levies made on or before the date of enactment provided that the 9-month period has not expired as of the date of enactment.

C. Individuals Held Harmless on Improper Levy on Individual Retirement Plan

(Sec. 203 of the bill and sec. 6343 of the Code)

PRESENT LAW

Distributions from an individual retirement arrangement ("IRA") made on account of an IRS levy are includible in the gross income of the individual under the rules applicable to the IRA subject to the levy. Thus, in the case of a traditional IRA, the amount withdrawn as a result of a levy is includible in gross income except to the extent such amount represents a return of nondeductible contributions (i.e., basis). In the case of a Roth IRA, earnings on a distribution are excludable from gross income if the distribution is made (1) after the five-taxable year period beginning with the first taxable year for which the individual made a contribution to a Roth IRA and (2) after attainment of age 59½ or on account of certain other circumstances. Amounts withdrawn from an IRA due to a levy are not subject to the 10-percent early withdrawal tax, regardless of whether the amount is includible in income.

Present law provides rules under which the IRS returns amounts subject to a levy. For example, amounts withdrawn from an IRA pursuant to a levy are returned to the individual owning the IRA in the case of a wrongful levy or if the levy was not in accordance with IRS administrative procedures. In the case of a wrongful levy, the IRS is required to pay interest on the amount returned to the individual at the overpayment rate.

Present law does not provide special rules to allow an individual to recontribute to an IRA amounts withdrawn from an IRA pursuant to a levy and later returned to the individual by the IRS (or interest thereon). Thus, if an individual wishes to contribute such returned amounts to an IRA, the contribution would be subject to the normally applicable rules for IRA contributions.

REASONS FOR CHANGE

IRA assets provide an important source of retirement income for many Americans. Under present law, if the IRS levies on an IRA, the individual owning the IRA may not be made whole, even if the IRS returns the amount levied, with interest, because the individual may lose the opportunity to have those funds accumulate on a tax-favored basis until retirement. The Committee believes that levies should not reduce retirement income security for IRA owners. Thus, the Committee bill provides that IRA funds that are withdrawn pursuant to an IRS levy and returned by the IRS may be recontributed to the IRA.

EXPLANATION OF PROVISION

Under the provision, an individual is able to recontribute to an IRA amounts withdrawn pursuant to a levy and returned by the IRS (and any interest thereon) within 60 days of receipt by the individual, without regard to the normally applicable limits on IRA contributions and rollovers. The provision applies to levied amounts returned to the individual because the levy (1) was wrongful or (2) is determined to be premature or otherwise not in accordance with administrative procedures. The contribution has to be

made to the same type of IRA from which the amounts were withdrawn.

Under the provision, the IRS is required to pay interest on amounts returned to the individual at the overpayment rate in the case of a levy that is determined to be premature or otherwise not in accordance with administrative procedures (as well as in the case of a wrongful levy under present law). Interest paid by the IRS on the amount returned to the individual and contributed to the IRA is treated as part of the distribution made from the IRA on account of the levy and is not includible in gross income. In addition, any tax attributable to an amount distributed from an IRA by reason of a levy is abated if the amount is recontributed to an IRA pursuant to the provision.

EFFECTIVE DATE

The provision is effective for levied amounts (and interest thereon) returned to individuals after December 31, 2003.

D. Place Threshold on Tolling of Statute of Limitations During Review by Taxpayer Advocate Service

(Sec. 204 of the bill and sec. 7811 of the Code)

PRESENT LAW

Taxpayers suffering significant hardship may request that the Office of the Taxpayer Advocate issue a Taxpayer Assistance Order, which requires the IRS to take (or refrain from taking) specified actions (sec. 7811). The statute of limitations is suspended for the period beginning on the date of the taxpayer's application and ending on the date of the decision by the National Taxpayer Advocate.

REASONS FOR CHANGE

The Committee believes that the administration of this suspension of the statute of limitations would be improved by disregarding relatively short periods of review by the Taxpayer Advocate.

EXPLANATION OF PROVISION

The bill modifies this suspension of statute of limitations by applying it only if the date of the decision by the National Taxpayer Advocate is at least 7 days after the date of the taxpayer's application.

EFFECTIVE DATE

The provision is effective on the date of enactment.

E. Study of Liens and Levies

(Sec. 205 of the bill)

PRESENT LAW

To aid in the collection of tax liabilities, the IRS may impose liens and levies against property of the taxpayer.

REASONS FOR CHANGE

The Committee is aware of situations in which the IRS appears to be misusing its resources by imposing liens on taxpayers' assets for tax debts that are significantly less than the cost of executing and recording a lien. The Committee is also concerned about the significant recent decline in the use by the IRS of certain enforcement actions, including liens and levies. The Committee believes that both of these situations may be related, at least in part, to improper personnel training or supervision. Accordingly, the Committee believes that a study of these provisions and their administration could provide the Committee with valuable information.

EXPLANATION OF PROVISION

The bill requires the Treasury to conduct a study of the practices of the IRS concerning liens and levies. The study will examine the declining use of liens and levies by the IRS and the practicality of recording liens and levies against property in cases where the cost of such actions exceeds the amount to be realized from the property.

EFFECTIVE DATE

The study is required to be submitted to the Congress not later than one year after the date of enactment.

TITLE III—TAX ADMINISTRATION REFORMS

A. Revisions Relating to Termination of Employment of IRS Employees for Misconduct

(Sec. 301 of the bill and new sec. 7804A of the Code)

PRESENT LAW

Section 1203 of the IRS Restructuring and Reform Act of 1998 requires the IRS to terminate an employee for certain proven violations committed by the employee in connection with the performance of official duties. The violations include: (1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets; (2) providing a false statement under oath material to a matter involving a taxpayer; (3) with respect to a taxpayer, taxpayer representative, or other IRS employee, the violation of any right under the U.S. Constitution, or any civil right established under titles VI or VII of the Civil Rights Act of 1964, title IX of the Educational Amendments of 1972, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, sections 501 or 504 of the Rehabilitation Act of 1973 and title I of the Americans with Disabilities Act of 1990; (4) falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or a taxpayer representative; (5) assault or battery on a taxpayer or other IRS employee, but only if there is a criminal conviction or a final judgment by a court in a civil case, with respect to the assault or battery; (6) violations of the Internal Revenue Code, Treasury Regulations, or policies of the IRS (including the Internal Revenue Manual) for the purpose of retaliating or harassing a taxpayer or other IRS employee; (7) willful

misuse of section 6103 for the purpose of concealing data from a Congressional inquiry; (8) willful failure to file any tax return required under the Code on or before the due date (including extensions) unless failure is due to reasonable cause; (9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause; and (10) threatening to audit a taxpayer for the purpose of extracting personal gain or benefit.

Section 1203 also provides non-delegable authority to the Commissioner to determine that mitigating factors exist, that, in the Commissioner's sole discretion, mitigate against terminating the employee. The Commissioner, in his sole discretion, may establish a procedure to determine whether an individual should be referred for such a determination by the Commissioner.

REASONS FOR CHANGE

The Committee believes that clarifying the scope of these provisions and expanding the scope of the disciplinary actions the Commissioner may undertake, as was recommended in the President's budget proposal, will improve these provisions.

EXPLANATION OF PROVISION

The bill requires that the Commissioner issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for the commission or omission of a specified act. The bill also removes from the list of violations: (1) the late filing of refund returns; and (2) employee versus employees acts. The bill adds to the list of violations: (1) willful unauthorized inspection of returns and return information; and (2) the requirement that other violations in general be willful. The bill also provides that, notwithstanding any other provision of law, any determination by the Commissioner may not be reviewed. Finally, the bill places the entire provision in the Internal Revenue Code.

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT

(Sec. 302 of the bill and sec. 6214 of the Code)

PRESENT LAW

Equitable recoupment is a common-law equitable principle that permits the defensive use of an otherwise time-barred claim to reduce or defeat an opponent's claim if both claims arise from the same transaction. U.S. District Courts and the U.S. Court of Federal Claims, the two Federal tax refund forums, may apply equitable recoupment in deciding tax refund cases.[1] In *Estate of Mueller* v. *Commissioner,*[2] the Court of Appeals for the Sixth Circuit held that the Tax Court may not apply the doctrine of equitable recoupment. More recently, the Court of Appeals for the

[1] See *Stone* v. *White,* 301 U.S. 532 (1937); *Bull* v. *United States,* 295 U.S. 247 (1935).
[2] 153 F.3d 302 (6th Cir.), cert. den., 525 U.S. 1140 (1999).

Ninth Circuit, in *Branson* v. *Commissioner*,[3] held that the Tax Court may apply the doctrine of equitable recoupment.

REASONS FOR CHANGE

The Committee believes that it is important to resolve this conflict among the circuit courts, which will eliminate any uncertainty or confusion caused by differing results in differing circuits. The Committee also believes that this provision will provide simplification and uniformity in treatment for all taxpayers in obtaining appropriate relief.

EXPLANATION OF PROVISION

The provision confirms that the Tax Court may apply the principle of equitable recoupment to the same extent that it may be applied in Federal civil tax cases by the U.S. District Courts or the U.S. Court of Claims. No implication is intended as to whether the Tax Court has the authority to continue to apply other equitable principles in deciding matters over which it has jurisdiction.

EFFECTIVE DATE

The provision is effective for any action or proceeding in the Tax Court with respect to which a decision has not become final as of the date of enactment.

C. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES

(Sec. 303 of the bill and sec. 6330 of the Code)

PRESENT LAW

In general, the Internal Revenue Service ("IRS") is required to notify taxpayers that they have a right to a fair and impartial hearing before levy may be made on any property or right to property.[4] Similar rules apply with respect to liens.[5] The hearing is held by an impartial officer from the IRS Office of Appeals, who is required to issue a determination with respect to the issues raised by the taxpayer at the hearing. The taxpayer is entitled to appeal that determination to a court. The appeal must be brought to the United States Tax Court, unless the Tax Court does not have jurisdiction over the underlying tax liability. If that is the case, then the appeal must be brought in the district court of the United States.[6] Special rules apply if the taxpayer files the appeal in the incorrect court.

The United States Tax Court is established under Article I of the United States Constitution[7] and is a court of limited jurisdiction.[8]

REASONS FOR CHANGE

The Committee believes that clarifying this judicial review provision will improve its functioning by providing simplification for tax-

[3] 264 F.3d 904 (9th Cir.), cert. den., 2002 U.S. LEXIS 1545 (U.S. Mar. 18, 2002).
[4] Sec. 6330(a).
[5] Sec. 6320.
[6] Sec. 6330(d).
[7] Sec. 7441.
[8] Sec. 7442.

payers, reducing the confusion associated with filing in the correct court, and reducing the processing time of certain collection due process cases.

EXPLANATION OF PROVISION

The provision provides that all appeals of collection due process determinations are to be made to the United States Tax Court.

EFFECTIVE DATE

The provision applies to determinations made after the date of enactment.

D. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-IN-COMPROMISE

(Sec. 304 of the bill and sec. 7122 of the Code)

PRESENT LAW

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected or there is doubt as to the validity of the actual tax liability. Amounts of $50,000 or more can only be accepted if the reasons for the acceptance are documented in detail and supported by a written opinion from the IRS Chief Counsel (sec. 7122).

REASONS FOR CHANGE

The Committee believes that eliminating this threshold requiring review, as was recommended in the President's budget proposal, will permit the IRS to focus its review resources on the most important cases, regardless of dollar value.

EXPLANATION OF PROVISION

The provision repeals the requirement that an offer-in-compromise of $50,000 or more must be supported by a written opinion from the Office of Chief Counsel. Written opinions must only be provided if the Secretary determines that an opinion is required with respect to a compromise.

EFFECTIVE DATE

The provision applies to offers-in-compromise submitted or pending on or after the date of enactment.

E. EXTEND THE DUE DATE FOR ELECTRONICALLY FILED TAX RETURNS BY 15 DAYS

(Sec. 305 of the bill and sec. 6072 of the Code)

PRESENT LAW

In general, individuals must file their income tax returns and pay the full amount owed by April 15 (sec. 6072(a)). This deadline applies regardless of the method the taxpayer may choose to submit the tax return to the IRS. The Secretary may grant reasonable extensions of time for filing returns, but in general the time for paying tax cannot be extended (sec. 6081(a)). Failure to file or pay

on a timely basis may subject the taxpayer to interest and penalties.

REASONS FOR CHANGE

The Committee believes that extending the due date for filing and paying individual income taxes to April 30 provided that the taxpayer files the return electronically and pays the entire balance due electronically by that date, which was recommended in the President's budget proposal, will significantly increase the number of tax returns filed electronically. This should reduce the cost of processing tax returns and facilitate meeting the statutory goal of having 80 percent of Federal tax and information returns filed electronically by the year 2007.

EXPLANATION OF PROVISION

The bill extends the due date for filing and paying individual income taxes to April 30 provided that the taxpayer files the return electronically and pays the entire balance due electronically by that date. The due date for filing by any other method or for filing electronically but paying the balance due by non-electronic means is not changed.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2002; the provision sunsets in five years.

F. Access of National Taxpayer Advocate to Independent Legal Counsel

(Sec. 306 of the bill and sec. 7803 of the Code)

PRESENT LAW

The National Taxpayer Advocate receives legal advice from the Special Counsel to the National Taxpayer Advocate. This Special Counsel reports directly to, and is evaluated by, the Chief Counsel of the IRS.

REASONS FOR CHANGE

The Committee believes that the functioning of the Office of the National Taxpayer Advocate would be improved by having a counsel in the Office of the Taxpayer Advocate who reports solely to the National Taxpayer Advocate.

EXPLANATION OF PROVISION

The provision permits the National Taxpayer Advocate to appoint a counsel in the Office of the Taxpayer Advocate to report solely to the National Taxpayer Advocate. The Committee intends that this counsel participate in preliminary and pre-decisional discussions with the Office of Chief Counsel about rules, regulations, and other significant Chief Counsel work product to the same extent as the Special Counsel does under present law. Thus, this new counsel must be consulted on and review legal opinions and other guidance as may be required in the preparation and review of rul-

ings and memoranda of technical advice, proposed legislation, regulations, Executive Orders, and similar materials.

EFFECTIVE DATE

The provision is effective on the date of enactment.

G. Payment of Motor Fuel Excise Tax Refunds by Direct Deposit

(Sec. 307 of the bill and new sec. 3337 of Title 31, United States Code)

PRESENT LAW

Refunds or income tax credits may be claimed (generally by consumers) for fuels on which tax is paid and which ultimately are used for a non-taxable purpose. The rules governing how and by whom a refund is claimed differ by type of fuel, by end use, and by dollar amount of the claim. Except in the case of "gasohol" (gasoline blended with ethanol) and kerosene sold from certain "blocked pumps" for which weekly claims are allowed, no more than one claim per quarter may be filed. Refund claims may be filed only if prescribed dollar thresholds are satisfied. If the dollar amounts are not satisfied in a calendar year, refunds must be claimed as credits on income tax returns. Unlike income tax refunds, excise tax refunds generally do not bear interest if they are not paid within set periods. However, interest does accrue on gasohol and kerosene "blocked pump" refunds if not paid within 20 days.

Finally, as stated above, most refunds must be claimed by consumers (who are deemed to bear the burden of the tax). Exceptions are provided for fuels sold to States and local governments and farmers, and for kerosene sold from blocked pumps for heating purposes. Those refunds must be claimed by actual taxpayers, wholesale distributors, or ultimate vendors.

There is no requirement that the Secretary make payment of these refunds available by electronic funds transfer ("direct deposit").[9]

REASONS FOR CHANGE

The Committee believes that permitting these refunds to be directly deposited will improve the efficiency of the process. The payment is more secure (in that there is no check to be lost, misplaced, or stolen) and direct deposit is a faster method of making payments.

EXPLANATION OF PROVISION

The provision requires the Secretary to make payments of fuel tax refunds pursuant to sections 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes, used by local transit systems or sold for certain exempt purposes) and 6427 (relating to fuels used for nontaxable purposes) by electronic funds transfer if the person who is entitled to the pay-

[9] Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments are required to be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate. 31 U.S.C. sec. 3332(a).

ment elects to receive the payment by electronic funds transfer and satisfies certain other requirements. Specifically, the person entitled to the payment must, at such time and manner as the Secretary may require: (1) designate 1 or more financial institutions or other authorized agents to which such payment is to be made and (2) provide information necessary for the person entitled to payment to receive electronic funds transfer payments through each institution or agent designated in (1).

An electronic funds transfer is defined as any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.[10]

EFFECTIVE DATE

The provision is effective upon date of enactment.

H. FAMILY BUSINESS TAX SIMPLIFICATION

(Sec. 308 of the bill and sec. 761 of the Code)

PRESENT LAW

Under present law, a partnership is defined to include a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation or ventured is carried on, and which is not a trust or estate or a corporation (sec. 7701(a)(2)). A partnership is treated as a pass-through entity, and income earned by the partnership, whether distributed or not, is taxed to the partners. The income of a partnership and its partners is determined under subchapter K of the Code. An election not to be subject to the rules of subchapter K is provided for certain partnerships that meet specified criteria (i.e., the partnership is for investment purposes only, is for the joint production, extraction or use of property but not for selling services or property produced or extracted, or is used by securities dealers for short periods to underwrite, sell or distribute securities). Otherwise, the rules of subchapter K apply to a venture that is treated as a partnership for Federal tax purposes.

In the case of an individual with self-employment income, the income subject to self-employment tax is the net earnings from self-employment (sec. 1402(a)). Net earnings from self-employment is the gross income derived by an individual from any trade or business carried on by the individual, less the deductions attributable to the trade or business that are allowed under the self-employment tax rules. If the individual is a partner in a partnership, the net earnings from self-employment generally include his or her distributive share (whether or not distributed) of income or loss from any trade or business carried on by the partnership.

[10] *See* 31 U.S.C. sec. 3332(j)(1).

REASONS FOR CHANGE

The Committee is concerned that certain business ventures whose sole members are a husband and wife filing a joint return may be subject to unnecessary complexity under present law.[11] In the situation in which the spouses share all items of income, gain, loss, deduction and credit from the venture, the venture should not be required to file a partnership return if each of the two spouses' income can be accurately recorded on Schedule C (or F, in the case of a farm) filed with the joint return. The reported income would be the same on the joint return, whether or not a partnership return is filed. Further, the Committee is concerned that if only one spouse is treated as having net earnings from self-employment from the venture, when in fact both spouses materially participate in it, then both spouses (not just one) should be treated as having net earnings from self-employment from the venture in accordance with their respective interests. In this situation, both spouses, not just one, should receive credit for the appropriate net earnings from self-employment for purposes of Social Security benefits.

EXPLANATION OF PROVISION

The provision generally permits a joint venture whose only members are a husband and wife filing a joint return to elect not to be treated as a partnership. A joint venture qualifying for this treatment is one involving the conduct of a trade or business, if (1) the only members of the joint venture are a husband and wife, (2) both spouses materially participate in the trade or business, and (3) both spouses elect under the provision.

Under the provision, a qualified joint venture conducted by a husband and wife who file a joint return is not treated as a partnership for Federal income tax purposes. All items of income, gain, loss, deduction and credit are divided between the spouses in accordance with their respective interests in the venture. Each spouse takes into account his or her respective share of these items as a sole proprietor. Thus, it is anticipated that each spouse would account for his or her respective share on the appropriate form, such as Schedule C. The provision is not intended to change the determination under present law of whether an entity is a partnership for Federal income tax purposes (without regard to the election provided by the provision).

For purposes of determining net earnings from self-employment, each spouse's share of income or loss from a qualified joint venture is taken into account just as it is for Federal income tax purposes (i.e., in accordance with their respective interests in the venture). A corresponding change is made to the definition of net earnings from self-employment under the Social Security Act. The provision is not intended to prevent allocations or reallocations, to the extent permitted under present law, by courts or by the Social Security Administration of net earnings from self-employment for purposes of determining Social Security benefits of an individual.

[11] See National Taxpayer Advocate FY 2002 Annual Report to Congress, "Married Couples as Business Co-owners," at 172, recommending a similar change for this reason as well as other reasons.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2002.

I. CONSUMER OPTIONS UNDER THE REFUNDABLE CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

(Sec. 309 of the bill and sec. 35 of the Code)

PRESENT LAW

Refundable health insurance credit: in general

In the case of taxpayers who are eligible individuals, a refundable tax credit is provided for 65 percent of the taxpayer's expenses for qualified health insurance of the taxpayer and qualifying family members for each eligible coverage month beginning in the taxable year. The credit is available only with respect to amounts paid by the taxpayer. The credit is available in taxable years beginning after December 31, 2002.

Qualifying family members are the taxpayer's spouse and any dependent of the taxpayer with respect to whom the taxpayer is entitled to claim a dependency exemption.[12] Any individual who has other specified coverage is not a qualifying family member.

Persons eligible for the credit

Eligibility for the credit is determined on a monthly basis. In general, an eligible coverage month is any month if, as of the first day of the month, the taxpayer (1) is an eligible individual, (2) is covered by qualified health insurance, (3) does not have other specified coverage, and (4) is not imprisoned under Federal, State, or local authority. In the case of a joint return, the eligibility requirements are met if at least one spouse satisfies the requirements. An eligible month must begin more than 90 days after the date of enactment of the Trade Act of 2002.[13]

An eligible individual is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, and (3) an eligible PBGC pension recipient.

An individual is an eligible TAA recipient during any month if the individual (1) is receiving for any day of such month a trade adjustment allowance[14] or who would be eligible to receive such an allowance but for the requirement that the individual exhaust unemployment benefits before being eligible to receive an allowance and (2) with respect to such allowance, is covered under a certification issued under subchapter A or D of chapter 2 of title II of the Trade Act of 1974. An individual is treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section

[12] Present and prior law allows the custodial parent to release the right to claim the dependency exemption for a child to the noncustodial parent. In addition, if certain requirements are met, the parents may decide by agreement that the noncustodial parent is entitled to the dependency exemption with respect to a child. In such cases, the provision treats the child as the dependent of the custodial parent for purposes of the credit.

[13] The date of enactment is August 6, 2002.

[14] Part I of subchapter B, or subchapter D, of chapter 2 of title II of the Trade Act of 1974.

246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the Pension Benefit Guaranty Corporation (the "PBGC").

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month the individual has other specified coverage. Other specified coverage is (1) coverage under any insurance which constitutes medical care (except for insurance substantially all of the coverage of which is for excepted benefits) [15] if at least 50 percent of the cost of the coverage is paid by an employer [16] (or former employer) of the individual or his or her spouse or (2) coverage under certain governmental health programs.[17] A rule aggregating plans of the same employer applies in determining whether the employer pays at least 50 percent of the cost of coverage. A person is not an eligible individual if he or she may be claimed as a dependent on another person's tax return. A special rule applies with respect to alternative TAA recipients.

Qualified health insurance

Qualified health insurance eligible for the credit is: (1) COBRA continuation coverage; (2) State based continuation coverage provided by the State under a State law that requires such coverage; (3) coverage offered through a qualified State high risk pool; (4) coverage under a health insurance program offered to State employees or a comparable program; (5) coverage through an arrangement entered into by a State and a group health plan, an issuer of health insurance coverage, an administrator, or an employer; (6) coverage offered through a State arrangement with a private sector health care coverage purchasing pool; (7) coverage under a State-operated health plan that does not receive any Federal financial participation; (8) coverage under a group health plan that is available through the employment of the eligible individual's spouse; and (9) coverage under individual health insurance if the eligible individual was covered under individual health insurance during

[15] Excepted benefits are: (1) coverage only for accident or disability income or any combination thereof; (2) coverage issued as a supplement to liability insurance; (3) liability insurance, including general liability insurance and automobile liability insurance; (4) worker's compensation or similar insurance; (5) automobile medical payment insurance; (6) credit-only insurance; (7) coverage for on-site medical clinics; (8) other insurance coverage similar to the coverages in (1)–(7) specified in regulations under which benefits for medical care are secondary or incidental to other insurance benefits; (9) limited scope dental or vision benefits; (10) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and (11) other benefits similar to those in (9) and (10) as specified in regulations; (12) coverage only for a specified disease or illness; (13) hospital indemnity or other fixed indemnity insurance; and (14) Medicare supplemental insurance.

[16] An amount is considered paid by the employer if it is excludable from income. Thus, for example, amounts paid for health coverage on a salary reduction basis under an employer plan are considered paid by the employer.

[17] Specifically, an individual is not eligible for the credit if, as of the first day of the month, the individual is (1) entitled to benefits under Medicare Part A, enrolled in Medicare Part B, or enrolled in Medicaid or SCHIP, (2) enrolled in a health benefits plan under the Federal Employees Health Benefit Plan, or (3) entitled to receive benefits under chapter 55 of title 10 of the United States Code (relating to military personnel). An individual is not considered to be enrolled in Medicaid solely by reason of receiving immunizations.

the entire 30–day period that ends on the date the individual became separated from the employment which qualified the individual for the TAA allowance, the benefit for an eligible alternative TAA recipient, or a pension benefit from the PBGC, whichever applies.[18]

Qualified health insurance does not include any State-based coverage (i.e., coverage described in (2)–(8) in the preceding paragraph), unless the State has elected to have such coverage treated as qualified health insurance and such coverage meets certain requirements. Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs eligibility certificate and pays the remainder of the premium. In addition, the State-based coverage cannot impose any pre-existing condition limitation with respect to qualifying individuals. State-based coverage cannot require a qualifying individual to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not a qualified individual. Finally, benefits under the State-based coverage must be substantially similar to benefits provided to similarly situated individuals who are not qualifying individuals. A qualifying individual is an eligible individual who seeks to enroll in the State-based coverage and who has aggregate periods of creditable coverage[19] of three months or longer, does not have other specified coverage, and who is not imprisoned. A qualifying individual also includes qualified family members of such an eligible individual.

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance if substantially all of the coverage is of excepted benefits.

Other rules

Amounts taken into account in determining the credit may not be taken into account in determining the amount allowable under the itemized deduction for medical expenses or the deduction for health insurance expenses of self-employed individuals. Amounts distributed from a medical savings account are not eligible for the credit. The amount of the credit available through filing a tax return is reduced by any credit received on an advance basis. Married taxpayers filing separate returns are eligible for the credit; however, if both spouses are eligible individuals and the spouses file a separate return, then the spouse of the taxpayer is not a qualifying family member.

The Secretary of the Treasury is authorized to prescribe such regulations and other guidance as may be necessary or appropriate to carry out the provision.

Advance payment of refundable health insurance credit; reporting requirements

The credit is to be payable on an advance basis (i.e., prior to the filing of the taxpayer's return) pursuant to a program to be estab-

[18] For this purpose, "individual health insurance" means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

[19] Creditable coverage is determined under the Health Care Portability and Accountability Act (Code sec. 9801(c)).

lished by the Secretary of the Treasury no later than August 1, 2003. The disclosure of return information of certified individuals to providers of health insurance information is permitted to the extent necessary to carry out the advance payment mechanism. Any person who receives payments during a calendar year for qualified health insurance and claims a reimbursement for an advance credit amount is required to file an information return with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed.

REASONS FOR CHANGE

The present-law requirements relating to State-based coverage were intended to ensure that the insurance that qualifies for the credit satisfies certain standards. It was expected that any State-based programs that did not meet these requirements would be modified to comply. Since the enactment of the credit, the Committee has come to understand that most State-based programs do not qualify for the credit. The Treasury Department has reported to the Committee that it has been working with States to assist them in establishing qualifying programs, and that it expects that some States will have qualifying programs by August 1, 2003, but that many States will not be able to have qualifying programs for some time.

In States that do not have, or will not soon have, qualifying programs, eligible individuals will be denied the opportunity to qualify for the credit until the State makes necessary changes. In the meantime, many otherwise eligible individuals will not be able to access the health credit, and will forgo substantial assistance in paying for their health care.

The Committee believes that allowing a temporary waiver of the applicable requirements for State-based coverage will enable individuals to receive the health insurance they need until States have sufficient time to change their laws. Such a waiver will further the original intent of the health credit to expand health care coverage.

EXPLANATION OF PROVISION

The provision allows State-based coverage to meet the definition of qualified health insurance eligible for the refundable health insurance tax credit if the eligible individual elects to waive the requirements for State-based coverage, including the requirements that the State-based coverage would otherwise have to meet with respect to guaranteed issue, preexisting conditions, premiums, and similar benefits. Nothing in the provision supersedes or otherwise affects the application of State law relating to consumer insurance protections (including State law implementing the applicable requirements of the Health Insurance Portability and Accountability Act under part B of title XXVII of the Public Health Service Act).

EFFECTIVE DATE

The provision is effective for eligible coverage months beginning after the date of enactment and before January 1, 2006.

J. Suspension of Tax-Exempt Status of Terrorist Organizations

(Sec. 310 of the bill and sec. 501 of the Code)

PRESENT LAW

Under present law, the Internal Revenue Service generally issues a letter revoking recognition of an organization's tax-exempt status only after (1) conducting an examination of the organization, (2) issuing a letter to the organization proposing revocation, and (3) allowing the organization to exhaust the administrative appeal rights that follow the issuance of the proposed revocation letter. In the case of an organization described in section 501(c)(3), the revocation letter immediately is subject to judicial review under the declaratory judgment procedures of section 7428. To sustain a revocation of tax-exempt status under section 7428, the IRS must demonstrate that the organization is no longer entitled to exemption. There is no procedure under present law for the IRS to suspend the tax-exempt status of an organization.

To combat terrorism, the Federal government has designated a number of organizations as terrorist organizations or supporters of terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945.

REASONS FOR CHANGE

An organization that has been designated or otherwise identified by the Federal government as a terrorist organization pursuant to certain authority should not be exempt from federal income tax and contributions to such organizations should not be deductible for Federal income tax purposes. The Committee believes that the Federal government's designation or identification of an organization as a terrorist organization is ground for suspension of tax-exempt status, and that in such cases a separate investigation of the organization by the Internal Revenue Service is not necessary. Further, because a terrorist organization may challenge the Federal government's designation or identification of the organization under the law authorizing the designation or identification, recourse to the declaratory judgment procedures of the Internal Revenue Code to challenge the suspension of tax-exemption is not appropriate.

EXPLANATION OF PROVISION

The bill suspends the tax-exempt status of an organization that is exempt from tax under section 501(a) for any period during which the organization is designated or identified by U.S. Federal authorities as a terrorist organization or supporter of terrorism. The bill also makes such an organization ineligible to apply for tax exemption under section 501(a). The period of suspension runs from the date the organization is first designated or identified (or from the date of enactment of the bill, whichever is later) to the date when all designations or identifications with respect to the organization have been rescinded pursuant to the law or Executive order under which the designation or identification was made.

The bill describes a terrorist organization as an organization that has been designated or otherwise individually identified (1) as a

terrorist organization or foreign terrorist organization under the authority of section 212(a)(3)(B)(vi)(II) or section 219 of the Immigration and Nationality Act; (2) in or pursuant to an Executive order that is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive order that refers to the bill and is issued under the authority of any Federal law if the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989). During the period of suspension, no deduction is allowed under the bill for any contribution to a terrorist organization under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522.

No organization or other person may challenge, under section 7428 or any other provision of law, in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person, the suspension of tax-exemption, the ineligibility to apply for tax-exemption, a designation or identification described above, the timing of the period of suspension, or a denial of deduction described above. The suspended organization may maintain other suits or administrative actions against the agency or agencies that designated or identified the organization, for the purpose of challenging such designation or identification (but not the suspension of tax-exempt status under this provision).

If the tax-exemption of an organization is suspended and each designation and identification that has been made with respect to the organization is determined to be erroneous pursuant to the law or Executive order making the designation or identification, and such erroneous designation results in an overpayment of income tax for any taxable year with respect to such organization, a credit or refund (with interest) with respect to such overpayment shall be made. If the operation of any law or rule of law (including res judicata) prevents the credit or refund at any time, the credit or refund may nevertheless be allowed or made if the claim for such credit or refund is filed before the close of the one-year period beginning on the date that the last remaining designation or identification with respect to the organization is determined to be erroneous.

The bill directs the IRS to update the listings of tax-exempt organizations to take account of organizations that have had their exemption suspended and to publish notice to taxpayers of the suspension of an organization's tax-exemption and the fact that contributions to such organization are not deductible during the period of suspension.

EFFECTIVE DATE

The bill is effective for designations made before, on, or after the date of enactment.

TITLE IV—CONFIDENTIALITY AND DISCLOSURE

A. Collection Activities With Respect to a Joint Return Disclosable Based on Oral Request

(Sec. 401 of the bill and sec. 6103(e) of the Code)

PRESENT LAW

Section 6103(e) concerns disclosures to persons with a material interest. Section 6103(e)(1)(B) permits, upon written request, the inspection or disclosure of a joint return to either of the individuals with respect to whom the return is filed. Section 6103(e)(7) permits the IRS to disclose return information to the same persons who may have access to a return under the other provisions of section 6103(e). Requests for information pursuant to section 6103(e)(7) do not have to be in writing. Pursuant to section 6103(e)(7) and section 6103(e)(1)(B), either spouse may obtain return information regarding a joint return, including collection information.

In response to concerns that former spouses were not able to obtain information regarding collection activities relating to a joint return, the Taxpayer Bill of Rights 2 added section 6103(e)(8).[20] When a deficiency is assessed with respect to a joint return and the individuals are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the IRS is permitted to disclose: (1) whether the IRS has attempted to collect such deficiency from the other individual; (2) the general nature of such collection activities; and (3) the amount collected.[21]

REASONS FOR CHANGE

The Committee believes that former spouses should be able to receive collection information with respect to a joint return in the same manner as if they were current spouses. Thus, a former spouse should not be required to make a written request because if the spouses were still married, a written request would not be required.

EXPLANATION OF PROVISION

The bill eliminates the requirement for former spouses to make a written request for disclosure of collection activities with respect to a joint return.

EFFECTIVE DATE

The provision is effective for requests made after the date of enactment.

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[20] "The IRS does not routinely disclose collection information to a former spouse that relates to tax liabilities attributable to a joint return that was filed when married." Joint Committee on Taxation, General Explanation of Taxation Legislation Enacted in the 104th Congress (JCS–12–96), December 18, 1996 at 29.

[21] Sec. 6103(e)(8).

B. Taxpayer Representatives Not Subject to Examination on Sole Basis of Representation of Taxpayers

(Sec. 402 of the bill and sec. 6103(h) of the Code)

PRESENT LAW

Under section 6103(h)(1), returns and return information are, without written request, open to inspection by or disclosure to officers and employees of the Department of the Treasury, including IRS employees, whose official duties require such inspection or disclosure for tax administration purposes. The Office of Chief Counsel issued an opinion stating that it was appropriate for a local IRS employee to examine tax records to determine whether taxpayer representatives who submit Form 2848 (Power of Attorney) are current in their tax obligations.[22] The opinion concluded that section 6103(h)(1) permits local IRS employees to access the Integrated Data Retrieval System[23] to determine whether a taxpayer's representative is current in his or her tax obligations.

REASONS FOR CHANGE

The Committee believes that the official duties of the IRS employee examining a taxpayer concern the tax affairs of the taxpayer, not the taxpayer's representative. The taxpayer is under audit, not the taxpayer's representative. Whether the representative has filed his or her returns ordinarily has no bearing on the IRS's determination of the liability of the taxpayer. An IRS employee should make a referral to the Director of Practice, if the employee has reason to believe the taxpayer's representative has engaged in inappropriate behavior.

EXPLANATION OF PROVISION

The provision clarifies that an IRS employee conducting an examination of a taxpayer is not authorized to inspect a taxpayer representative's return or return information solely on the basis of the representative's relationship to the taxpayer. Under the provision, the supervisor of an IRS employee is required to approve such inspection after making a determination that other grounds justified such an inspection. The provision does not affect the ability of employees of the IRS Director of Practice, or other employees whose assigned duties concern the regulation of practice before the IRS, to access returns and return information of a representative.

EFFECTIVE DATE

The provision is effective 180 days after the date of enactment.

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[22] Internal Revenue Service, IRS Legal Memorandum ILM 199941038 (August 19, 1999).

[23] The Integrated Data Retrieval System (commonly referred to as "IDRS") is the IRS's primary computer database for return information.

C. Disclosure in Judicial or Administrative Tax Proceedings of Return and Return Information of Persons Who Are Not Party to Such Proceedings

(Sec. 403 of the bill and sec. 6103(h) of the Code)

PRESENT LAW

Under section 6103(h)(4), a return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration under certain circumstances. Under section 6103(h)(4)(A), such information may be disclosed if the taxpayer is a party to the proceeding or if the proceeding arose out of, or in connection with, determining the taxpayer's liability with respect to any tax. Under section 6103(h)(4)(B), such information may be disclosed if the treatment of an item reflected on a return is directly related to the resolution of an issue in the proceeding. Under section 6103(h)(4)(C), such information may be disclosed if the return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding. Thus, the returns and return information of a nonparty taxpayer may be disclosed if one of these requirements are met. The statute does not require that the nonparty taxpayer be given notice or be consulted prior to disclosure.

REASONS FOR CHANGE

The Committee believes that nonparty taxpayers should be afforded notice of when their returns or return information is disclosed in a judicial or administrative proceeding pertaining to tax administration. The Committee also believes that such nonparty taxpayers should be consulted regarding the disclosure of sensitive information in such a proceeding. The purpose of the provision is to give notice to a nonparty prior to the disclosure of a return or return information. The nonparty notification requirements are not intended to adversely affect the parties to the litigation.

EXPLANATION OF PROVISION

The provision requires that only the portions of a nonparty return or return information that directly relate to the resolution of an issue in the proceeding are to be disclosed in such proceeding. When nonparty returns and return information are to be disclosed under section 6103(h)(4)(B) and (C),[24] the provision requires that an effort be made to give notice to the taxpayer prior to the disclosure. The notice must include a statement of the issue or issues for which such return or return information affects resolution. Finally, the nonparty taxpayer must be given an opportunity to request the deletion of certain matters from the return or return information that would be disclosed. For purposes of S corporations, partnerships, estates, and trusts, the notice is to be made at the entity level.

The provision does not afford a right to intervene or for judicial review of the requested redactions. The notification requirements

[24] Under the proposal these provisions would be redesignated as clauses ii and iii of section 6103(h)(4)(A).

are not intended to apply to ex parte proceedings for securing a search warrant, orders for entry on premises or safe deposit boxes, or similar ex parte proceedings. The notification requirements do not apply to the disclosure of third party return information by indictment or criminal information. The notice provision also does not apply if it would seriously impair a criminal tax investigation or proceeding. The bill exempts from this provision actions to enjoin income tax return preparers,[25] to enjoin promoters of abusive tax shelters,[26] and to enjoin flagrant political expenditures of section 501(c)(3) organizations.[27]

EFFECTIVE DATE

The provision applies to proceedings commenced after the date of enactment.

D. PROHIBITION OF DISCLOSURE OF TAXPAYER IDENTIFICATION INFORMATION WITH RESPECT TO DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE

(Sec. 404 of the bill and sec. 6103(k) of the Code)

PRESENT LAW

Section 6103 permits the IRS to disclose return information to members of the general public to permit inspection of accepted offers in compromise.[28] The IRS makes summaries of the accepted offers in compromise, Form 7249—Offer Acceptance Report, available for public inspection in the IRS district offices. Currently, this form contains the taxpayer identification number of the taxpayer, e.g., the social security number in the case of an individual taxpayer, along with the taxpayer's name and full address.

REASONS FOR CHANGE

Summaries of accepted offers in compromise, Form 7249—Offer Acceptance Report, are available for public inspection in the IRS district offices. Currently, this form contains the taxpayer identification number of the taxpayer, e.g., the social security number in the case of an individual taxpayer, along with the taxpayer's name and full address. The Committee believes that the disclosure of a taxpayer's taxpayer identification number and address is unnecessary and an unwarranted invasion of privacy. In addition, the Committee believes such disclosure provides an opportunity for identity fraud and abuse.

EXPLANATION OF PROVISION

The bill prohibits the disclosure of the taxpayer's address and taxpayer identification number as part of the publicly available summaries of accepted offers in compromise.

EFFECTIVE DATE

The provision applies to disclosures made after the date of enactment.

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[25] Sec. 7407.
[26] Sec. 7408.
[27] Sec. 7409.
[28] Sec. 6103(k)(l).

E. Compliance By Contractors With Confidentiality Safeguards

(Sec. 405 of the bill and sec. 6103(p) of the Code)

PRESENT LAW

Section 6103 permits the disclosure of returns and return information to State agencies, as well as to other Federal agencies for specified purposes. Section 6103(p)(4) requires, as conditions of receiving returns and return information, that State agencies (and others) provide safeguards as prescribed by the Secretary of the Treasury by regulation to be necessary or appropriate to protect the confidentiality of returns or return information.[29] It also requires that a report be furnished to the Secretary at such time and containing such information as prescribed by the Secretary regarding the procedures established and utilized for ensuring the confidentiality of returns and return information.[30] After an administrative review, the Secretary may take such actions as are necessary to ensure these requirements are met, including the refusal to disclose returns and return information.[31]

Under present law, employees of a State tax agency may disclose returns and return information to contractors for tax administration purposes.[32] These disclosures can be made only to the extent necessary to procure contractually equipment, other property, or the providing of services, related to tax administration.[33]

The contractors can make redisclosures of returns and return information to their employees as necessary to accomplish the tax administration purposes of the contract, but only to contractor personnel whose duties require disclosure.[34] Treasury regulations prohibit redisclosure to anyone other than contractor personnel without the written approval of the IRS.[35]

By regulation, all contracts must provide that the contractor will comply with all applicable restrictions and conditions for protecting confidentiality prescribed by regulation, published rules or procedures, or written communication to the contractor.[36] Failure to comply with such restrictions or conditions may cause the IRS to terminate or suspend the duties under the contract or the disclosures of returns and return information to the contractor.[37] In addition, the IRS can suspend disclosures to the State tax agency until the IRS determines that the conditions are or will be satisfied.[38] The IRS may take such other actions as deemed necessary

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[29] Sec. 6103(p)(4)(D).
[30] Sec. 6103(p)(4)(E).
[31] Sec. 6103(p)(4) (flush language) and (7); Treas. Reg. sec. 301.6103(p)(7)–1.
[32] Sec. 6103(n) and Treas. Reg. sec. 301.6103(n)–1(a). "Tax administration" includes "the administration, management, conduct, direction, and supervision of the execution and application of internal revenue laws or related statutes (or equivalent laws and statutes of a State) . . ." Sec. 6103(b)(4).
[33] Treas. Reg. sec. 301.6013(n)–1(a). Such services include the processing, storage, transmission or reproduction of such returns or return information, the programming, maintenance, repair, or testing of equipment or other property, or the providing of other services for purposes of tax administration.
[34] Treas. Reg. sec. 301.6103(n)–1(a) and (b). A disclosure is necessary if such procurement or the performance of such services cannot otherwise be reasonably, properly, or economically accomplished without such disclosure. Treas. Reg. sec. 301.6103(n)–1(b). The regulations limit the quantity of information to that needed to perform the contract.
[35] Treas. Reg. sec. 301.6103(n)–1(a).
[36] Treas. Reg. sec. 301.6103(n)–1(d).
[37] Treas. Reg. sec. 301.6103(n)–1(d)(1).
[38] Treas. Reg. sec. 301.6103(n)–1(d)(2).

to ensure that such conditions or requirements are or will be satisfied.[39]

REASONS FOR CHANGE

The Committee notes the increasing use of contractors by government agencies to perform the work of the government. In the Committee's view, the IRS has insufficient resources to monitor the compliance of every contractor in addition to its other duties. Further, the Committee finds that it is appropriate to require that Federal, State and local recipients of tax information monitor and certify that their contractors and other agents have in place adequate safeguards to protect this information.

EXPLANATION OF PROVISION

The provision requires that a State, local, or Federal agency conduct annual on-site reviews of all of its contractors or other agents receiving Federal returns and return information. If the duration of the contract or agreement is less than one year, a review is required at the mid-point of the contract. The purpose of the review is to assess the contractor's efforts to safeguard Federal returns and return information. This review is intended to cover secure storage, restricting access, computer security, and other safeguards deemed appropriate by the Secretary. Under the provision, the State, local or Federal agency is required to submit a report of its findings to the IRS and certify annually that such contractors and other agents are in compliance with the requirements to safeguard the confidentiality of Federal returns and return information. The certification is required to include the name and address of each contractor or other agent with the agency, the duration of the contract, and a description of the contract or agreement with the State, local, or Federal agency.

This provision does not alter or affect in any way the right of the IRS to conduct safeguard reviews of State, local, or Federal agency contractors or other agents. It also does not affect the right of the IRS to initially approve the safeguard language in the contract or agreement and the safeguards in place prior to any disclosures made in connection with such contracts or agreements.

EFFECTIVE DATE

The provision is effective for disclosures made after December 31, 2003. The first certification is required to be made with respect to calendar year 2004.

F. HIGHER STANDARDS FOR REQUESTS FOR AND CONSENTS TO DISCLOSURE

(Sec. 406 of the bill and sec. 6103(c) of the Code)

PRESENT LAW

Under section 6103(c), a taxpayer may designate in a request or consent to the disclosure by the IRS of his or her return or return information to a third party. Treasury regulations set forth the re-

[39] Treas. Reg. sec. 301.6103(n)–1(d).

quirements for such consent.[40] The Treasury regulations require that the taxpayer sign and date the consent. The taxpayer must also indicate in the written document (1) the taxpayer's taxpayer identity information; (2) the identity of the person to whom disclosure is to be made; (3) the type of return (or specified portion of the return) or return information (and the particular data) that is to be disclosed; and (4) the taxable year covered by the return or return information. The regulations also require that the consent be submitted within 60 days of the date signed and dated, however, at the time of submission, the IRS generally is unaware of whether a consent form was completed or dated after the taxpayer signs it. Present law does not require that a recipient receiving returns or return information by consent maintain the confidentiality of the information received. Under present law, the recipient is also free to use the information for purposes other than for which the information was solicited from the taxpayer.

Section 6103(c) consents are often used in connection with mortgage loan applications. Mortgage originators qualify loan applicants as meeting or not meeting the requirements for loan approval. This process involves the verification and investigation of information and conditions. If the loan is granted, the mortgage originator may use its own money to fund the loan. Alternatively, another entity, an "investor," may buy the loan and provide the money. Investors typically perform a re-investigation of loans received for funding. Such re-investigations may include verification through the IRS of the tax return provided by the taxpayer to the mortgage originator.

Usually the mortgage originator does not know which investor will ultimately fund the loan. Thus, at the time of application, the originator asks the borrower/taxpayer to sign a consent (Form 4506) designating the originator as the third party to receive the taxpayer's returns. Subsequently, at closing, the investor may request that the originator obtain another Form 4506 naming the investor as the third party to receive the taxpayer's return.

Ostensibly to avoid confusion over why the taxpayer would be authorizing a party other than the originator to receive his tax return, the taxpayer may be asked to sign a blank Form 4506 at closing. In some cases, mortgage originators ask taxpayers not to date the Form 4506. This allows the form to be submitted to the IRS at a later date, often months or years later, for purposes of mortgage resale.

Under section 7206, it is a felony to willfully make and subscribe any document that contains or is verified by a written declaration that it is made under penalties of perjury and which such person does not believe to be true and correct as to every material matter.[41] Upon conviction, such person may be fined up to $100,000 ($500,000 in the case of a corporation) or imprisoned up to 3 years, or both, together with the costs of prosecution.

REASONS FOR CHANGE

The Committee does not believe that the practice of asking taxpayers to sign blank or undated consent forms is appropriate. While recognizing that investors may want to minimize their risks

[40] Treas. Reg. sec. 301.6103(c)–1.
[41] Sec. 7206(1).

in buying a loan, the Committee finds that these practices can abuse the taxpayer consent process. It is doubtful that a taxpayer is aware that by not dating the form, it could be used months or years after the date it is executed. Taxpayers may be unaware that a blank consent form which does not designate a recipient can be used for purposes other than those related to the transaction under which the request for consent arose.

In addition, the IRS does not have the resources to verify that the return information was used solely for the stated purpose. The IRS estimates that it receives annually more than 800,000 requests from taxpayers directing that their returns or return information be sent to a third party. Examples of third party entities to which the IRS provides information include financial institutions (including the mortgage banking industry), colleges and universities, and Federal, State, and local governmental entities.

The Committee believes that to preserve the integrity of the consent process, a penalty must be placed on the third party soliciting a taxpayer to sign an undated or otherwise incomplete consent. Consistent with a taxpayer's reasonable expectation of privacy, the Committee believes that limitations should be placed on the use of returns and return information obtained by consent.

EXPLANATION OF PROVISION

The provision provides that a request or consent shall be valid only if certain requirements are fulfilled. The provision renders invalid a consent that does not designate a recipient or is not dated at the time of execution. The person submitting the consent to the IRS is required to verify under penalties of perjury that the form was complete and dated at the time it was signed by the taxpayer. Inspection or disclosure of a return or return information pursuant to an invalid consent is unauthorized under section 6103. Thus, a person making such unauthorized disclosure or inspection could be liable for civil damages, as well as criminal penalties for willful unauthorized disclosure or inspection. The provision is not intended to validate consents that do not otherwise comply with the Treasury regulations. For example, a consent that does not contain tax years or type of tax at the time of execution is not valid, and this provision does not authorize disclosures pursuant to such consents.

The provision requires the consent form prescribed by the IRS to contain a warning, prominently displayed, informing the taxpayer that he or she should not sign the form unless it is complete. The provision requires the consent form to state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration. The telephone number and address for the Treasury Inspector General for Tax Administration must be included on the form. Under the provision, all third parties receiving returns and return information by consent are required to: (1) ensure that the information received will be kept confidential; (2) use the information only for the purpose for which it was requested; and (3) not further disclose the information except to accomplish that purpose, unless a separate consent from the taxpayer is obtained. The provision does not preclude the use of a clear and unambiguous electronic format for consents which comports with all of the foregoing requirements.

The Treasury Inspector General for Tax Administration is required to submit a report to Congress on compliance with the designation and certification requirements no later than 18 months after the date of enactment. Such report must evaluate (on the basis of random sampling) whether the provision is achieving its purpose, whether requesters and submitters are continuing to evade the purpose of the provision, whether the sanctions are adequate, and such recommendations as considered necessary or appropriate to better achieve the purposes of the provision.

EFFECTIVE DATE

The provision applies to requests and consents made after three months after the date of enactment.

G. NOTICE TO TAXPAYER CONCERNING ADMINISTRATIVE DETERMINATION OF BROWSING; ANNUAL REPORT

(Sec. 407 of the bill and secs. 6103(p) and 7431 of the Code)

PRESENT LAW

Present law requires the IRS to notify a taxpayer that an unlawful disclosure or inspection of the taxpayer's return or return information has occurred when the offender has been charged by criminal indictment or information.[42] If the offender is not so charged, present law does not require the IRS to give notice to the taxpayer, even though the Treasury Inspector General for Tax Administration has concluded that an inspection or disclosure in violation of section 6103 has occurred.

The IRS is required under present law to provide, for disclosure to the public, an annual report to the Joint Committee on Taxation regarding authorized disclosures of returns and return information.[43] The IRS is not required to submit a report to Congress on unauthorized disclosures or inspections of returns and return information.

REASONS FOR CHANGE

Currently, the IRS is not required to notify a taxpayer that an unlawful disclosure or inspection of the taxpayer's return or return information has occurred until the offender has been charged by criminal indictment or information.[44] The Treasury Inspector General for Tax Administration investigates and substantiates more unlawful access (browsing) and disclosure cases than are accepted for prosecution by U.S. Attorneys.[45] The staff of the Joint Committee on Taxation has reported that the U.S. Attorneys declined to prosecute more than 80 percent of the cases referred.[46]

Notwithstanding the lack of a criminal prosecution, the Committee believes that the IRS should make taxpayers aware that their returns or return information has been unlawfully accessed or

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[42] Sec. 7431(e).
[43] See sec. 6103(p)(3)(C).
[44] Sec. 7431(e).
[45] See Joint Committee on Taxation, Study of Present-Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998, Volume1: Study of General Disclosure Provisions (JCS–1–00) January 28, 2000 at 175–176.
[46] Id.

disclosed. Thus, the IRS should notify the taxpayer at the time Treasury Inspector General for Tax Administration substantiates that returns or return information have been unlawfully accessed or disclosed.

The Committee also believes that the IRS should provide as part of its public annual report to the Joint Committee on Taxation information on unauthorized disclosures or inspections of return and return information. The Committee believes such information will allow review of the enforcement efforts in this area and the extent to which taxpayer privacy is being protected.

EXPLANATION OF PROVISION

Under the provision, the IRS is required to notify a taxpayer at the point the Treasury Inspector General for Tax Administration substantiates that a taxpayer's return or return information has been willfully disclosed or inspected without authorization. Thus, if the facts verified by the investigation establish the elements of the offense, the taxpayer is to be notified. The provision further requires the IRS to provide certain information relating to unauthorized disclosures or inspections of return and return information in its public annual report to the Joint Committee on Taxation.

EFFECTIVE DATE

The provision is effective upon date of enactment as it relates to notifying the taxpayer of a finding of an unlawful disclosure or inspection. As to the annual report requirement, the provision is effective for calendar years ending after the date of enactment.

H. EXPANDED DISCLOSURE IN EMERGENCY CIRCUMSTANCES

(Sec. 408 of the bill and sec. 6103(i) of the Code)

PRESENT LAW

Section 6103(i)(3)(B) permits the IRS to disclose return information to the extent necessary to apprise Federal or State law enforcement officials of circumstances involving an imminent danger of death or physical injury to an individual.

REASONS FOR CHANGE

The Committee believes that expanding this provision to permit disclosure to local law enforcement authorities will permit more rapid response to these situations.

EXPLANATION OF PROVISION

The bill expands present law to permit disclosure of return information to local law enforcement authorities.

EFFECTIVE DATE

The provision is effective on the date of enactment.

I. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX REFUND PURPOSES

(Sec. 409 of the bill and sec. 6103(m) of the Code)

PRESENT LAW

When the IRS is unable to find a taxpayer due a refund, present law provides that the IRS may use "the press or other media" to notify the taxpayer of the refund.[47] Section 6103(m) allows the IRS to give the press taxpayer identity information for this purpose.[48]

The IRS believes that the current statutory framework of "press and other media" does not permit disclosures via the Internet. The legislative history of the present-law provision does not address the meaning of "press and other media." At the time of the statute's enactment in 1976, the press (newspapers and periodicals) and other traditional media were the only means available for the IRS to distribute undelivered refund information to the public. Thus, the IRS interprets the term "other media" to exclude the Internet.

REASONS FOR CHANGE

In November 2002, the IRS announced that the U.S. Postal Service returned more than 96,792 refund checks as undeliverable.[49] These checks totaled over $80 million.[50] It is the understanding of the Committee that the current method of notification, by newspaper, is ineffective. The Committee believes that the IRS should be able to use any method of mass communication, including the Internet, to reach a taxpayer who is due a refund.

EXPLANATION OF PROVISION

The provision allows the IRS to use any means of "mass communication," including the Internet, to notify the taxpayer of an undelivered refund.

EFFECTIVE DATE

The provision is effective upon date of enactment.

J. DISCLOSURE TO STATE OFFICIALS OF PROPOSED ACTIONS RELATED TO SECTION 501(c)(3) ORGANIZATIONS

(Sec. 410 of the bill and secs. 6103 and 6104(c) of the Code)

PRESENT LAW

In the case of organizations that are described in section 501(c)(3) and exempt from tax under section 501(a) or that have applied for exemption as an organization so described, present law (sec. 6104(c)) requires the Secretary to notify the appropriate State officer of (1) a refusal to recognize such organization as an organization described in section 501(c)(3), (2) a revocation of a section 501(c)(3) organization's tax-exempt status, and (3) the mailing of a notice of deficiency for any tax imposed under section 507, chapter

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[47] Sec. 6103(m)(1). This section provides: The Secretary may disclose taxpayer identity information to the press or other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

[48] Sec. 6103(m)(1), and (b)(6) (definition of "taxpayer identity").

[49] Internal Revenue Service, Information Release IR–2002–121 (November 13, 2002).

[50] Id.

41, or chapter 42.[51] In addition, at the request of such appropriate State officer, the Secretary is required to make available for inspection and copying, such returns, filed statements, records, reports, and other information relating to the above-described disclosures, as are relevant to any State law determination. An appropriate State officer is the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).

In general, return and return information (as such terms are defined in section 6103(b)) is confidential (sec. 6103(a)) and may not be disclosed or inspected unless expressly provided by law. Present law requires the Secretary to keep records of disclosures and requests for inspection (sec. 6103(p)(3)) and requires that persons authorized to receive return and return information maintain various safeguards to protect such information against unauthorized disclosure (sec. 6103(p)(4)). Willful unauthorized disclosure or inspection of return or return information is subject to a fine and/or imprisonment (secs. 7213 and 7213A). The knowing or negligent unauthorized inspection or disclosure of returns or return information gives the taxpayer a right to bring a civil suit (sec. 7431). Such present-law protections against unauthorized disclosure or inspection of return and return information do not apply to the disclosures or inspections, described above, that are authorized by section 6104(c).

REASONS FOR CHANGE

The Committee believes that State officials that are charged with oversight of organizations described in section 501(c)(3) have an important and legitimate interest in receiving certain information about such organizations before the IRS has made a final determination with respect to an organization's tax-exempt status or liability for tax. By providing State officials with earlier access to information about the activities of section 501(c)(3) organizations, State officials will be able to monitor such organizations more effectively and better protect the public's interest in assuring that charitable assets are used for charitable purposes. In addition, the Committee believes that permitting the IRS to share information about section 501(c)(3) organizations with State officials, when doing so will facilitate the resolution of Federal and State issues, will significantly improve oversight of charitable organizations. The Committee stresses the importance of maintaining the confidentially of taxpayer return and return information and believes it is important to extend existing protections against unauthorized disclosure or inspection of return and return information to disclosures made or inspections allowed by the Secretary of return and return information regarding section 501(c)(3) organizations.

EXPLANATION OF PROVISION

The provision provides that upon written request by an appropriate State officer, the Secretary may disclose: (1) a notice of pro-

[51] The applicable taxes include the termination tax on private foundations; taxes on public charities for certain excess lobbying expenses; taxes on a private foundation's net investment income, self-dealing activities, undistributed income, excess business holdings, investments that jeopardize charitable purposes, and taxable expenditures (some of these taxes also apply to certain non-exempt trusts); taxes on the political expenditures and excess benefit transactions of section 501(c)(3) organizations; and certain taxes on black lung benefit trusts and foreign organizations.

posed refusal to recognize an organization as a section 501(c)(3) organization, (2) a notice of proposed revocation of tax-exemption of a section 501(c)(3) organization, (3) the issuance of a proposed deficiency of tax imposed under section 507, chapter 41, or chapter 42, (4) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as section 501(c)(3) organizations, and (5) return and return information [52] of organizations with respect to which information has been disclosed under (1) through (4) above. Disclosure or inspection is permitted for the purpose of, and only to the extent necessary in, the administration of State laws regulating section 501(c)(3) organizations, such as laws regulating tax-exempt status, charitable trusts, charitable solicitation, and fraud. Such disclosure or inspection may be made only to or by an appropriate State officer or to an officer or employee of the State who is designated by the appropriate State officer, and may not be made by or to a contractor or agent. The Secretary also may disclose or open to inspection the return and return information of an organization that is recognized as tax-exempt under section 501(c)(3), or that has applied for such recognition, to an appropriate State officer if the Secretary determines that disclosure or inspection may facilitate the resolution of Federal or State issues relating to the organization. Appropriate State officer means the State attorney general or any other State official that is charged with overseeing organizations of the type described in section 501(c)(3).

In addition, the provision provides that return and return information disclosed under section 6104(c) may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating section 501(c)(3) organizations in a manner prescribed by the Secretary. Returns and return information shall not be disclosed under section 6104(c), or in such an administrative or judicial proceeding, to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration. The provision makes disclosures of returns and return information under section 6104(c) subject to many of the provisions of section 6103, including that the Secretary maintain a permanent system of records of requests for disclosure (sec. 6103(p)(3)) and that the appropriate State officer maintain various safeguards that protect against unauthorized disclosure (sec. 6103(p)(4)). The provision provides that the willful unauthorized disclosure of return or return information described in section 6104(c) is a felony subject to a fine of up to $5,000 and/or imprisonment of up to five years (sec. 7213(a)(2)), the willful unauthorized inspection of return or return information described in section 6104(c) is subject to a fine of up to $1,000 and/or imprisonment of up to one year (sec. 7213A), and provides the taxpayer the right to bring a civil action for damages in the case of knowing or negligent unauthorized disclosure or inspection of such information (sec. 7431(a)(2)).

EFFECTIVE DATE

The provision is effective for requests or disclosures made after the date of enactment.

[52] Such information also may be open to inspection by an appropriate State officer.

K. Enhanced Confidentiality of Taxpayer Communications With the Office of the Taxpayer Advocate

(Sec. 411 of the bill and sec. 7803 of the Code)

PRESENT LAW

The Taxpayer Advocate is permitted not to disclose to the IRS any contact with, or information provided by, a taxpayer.[53] It may be unclear how this provision interacts with the provision of the Code requiring disclosure to the IRS when an employee of the IRS has knowledge or information regarding a violation of any provision of the Code.[54]

REASONS FOR CHANGE

The Committee believes that it will enhance the interaction of taxpayers with the office of the Taxpayer Advocate by strengthening the confidentiality of those communications.

EXPLANATION OF PROVISION

The provision enhances the confidentiality of taxpayer communications with the office of the Taxpayer Advocate by: (1) permitting the National Taxpayer Advocate to authorize her employees to withhold from the IRS or Department of Justice any information provided by, or regarding contact with, any taxpayer; and (2) permitting the National Taxpayer Advocate to issue guidance (under specified circumstances) superceding provisions of the Internal Revenue Manual relating to the disclosure of information obtained from a taxpayer.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE V—MISCELLANEOUS

A. Clarification of Definition of Church Tax Inquiry

(Sec. 501 of the bill and sec. 7611 of the Code)

PRESENT LAW

Under present law, the IRS may begin a church tax inquiry only if an appropriate high-level Treasury official reasonably believes, on the basis of the facts and circumstances recorded in writing, that an organization (1) may not qualify for tax exemption as a church, (2) may be carrying on an unrelated trade or business, or (3) otherwise may be engaged in taxable activities. A church tax inquiry is defined as any inquiry to a church (other than an examination) that serves as a basis for determining whether the organization qualified for tax exemption as a church or whether it is carrying on an unrelated trade or business or otherwise is engaged in taxable activities. An inquiry is considered to commence when the IRS requests information or materials from a church or a type contained in church records, other than routine requests for informa-

[53] Sec. 7803(c)(4)(A).
[54] Sec. 7214(a)(8).

tion or inquiries regarding matters that do not primarily concern the tax status or liability of the church itself.

REASONS FOR CHANGE

The Committee believes that the present-law church tax inquiry procedures provide important safeguards against the IRS engaging in unnecessary and intrusive examinations of churches. However, the church tax inquiry procedures also have the effect of hampering IRS efforts to educate churches with respect to actions that are not permissible under section 501(c)(3). The Committee believes that a clarification of the scope of the church tax inquiry procedures to make it clear that the IRS may undertake educational outreach efforts with respect to specific churches (e.g., initiating meetings with representatives of a particular church to discuss the rules that apply to such church) will improve compliance with the law by churches.

EXPLANATION OF PROVISION

The provision clarifies that the present-law church tax inquiry procedures do not apply to contacts made by the IRS for the purpose of educating churches with respect to the law governing tax-exempt organizations. For example, the provision clarifies that the IRS does not violate the church tax inquiry procedures when written materials are provided to a church or churches for the purpose of educating such church or churches with respect to the types of activities that are not permissible under section 501(c)(3).

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. Extension of Declaratory Judgment Procedures to Non-501(c)(3) Tax-Exempt Organizations

(Sec. 502 of the bill and sec. 7428 of the Code)

PRESENT LAW

In order for an organization to be granted tax exemption as a charitable entity described in section 501(c)(3), it generally must file an application for recognition of exemption with the IRS and receive a favorable determination of its status. Similarly, for most organizations, a charitable organization's eligibility to receive tax-deductible contributions is dependent upon its receipt of a favorable determination from the IRS. In general, a section 501(c)(3) organization can rely on a determination letter or ruling from the IRS regarding its tax-exempt status, unless there is a material change in its character, purposes, or methods of operation. In cases in which an organization violates one or more of the requirements for tax exemption under section 501(c)(3), the IRS is authorized to revoke an organization's tax exemption, notwithstanding an earlier favorable determination.

In situations in which the IRS denies an organization's application for recognition of exemption under section 501(c)(3) or fails to act on such application, or in which the IRS informs a section 501(c)(3) organization that it is considering revoking or adversely modifying its tax-exempt status, present law authorizes the organi-

zation to seek a declaratory judgment regarding its tax status (sec. 7428). Section 7428 provides a remedy in the case of a dispute involving a determination by the IRS with respect to: (1) the initial qualification or continuing qualification of an organization as a charitable organization for tax exemption purposes or for charitable contribution deduction purposes; (2) the initial classification or continuing classification of an organization as a private foundation; (3) the initial classification or continuing classification of an organization as a private operating foundation; or (4) the failure of the IRS to make a determination with respect to (1), (2), or (3). A "determination" in this context generally means a final decision by the IRS affecting the tax qualification of a charitable organization, although it also can include a proposed revocation of an organization's tax-exempt status or public charity classification. Section 7428 vests jurisdiction over controversies involving such a determination in the U.S. District Court for the District of Columbia, the U.S. Court of Federal Claims, and the U.S. Tax Court.

Prior to utilizing the declaratory judgment procedure, an organization must have exhausted all administrative remedies available to it within the IRS. An organization is deemed to have exhausted its administrative remedies at the expiration of 270 days after the date on which the request for a determination was made if the organization has taken, in a timely manner, all reasonable steps to secure such determination.

If an organization (other than a section 501(c)(3) organization) files an application for recognition of exemption and receives a favorable determination from the IRS, the determination of tax-exempt status is usually effective as of the date of formation of the organization if its purposes and activities during the period prior to the date of the determination letter were consistent with the requirements for exemption. However, if the organization files an application for recognition of exemption and later receives an adverse determination from the IRS, the IRS may assert that the organization is subject to tax on some or all of its income for open taxable years. In addition, as with charitable organizations, the IRS may revoke or modify an earlier favorable determination regarding an organization's tax-exempt status.

Under present law, a non-charity (i.e., an organization not described in section 501(c)(3)) may not seek a declaratory judgment with respect to an IRS determination regarding its tax-exempt status. The only remedies available to such an organization are to petition the U.S. Tax Court for relief following the issuance of a notice of deficiency or to pay any tax owed and sue for refund in federal district court or the U.S. Court of Federal Claims.

REASONS FOR CHANGE

The Committee believes that it is important to provide certainty for organizations that have sought a determination of their tax-exempt status. Thus, the Committee finds it appropriate to extend the present-law declaratory judgment procedures to all organizations that apply for tax-exempt status as organizations described in section 501(c) and (d).

EXPLANATION OF PROVISION

The bill extends declaratory judgment procedures similar to those currently available only to charities under section 7428 to other section 501(c) and (d) determinations. The bill limits jurisdiction over controversies involving such determinations to the United States Tax Court.

EFFECTIVE DATE

The extension of the declaratory judgment procedures to organizations other than section 501(c)(3) organizations is effective for pleadings with respect to determinations made after the date of enactment.

C. Employee Misconduct Report To Include Summary of Complaints by Category

(Sec. 503 of the bill and sec. 7803 of the Code)

PRESENT LAW

The Treasury Inspector General for Tax Administration is subject to the semi-annual reporting requirements set forth in section 5 of the Inspector General Act of 1978. Under present law, reports are made to the Committees on Government Reform and Oversight and Ways and Means in the House of Representatives and the Committees on Governmental Affairs and Finance in the Senate. Each semi-annual report is required to include information regarding the source, nature and status of taxpayer complaints and allegations of serious misconduct by IRS employees received by the IRS or by the Treasury Inspector General for Tax Administration.

REASONS FOR CHANGE

The Committee believes that the information available to the Congress and the public under present law would be enhanced by additional reporting of the types of allegations made with respect to IRS employee misconduct and the number of complaints made with respect to the most common types of allegations.

EXPLANATION OF PROVISION

The provision modifies the semi-annual reporting requirement for the Treasury Inspector General for Tax Administration to require that the reporting with respect to allegations of serious IRS employee misconduct include a summary (by category) of the 10 most common complaints made and the number of such common complaints (by category).

EFFECTIVE DATE

The provision is effective for reporting periods ending after the date of enactment.

D. Annual Report on Awards of Costs and Certain Fees in Administrative and Court Proceedings

(Sec. 504 of the bill)

PRESENT LAW

The Code requires that the IRS pay a taxpayer's reasonable administrative and litigation expenses under specified circumstances. Among other requirements, the IRS is not required to pay these amounts if the IRS can demonstrate that its position was substantially justified.

REASONS FOR CHANGE

The fact that the IRS paid these expenses may be an indication that its position was not substantially justified, as well as an indication that the IRS may be inappropriately pursuing an issue. The lack of published statistics and analytical information hinders the Congress and taxpayers from assessing the extent to which the IRS may be inappropriately pursuing an issue and from pursuing potential remedies to alleviate this problem.

EXPLANATION OF PROVISION

The provision requires TIGTA to publish annually statistics on the number of payments (whether as a result of a settlement or judicial decision) made pursuant to section 7430 and the amount of each such payment. TIGTA also is required to publish an analysis of the administrative issues that gave rise to the necessity of making these payments and the changes (if any) that will be implemented by the IRS as a result of TIGTA's analysis, as well as any other changes that TIGTA recommends on the basis of its analysis. This would permit the Congress to assess the extent to which the IRS may be inappropriately pursuing an issue and to pursue potential remedies to alleviate this problem.

EFFECTIVE DATE

The first annual report is required for fiscal year 2004. The reports must be published no later than three months following the close of the fiscal year.

E. Annual Report on Abatements of Penalties

(Sec. 505 of the bill)

PRESENT LAW

Some penalties in the Code are imposed automatically (such as for failure to file or failure to pay), while others are imposed in response to the specific factual situation presented on a tax return (such as negligence). In addition, some penalties can be abated automatically, while others are abated in response to a specific factual presentation made by the taxpayer. In general, most penalties can be abated for reasonable cause, but the details of what constitutes reasonable cause can vary somewhat from penalty to penalty as a reflection of the differences in the types of behaviors that the different penalties are designed to deter.

REASONS FOR CHANGE

Both the manner in which penalties are imposed and the manner in which they are abated can present issues for consideration with respect to the uniformity of penalty administration. The system of penalty administration has a number of goals and it is not always possible to reconcile them completely. One goal is uniformity of application of penalties (both in their original imposition and in their abatement) for similarly situated taxpayers. Another goal is to reflect the individual circumstances surrounding the failure for which the taxpayer is being penalized. Another goal is to provide rapid resolution for taxpayers of disputes with the IRS, including disputes over penalties. Accomplishing this goal entails giving "front line" IRS employees the authority to resolve disputes (within certain parameters) on their own authority.

One challenge in providing proper tax administration is balancing all of these goals so that one does not predominate at the expense of the others. For example, one theoretical way to maximize uniformity might be to centralize the administration of penalties in one office. This would, however, make it more difficult for taxpayers to reach a rapid resolution of their disputes with the IRS, because it could be more difficult for taxpayers to deal with a centralized penalty administration structure than with the current locally-based structure. It could also present administrative difficulties, such as divorcing decisions concerning penalties from decisions concerning the underlying liability, when in reality the two may be inextricably interconnected. On the other hand, the maximization of the goal of reflecting individual circumstances could adversely affect both uniformity and the rapid resolution of disputes. Similarly, maximizing the rapid resolution of disputes could adversely affect both uniformity and individualization.

Balancing these goals necessarily means that any one of them will not be maximized. Accordingly, a balanced approach means that some compromises will have to be made to permit the most appropriate balancing of these goals.

EXPLANATION OF PROVISION

The bill requires TIGTA to report to the Congress annually on penalty abatements and the reasons and criteria for abatements. Better statistical information will enable more rigorous analysis of the systems to occur, which will provide the opportunity for problems to surface and be dealt with in a systematic manner.

EFFECTIVE DATE

The first annual report is required for fiscal year 2004. The reports must be provided to the Congress no later than six months following the close of the fiscal year.

F. Better Means of Communicating With Taxpayers

(Sec. 506 of the bill)

PRESENT LAW

The IRS generally communicates with taxpayers (or their designated representatives) in one of three methods: by mail, by tele-

phone, or in person. Many telephone or in person contacts are initiated by the taxpayer, whereas many mail contacts are initiated by the IRS.

REASONS FOR CHANGE

Many of the difficulties taxpayers encounter in the course of communicating with the IRS are inherent to mail communications: documents missing in the mail, difficulties in forwarding documents, maintaining updated address records, etc. The Committee believes that it will be beneficial to receive an evaluation of whether technological advances, such as e-mail and the fax, could permit the utilization of alternate means of communicating with taxpayers, which in turn could eliminate some of the difficulties with the present system.

EXPLANATION OF PROVISION

The bill requires TIGTA to issue a report to the Congress evaluating whether technological advances, such as e-mail and the fax, permit the utilization of alternate means of communicating with taxpayers to eliminate some of the difficulties with the present system.

EFFECTIVE DATE

The report must be issued no later than 18 months after the date of enactment.

G. Information Regarding Statute of Limitations

(Sec. 507 of the bill)

PRESENT LAW

In general, a taxpayer must file a refund claim within three years of the filing of the return or within two years of the payment of the tax, whichever period expires later (if no return is filed, the two-year limit applies). A refund claim that is not filed within these time periods is rejected as untimely.

A special rule applies during periods of disability. Equitable tolling of the statute of limitations for refund claims of an individual taxpayer applies during any period in which an individual is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that can be expected to result in death or to last for a continuous period of not less than 12 months. Equitable tolling does not apply during periods in which the taxpayer's spouse or another person is authorized to act on the taxpayer's behalf in financial matters.

There is no requirement that IRS publications contain information that both describes this statute of limitations provision and explains the consequences of failing to file within the time period prescribed by the statute of limitations.

REASONS FOR CHANGE

Some taxpayers who are due refunds fail to file tax returns by the due date. Several years later they realize that they owe additional taxes to the IRS for that later year and attempt to offset the amount that they owe against the refund that they were due for

the earlier year. They are unable to do so, however, if their claim for the refund is filed beyond the statutorily specified deadline. The Committee recognizes that in general statutes of limitations promote important policy goals of repose and certainty. The Committee also believes that it is important that taxpayers be adequately informed of the operation of these provisions so that they are not inadvertently disadvantaged by consequences that they did not foresee.

EXPLANATION OF PROVISION

The provision requires the IRS to revise Publication 1 ("Your Rights as a Taxpayer") by adding an explanation of the consequences of failing to file within the time period prescribed by the statute of limitations to the section on refunds that describes the statute of limitations. The provision also requires the IRS to revise the instructions that accompany all of the Form 1040 packages (including 1040A and 1040EZ) in a similar manner to add a description of this statute of limitations and an explanation of the consequences of failing to file within the time period prescribed by the statute of limitations.

EFFECTIVE DATE

The revisions to Publication 1 are required to be made as soon as practicable, but not later than 180 days after the date of enactment. The revisions to the Form 1040 instructional packages are required to be made for instructions for taxable years beginning after December 31, 2002.

H. Amendment to Treasury Auction Reforms

(Sec. 508 of the bill and sec. 202 of the Government Securities Act Amendments of 1993)

PRESENT LAW

Member of the Treasury Borrowing Advisory Committee are prohibited from disclosing anything relating to the securities to be auctioned in a midquarter refunding by the Secretary until the Secretary makes a public announcement of the refunding.

REASONS FOR CHANGE

The Committee believes that permitting disclosure upon the release by the Secretary of the minutes of the meeting accomplishes the goals of the present-law restrictions without needlessly hindering the members of the advisory committee.

EXPLANATION OF PROVISION

The bill permits earlier disclosure upon the release by the Secretary of the minutes of the meeting.

EFFECTIVE DATE

The provision applies to meetings held after the date of enactment.

I. Enrolled Agents

(Sec. 509 of the bill and new sec. 7528 of the Code)

PRESENT LAW

Treasury Department Circular No. 230 provides rules relating to practice before the IRS by attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others.

REASONS FOR CHANGE

The Committee believes that individuals who meet the regulatory requirements established by the Secretary should be able to use the specified credentials or designation in any State or Federal jurisdiction.

EXPLANATION OF PROVISION

The bill adds a new section to the Code permitting the Secretary to prescribe regulations to regulate the conduct of enrolled agents in regard to their practice before the IRS and to permit enrolled agents meeting the Secretary's qualifications to use the credentials or designation "enrolled agent", "EA", or "E.A.".

EFFECTIVE DATE

The provision is effective on the date of enactment.

J. Allow the Financial Management Service To Retain Transaction Fees From Levied Amounts

(Sec. 510 of the bill)

PRESENT LAW

To facilitate the collection of tax, the IRS can generally levy upon all property and rights to property of a taxpayer (sec. 6331). With respect to specified types of recurring payments, the IRS may impose a continuous levy of up to 15 percent of each payment, which generally continues in effect until the liability is paid (sec. 6331(h)). Continuous levies imposed by the IRS on specified Federal payments are administered by the Financial Management Service (FMS) of the Department of the Treasury. FMS is generally responsible for making most non-defense related Federal payments. FMS is required to charge the IRS for the costs of developing and operating this continuous levy program. The IRS pays these FMS charges out of its appropriations.

REASONS FOR CHANGE

The Committee believes that altering the bookkeeping structure of these costs, as was recommended in the President's budget proposal, will provide for cost savings to the government.

EXPLANATION OF PROVISION

The bill allows FMS to retain a portion of the levied funds as payment of these FMS fees. The amount credited to the taxpayer's account would not, however, be reduced by this fee.

EFFECTIVE DATE

The provision is effective on the date of enactment.

K. EXTENSION OF IRS USER FEES

(Sec. 511 of the bill and new sec. 7529 of the Code)

PRESENT LAW

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. Public Law 104–117[55] extended the statutory authorization for these user fees[56] through September 30, 2003.

REASONS FOR CHANGE

The Committee believes that it is appropriate to provide a further extension of these user fees.

EXPLANATION OF PROVISION

The bill extends the statutory authorization for these user fees through September 30, 2013. The bill also moves the statutory authorization for these fees into the Code.[57]

EFFECTIVE DATE

The provision, including moving the statutory authorization for these fees into the Code and repealing the off-Code statutory authorization for these fees, is effective for requests made after the date of enactment.

TITLE VI—LOW-INCOME TAXPAYER CLINICS

A. LOW-INCOME TAXPAYER CLINICS

(Sec. 601 of the bill and sec. 7526 of the Code)

PRESENT LAW

The Code provides that the Secretary is authorized to provide up to $6 million per year in matching grants to certain low-income taxpayer clinics.

REASONS FOR CHANGE

The Committee believes that low-income taxpayer clinics provide important services to taxpayers and that, accordingly, the amount authorized to be appropriated for matching grants to them should be increased.

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[55] An Act to provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes (March 20, 1996).

[56] These user fees were originally enacted in section 10511 of the Revenue Act of 1987 (Pub. Law No. 100–203, December 22, 1987).

[57] The proposal also moves into the Code the user fee provision relating to pension plans that was enacted in section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Pub. L. 107–16, June 7, 2001).

The Committee believes that the Secretary should be authorized to use mass communications, referrals, and other means to promote the benefits and encourage the use of low-income taxpayer clinics.

EXPLANATION OF PROVISION

The provision increases this authorization to $9 million for 2004, to $12 million for 2005, and to $15 million for 2006 and thereafter. The provision also authorizes the IRS to promote the benefits and encourage the use of low-income taxpayer clinics and clarifies the definition of a clinic. The provision prohibits the use of grants for overhead expenses of any institution sponsoring a clinic.

EFFECTIVE DATE

The provision is effective on the date of enactment.

TITLE VII—UNEMPLOYMENT ASSISTANCE

A. Unemployment Assistance

(Sec. 701 of the bill)

PRESENT LAW

States set unemployment benefit rules within a broad federal framework. The maximum length of benefits is 26 weeks in all but two states. Under the regular Federal-State Extended Benefits Program, up to an additional 13 weeks of 50 percent federally funded benefits are available in states suffering severe economic distress. As of March 23, 2003 unemployed workers in three states were eligible for benefits under the regular extended benefits program.

Under P.L. 107–147 and P.L. 108–1, up to 13 weeks of 100 percent federally funded temporary extended unemployment benefits are available nationwide for eligible displaced workers. In states continuing to experience a high rate of unemployment (including those with an insured unemployment rate of at least 4 percent, among other criteria) displaced workers who exhaust their up to 13 weeks of temporary extended unemployment benefits as described above are eligible for up to an additional 13 weeks of 100 percent federally funded temporary extended unemployment benefits. As of March 23, 2003 unemployed workers in five states were receiving benefits under this program.

The 100 percent federally funded temporary extended unemployment benefits program applies to weeks of unemployment ending before June 1, 2003 and does not allow benefit payments after August 30, 2003. Transition periods are provided for weeks beginning after May 31, 2003.

REASONS FOR CHANGE

Currently, New York State uses a different definition of "week" than other states for purposes of the provision of unemployment benefits. In all other states, "weeks" are defined as ending on Saturday; in New York State, "weeks" end on Sunday. The Committee believes that workers in New York State should be treated the same as workers in all other states.

EXPLANATION OF PROVISION

The provision makes a technical change to ensure unemployed workers in New York State are eligible for Federal temporary extended unemployment benefits on an equal basis with unemployed workers in other states. Thus the provision provides that present law is to apply to weeks of unemployment ending on Sunday, June 1, 2003, rather than before that date, providing for the same eligibility period in all states, including New York.

EFFECTIVE DATE

The provision is effective upon enactment.

II. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 1528.

MOTION TO REPORT THE BILL

The bill, H.R. 1528, as amended, was ordered favorably reported by a voice vote (with a quorum being present).

VOTES ON AMENDMENTS

A rollcall vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

An amendment by Mr. Neal, which would prohibit the Internal Revenue Service from entering into contracts with corporate expatriates, was defeated by a rollcall vote of 14 yeas to 21 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas		X		Mr. Rangel	X		
Mr. Crane		X		Mr. Stark	X		
Mr. Shaw		X		Mr. Matsui			
Mrs. Johnson		X		Mr. Levin	X		
Mr. Houghton		X		Mr. Cardin	X		
Mr. Herger		X		Mr. McDermott	X		
Mr. McCrery		X		Mr. Kleczka	X		
Mr. Camp		X		Mr. Lewis (GA)	X		
Mr. Ramstad		X		Mr. Neal	X		
Mr. Nussle				Mr. McNulty			
Mr. Johnson		X		Mr. Jefferson	X		
Ms. Dunn		X		Mr. Tanner	X		
Mr. Collins		X		Mr. Becerra	X		
Mr. Portman		X		Mr. Doggett	X		
Mr. English		X		Mr. Pomeroy	X		
Mr. Hayworth		X		Mr. Sandlin	X		
Mr. Weller		X		Ms. Tubbs Jones			
Mr. Hulshof							
Mr. McInnis							
Mr. Lewis (KY)		X					
Mr. Foley		X					
Mr. Brady		X					
Mr. Ryan		X					
Mr. Cantor		X					

III. BUDGET EFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 1528 as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2003–2008:

ESTIMATED REVENUE EFFECTS OF H.R. 1528, THE ''TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2003'' AS PASSED BY THE COMMITTEE ON WAYS AND MEANS ON APRIL 3, 2003

[Fiscal years 2003–2007, in millions of dollars]

Provision	Effective	2003	2004	2005	2006	2007	2003–07
I. Penalty and Interest Reform Provisions:							
1. Failure to pay estimated tax; increase safe harbor to $1,600	etpm tyba 12/31/03	.....	.....	−64	−66	−68	−198
2. Exclusion from gross income for interest on overpayments of income tax by individuals	iri cyba DOE	.....	.....	1,034	−103	−106	825
3. Abatement of interest	iao/a DOE	.....	−1	−1	−1	−2	−5
4. Deposits to stop the running of interest on potential underpayments	dma DOE	13	144	−5	−6	−6	140
5. Expansion of interest netting for individuals	iaa 12/31/03	.....	(1)	−1	−1	−2	−4
6. Waiver of certain penalties for first-time unintentional minor errors	after 12/31/03	.....	−11	−16	−16	−16	−59
7. Frivolous tax returns and submissions	(2)	1	3	3	3	3	13
8. Clarification of application of Federal tax deposit penalty	DOE	(1)	−5	−5	−5	−5	−27
Total of Penalty and Interest Reform Provisions		14	130	945	−195	−202	685
II. Fairness of Collection Procedure Provisions:							
1. Authorize IRS to enter into installment agreements that provide for partial payment	iaeio/a DOE	8	40	14	5	(3)	61
2. Extend time limit for contesting IRS levy	DOE	.....	−1	−2	−3	−3	−9
3. Individuals held harmless on Improper Levy on individual retirement plan	arttta 12/31/03	Negligible Revenue Effect					
4. Place threshold on tolling of statute of limitations during review by Taxpayer Advocate Service	DOE	Negligible Revenue Effect					
5. Study of liens and levies	1ya DOE	No Revenue Effect					
Total of Fairness of Collection Procedure Provisions		8	39	12	2	−3	52
III. Tax Administration Reform Provisions:							
1. Revisions relating to termination of employment of IRS employees for misconduct	DOE	Negligible Revenue Effect					
2. Confirmation of tax court authority to apply equitable recoupment	(4)	No Revenue Effect					
3. Jurisdiction of Tax Court over collection due process cases	afa DOE	Negligible Revenue Effect					
4. Office of Chief Counsel Review of offers-in-compromise	oicsopo/a DOE	No Revenue Effect					
5. Extend the due date for electronically filed returns by 15 days (sunset 12/31/07)	tyba 12/31/02	No Revenue Effect					
6. Access of National Taxpayer Advocate to independent legal counsel	DOE	No Revenue Effect					
7. Payment of motor fuel excise tax refunds by direct deposit	DOE	Negligible Revenue Effect					
8. Family business tax simplification	tyba 12/31/02	Negligible Revenue Effect					
9. Consumer options under the refundable credit health insurance costs of TAA and PBGC recipients [5]	mba DOE & before 1/1/06	−4	−40	−45	−11	.....	−100
10. Suspension of tax-exempt status of terrorist organizations	[6]	Negligible Revenue Effect					

Total of Tax Administration Reform Provisions		−4	−40	−45	−11	([7])	−100
IV. Confidentiality and Disclosure Provisions:							
1. Collection activities with respect to a joint return disclosable based on oral request	rma DOE	No Revenue Effect					
2. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers	180da DOE	No Revenue Effect					
3. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.	pca DOE	No Revenue Effect					
4. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.	Dma DOE	No Revenue Effect					
5. Compliance by contractors with confidentiality safeguards	Dma 12/31/03	No Revenue Effect					
6. Higher standards for requests for and consents to disclosure	racma 3ma DOE	No Revenue Effect					
7. Notice to taxpayer concerning administrative determination of browsing; annual report	DOE & cyea DOE	No Revenue Effect					
8. Expanded disclosure in emergency circumstances	DOE	No Revenue Effect					
9. Disclosure of taxpayer identity for tax refund purposes	DOE	No Revenue Effect					
10. Disclosure to State officials relating to section 501(c)(3) organizations	DOE	No Revenue Effect					
11. Enhanced confidentiality of taxpayer communications with the Office of the Taxpayer Advocate	DOE	Negligible Revenue Effect					
Total of Confidentiality and Disclosure Provisions		([7])	([7])	([7])	([7])	([7])	([7])
V. Miscellaneous Provisions:							
1. Clarification of definition of church tax inquiry	DOE	No Revenue Effect					
2. Expansion of declaratory judgment procedures to non-501(c)(3) tax-exempt organizations	([8])	Negligible Revenue Effect					
3. Employee misconduct report to include summary of complaints by category	rpea DOE	No Revenue Effect					
4. Annual report on awards of costs and certain fees in administrative and court proceedings	([9])	No Revenue Effect					
5. Annual report on abatement of penalties	([10])	No Revenue Effect					
6. Better means of communicating with taxpayers	([11])	No Revenue Effect					
7. Information regarding statute of limitations	([12])	No Revenue Effect					
8. Amendment to treasury auction reforms [13]	mha DOE	No Revenue Effect					
9. Enrolled agents	DOE	No Revenue Effect					
10. Allow the Financial Management Service to retain transaction fees from levied amounts [13]	DOE	No Revenue Effect					
11. Extension of IRS user fees (through 9/30/13) [13]	DOE	.....	33	34	35	36	138
Total of Miscellaneous Provisions		([7])	33	34	35	36	138
VI. Low-Income Taxpayer Clinics [13]	DOE	No Revenue Effect					
VII. Federal-State Unemployment Assistance Agreements [13] [14]	5/25/03	No Revenue Effect					
Net Total		18	162	946	−169	−169	775

[1] Loss of less than $500,000.

[2] Provision effective for submissions made and issues raised after the date on which the Secretary first prescribes the required lists.

[3] Gain of less than $500,000.

[4] The proposal would be effective for any action or proceeding in the Tax Court with respect to which a decision has not become final as of the date of enactment.

[5] Estimate includes total outlays of $43 million in fiscal years 2003 through 2013.

[6] Effective for organizations that are designated or identified as a terrorist organization before, on, or after the date of enactment.

[7] Negligible revenue effect.

[8] The extension of the declaratory judgment procedures to organizations other than section 501(c)(3) organizations would be effective for pleadings with respect to determinations made after the date of enactment.

[9] The first annual report would be required for fiscal year 2004. The reports must be published no later than three months following the close of the fiscal year.

[10] The first annual report would be required for fiscal year 2004. The reports must be provided to the Congress no later than six months following the close of the fiscal year.

[11] The report must be issued no later than 18 months after the date of enactment.

[12] The revisions to Publication 1 would be required to be made as soon as practicable, but not later than 180 days after the date of enactment. The revisions to the Form 1040 instructional packages would be required to be made for instructions for taxable years beginning after December 31, 2002.

[13] Estimate provided by Congressional Budget Office.

[14] Although Congressional Budget Office estimates that this provision would result in increased outlays for TEUC of $20 million in 2003, these costs were already reflected in Congressional Budget Office's original scoring of P.L. 108–1, and are in the March 2003 Congressional Budget Office baseline. Congressional Budget Office estimates that there would be no cost relative to those already reflected in baseline.

Legend for ''Effective'' column: afa=appeals filed after; arttta=amounts returned to the taxpayer after; cyba=calendar years beginning after; cyea=calendar years ending after; DOE=date of enactment; dma=distributions made after; Dma=disclosures made after; etpm=estimated tax payments made; iaa=interest accrued after; iaeio/a=installment agreements entered into on or after; iao/a=interest accruing on or after; iri=interest received in; mba=months beginning after; mha=meetings held after; and pca=proceedings commenced after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill provides an increase in budget authority for Low-Income Taxpayer Clinics. The Committee further states that the revenue reducing income tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 8, 2003.

Hon. WILLIAM "BILL" M. THOMAS,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1528, the Taxpayer Protection and IRS Accountability Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Annie Bartsch (for federal revenues), and Matthew Pickford (for federal spending).

Sincerely,

BARRY B. ANDERSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 1528—Taxpayer Protection and IRS Accountability Act of 2003

Summary: H.R. 1528 would amend existing tax law and establish new laws relating to taxpayer protection and Internal Revenue Service (IRS) accountability. The bill also would alter the tax penalty and interest sections of the Internal Revenue Code. In addition, the bill would institute new safeguards against unfair IRS collections procedures.

The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) estimate that H.R. 1528 would increase governmental receipts by $21 million in 2003, and by $651 million over the 2003–2008 period, and would decrease governmental receipts by $308 million over the 2003–2013 period. CBO estimates that the bill would increase direct spending by $171 million over the 2004–2013 period.

CBO and JCT have determined that H.R. 1528 contains no private-sector or intergovernmental mandates as defined by the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The following table summarizes the estimate budgetary impact of H.R. 1528.

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
CHANGES IN REVENUES						
Adjustment to estimated tax penalties	0	0	−64	−66	−68	−70
Exclusion from gross income for interest on overpayments of income tax	0	0	1,034	−103	−106	−109
Other penalty and interest reform provisions	14	130	−25	−26	−28	−29
Collection procedure reform provisions	8	39	12	2	−3	−3
Alteration of refundable credit for health insurance costs of TAA and PBGC	−1	−27	−23	−5	0	0
Extension of IRS user fees	0	33	34	35	36	38
Total Changes in Revenues	21	175	968	−163	−169	−173
CHANGES IN DIRECT SPENDING (OUTLAYS)						
Alteration of fees for Financial Management Service	0	8	8	8	9	9
Extension of IRS user fees	0	3	3	4	4	4
Alteration of refundable credit for health insurance costs of TAA and PBGC	3	13	22	6	0	0
Total Changes in Outlays	3	24	33	18	13	13

Notes.—Details do not add to totals because of rounding. TAA—Trade Adjustment Assistance. PBGC—Pension Benefit Guarantee Corporation.

Sources: CBO and the Joint Committee on Taxation.

Basis of estimate

Revenues

All revenue estimates, with the exception of that for the provision extending IRS user fees, were provided by JCT.

H.R. 1528 would alter existing tax laws relating to penalties and interest, collection procedures, tax administration, and confidentiality and disclosure. In addition, the bill would extend IRS user fees, increase the authorization for matching grants to certain low-income taxpayer clinics, and make a technical alteration to the Federal-State Extended Benefits Program for unemployed workers. JCT and CBO estimate that, together, the provisions contained in H.R. 1528 would increase federal revenues by $21 million in 2003, increase them by $651 million over the 2003–2008 period, and decrease them by $308 million over the 2003–2013 period.

The most significant effect on federal revenues would result from the provision that converts the penalty for failure to pay estimated tax into an interest provision for individuals, estates, and trusts. The provision also increases the safe harbor for such penalties to $1,600. JCT estimates enacting this provision would decrease federal revenues by $268 million over the 2005–2008 period and by $651 million over the 2005–2013 period. The bill also would allow individuals to exclude from gross income interest on overpayments of income tax, unless it were determined that the taxpayer intentionally took advantage of the exclusion. JCT estimates this provision would increase governmental receipts by about $1 billion in 2005, and decrease receipts in each year thereafter, for a total increase of $115 million over the 2005–2013 period. JCT estimates that the additional provisions contained in H.R. 1528 that would alter penalty and interest tax laws would increase federal revenues by $14 million in 2003 and by $36 million over the 2003–2008 period, and decrease them by $135 million over the 2003–2013 period.

H.R. 1528 also would change existing collection procedures. JCT estimates that those changes would increase federal revenues by $8

million in 2003, by $49 million over the 2003–2008 period, and by $32 million over the 2003–2013 period. H.R. 1528 also would allow certain state-based coverage to meet the definition of qualified health insurance eligible for the refundable health insurance tax credit. JCT estimates that this provision would decrease federal revenues by $1 million in 2003 and by $56 million over the 2003–2006 period. It would have no effect on revenues thereafter.

Lastly, H.R. 1528 would extend the period during which IRS may charge fees on businesses for providing ruling, opinion, and determination letters. Under current law, IRS's authority to charge such fees will expire at the end of fiscal year 2003. The bill would extend the authority to charge such fees until September 30, 2013. Based on the amount of fees collected in recent years and on information from IRS, CBO estimates that extending the fees would increase governmental receipts by $176 million over the 2004–2008 period and $386 million over the 2004–2013 period.

Direct spending

Financial Management Service Fees. Section 510 of H.R. 1528 would allow the Financial Management Service (FMS) to retain a portion of the amounts levied under the Federal Payment Levy Program that FMS administers for the Internal Revenue Service (IRS). The levy program allows the IRS to collect a portion of certain payments disbursed by FMS to delinquent taxpayers. Under current law, IRS pays FMS' administrative costs for this program from its annual appropriation. H.R. 1528 would allow FMS to retain a portion of the funds it collects to cover its costs. CBO estimates that this provision would increase direct spending by $42 million over the 2004–2008 period and by $88 million over the 2004–2013 period.

IRS User Fees. As noted above, H.R. 1528 would adjust and extend the authority of the IRS to charge taxpayers fees for certain rulings, opinion letters, and determinations through September 30, 2013. The IRS has the authority to retain and spend a small portion of these fees without further appropriation. CBO estimates that continuing the fees would increase direct spending by a total of $18 million over the 2004–2008 period and by $39 million over the 2004–2013 period.

Refundable Credit for Health Insurance Costs. As noted above, H.R. 1528 would allow certain state-based health insurance coverage to qualify for the refundable health insurance credit. JCT estimates that the provision would increase outlays, from the refundability of the credit, by $3 million in 2003, and by a total of $44 million over the 2003–2006 period. It would have no effect on outlays thereafter.

Summary of the effect on revenues and direct spending: The overall effect of H.R. 1528 on revenues and direct spending is shown in the following table:

	By fiscal year, in millions of dollars—										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Changes in receipts	21	175	968	−163	−169	−173	−178	−187	−194	−199	−206
Changes in outlays	3	24	33	18	13	13	13	13	13	13	15

Sources: CBO and the Joint Committee on Taxation.

Intergovernmental and private-sector impact: CBO and JCT have determined that H.R. 1528 contains no private-sector or intergovernmental mandates as defined in UMRA and would impost no costs on state, local, or tribal governments.

Estimate prepared by: Federal Revenues: Annie Bartsch; Federal Spending: Matthew Pickford; State, Local, and Tribal Impact: Greg Waring; and Private-sector Impact: Paige Piper/Bach.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis. Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

D. Macroeconomic Impact Analysis

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

IV. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning fairness to individual taxpayers that the Committee concluded that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of the tax provision in this legislation that authorizes funding of low-income taxpayer clinics are to assist in the development, expansion, and continuation of these clinics through matching grants. In addition, the Secretary may promote the benefits and encourage the use of these clinics. Low-income taxpayer clinics contribute to taxpayer compliance with the Internal Revenue Code and the payment of the correct amount of Federal taxes.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises* * * "), and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The provision that ensures compliance by State contractors with confidentiality safeguards (sec. 405) imposes Federal intergovernmental mandates on State, local, or tribal governments. The staff of the Joint Committee on Taxation estimates that the direct costs of complying with these Federal intergovernmental mandates will not exceed $50,000,000 (adjusted for inflation) in either the first fiscal year or in any of the 4 fiscal years following the first fiscal year.

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

V. Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter A—Determination of Tax Liability

* * * * * * *

PART IV—CREDITS AGAINST TAX

* * * * * * *

Subpart C—Refundable Credits

* * * * * * *

SEC. 35. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) * * *

* * * * * * *

(e) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

(1) * * *

(2) REQUIREMENTS FOR STATE-BASED COVERAGE.—

(A) * * *

* * * * * * *

(C) WAIVER BY ELIGIBLE INDIVIDUALS.—With respect to any month which ends before January 1, 2006, subparagraphs (A) and (B) shall not apply with respect to any eligible individual and such individual's qualifying family members if such eligible individual elects to waive the application of such subparagraphs with respect to such month.

Subchapter B—Computation of Taxable Income

* * * * * * *

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

SEC. 139A. EXCLUSION FROM GROSS INCOME FOR INTEREST ON OVERPAYMENTS OF INCOME TAX BY INDIVIDUALS.

(a) IN GENERAL.—In the case of an individual, gross income shall not include interest paid under section 6611 on any overpayment of tax imposed by this subtitle.

(b) EXCEPTION.—Subsection (a) shall not apply in the case of a failure to claim items resulting in the overpayment on the original return if the Secretary determines that the principal purpose of such failure is to take advantage of subsection (a).

(c) SPECIAL RULE FOR DETERMINING MODIFIED ADJUSTED GROSS INCOME.—For purposes of this title, interest not included in gross

income under subsection (a) shall not be treated as interest which is exempt from tax for purposes of sections 32(i)(2)(B) and 6012(d) or any computation in which interest exempt from tax under this title is added to adjusted gross income.

* * * * * * *

PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

* * * * * * *

SEC. 167. DEPRECIATION.

(a) * * *

* * * * * * *

(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

(1) * * *

* * * * * * *

(5) SPECIAL RULES.—

(A) * * *

* * * * * * *

(D) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections **[**6654**]** *6641* and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

* * * * * * *

Subchapter E—Accounting Periods and Methods of Accounting

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PART II—METHODS OF ACCOUNTING

* * * * * * *

Subpart B—Taxable Year for Which Items of Gross Income Included

* * * * * * *

SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

(a) * * *

(b) PERCENTAGE OF COMPLETION METHOD.—

(1) REQUIREMENTS OF PERCENTAGE OF COMPLETION METHOD.—Except as provided in paragraph (2), in the case of any long-term contract with respect to which the percentage of completion method is used—

(A) * * *

* * * * * * *

For purposes of subtitle F (other than sections **[**6654**]** *6641* and 6655) any interest required to be paid by the taxpayer under subparagraph (B) shall be treated as an increase in the tax imposed by this chapter for the taxable year in which the

contract is completed (or, in the case of interest payable with respect to any amount properly taken into account after completion of the contract, for the taxable year in which the amount is so properly taken into account).

* * * * * * *

Subchapter F—Exempt Organizations

* * * * * * *

PART I—GENERAL RULE

* * * * * * *

SEC. 501. EXEMPTION FROM TAX ON CORPORATIONS, CERTAIN TRUSTS, ETC.

(a) * * *

* * * * * * *

(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

(ii) such Executive order refers to this subsection.

(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

(A) begins on the later of—

(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

(ii) the date of the enactment of this subsection, and

(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

(6) ERRONEOUS DESIGNATION.—

(A) IN GENERAL.—If—

(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

[(p)] *(q)* CROSS REFERENCE.—

For nonexemption of Communist-controlled organizations, see section 11(b) of the Internal Security Act of 1950 (64 Stat. 997; 50 U.S.C. 790(b)).

* * * * * * *

Subchapter K—Partners and Partnerships

* * * * * * *

PART III—DEFINITIONS

* * * * * * *

SEC. 761. TERMS DEFINED.

(a) * * *

* * * * * * *

(f) QUALIFIED JOINT VENTURE.—

(1) IN GENERAL.—In the case of a qualified joint venture conducted by a husband and wife who file a joint return for the taxable year, for purposes of this title—

(A) such joint venture shall not be treated as a partnership,

(B) all items of income, gain, loss, deduction, and credit shall be divided between the spouses in accordance with their respective interests in the venture, and

(C) each spouse shall take into account such spouse's respective share of such items as if they were attributable to a trade or business conducted by such spouse as a sole proprietor.

(2) QUALIFIED JOINT VENTURE.—For purposes of paragraph (1), the term "qualified joint venture" means any joint venture involving the conduct of a trade or business if—

(A) the only members of such joint venture are a husband and wife,

(B) both spouses materially participate (within the meaning of section 469(h) without regard to paragraph (5) thereof) in such trade or business, and

(C) both spouses elect the application of this subsection.

[(f)] *(g)* CROSS REFERENCE.—

For rules in the case of the sale, exchange, liquidation, or reduction of a partner's interest, see sections 704(b) and 706(c)(2).

* * * * * * *

CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

* * * * * * *

SEC. 1402. DEFINITIONS.

(a) NET EARNINGS FROM SELF-EMPLOYMENT.—The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss—

(1) * * *

* * * * * * *

(14) in the case of church employee income, the special rules of subsection (j)(1) shall apply; [and]

(15) in the case of a member of an Indian tribe, the special rules of section 7873 (relating to income derived by Indians from exercise of fishing rights) shall apply[.]*; and*

(16) notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) in determining net earnings from self-employment of such spouse.

* * * * * * *

Subtitle C—Employment Taxes

* * * * * * *

CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES

* * * * * * *

SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

(a) * * *

(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

(1) IN GENERAL.—Solely for purposes of section [6654] *6641*, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

(2) EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.—Paragraph (1) shall not apply to any employer for any calendar year if—

(A) * * *

[(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).]

(B) no interest would be required to be paid (but for this section) under 6641 for such taxable year by reason of the $1,600 amount specified in section 6641(d)(1)(B)(i)(II).

(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section [6654(d)(2)] *6641(d)(2)* in respect of the amount treated as tax under paragraph (1).

[(4) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.]

* * * * * * *

Subtitle F—Procedure and Administration

* * * * * * *

CHAPTER 61—INFORMATION AND RETURNS

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Subchapter A—Returns and Records

* * * * * * *

PART V—TIME FOR FILING RETURNS AND OTHER DOCUMENTS

* * * * * * *

SEC. 6072. TIME FOR FILING INCOME TAX RETURNS.

(a) * * *

* * * * * * *

(f) ELECTRONICALLY FILED RETURNS OF INDIVIDUALS.—

(1) IN GENERAL.—Returns of an individual under section 6012 or 6013 (other than an individual to whom subsection (c) applies) which are filed electronically—

(A) in the case of returns filed on the basis of a calendar year, shall be filed on or before the 30th day of April following the close of the calendar year, and

(B) in the case of returns filed on the basis of a fiscal year, shall be filed on or before the last day of the 4th month following the close of the fiscal year.

(2) ELECTRONIC FILING.—Paragraph (1) shall not apply to any return unless—

(A) such return is accepted by the Secretary, and

(B) the balance due (if any) shown on such return is paid electronically in a manner prescribed by the Secretary.

(3) SPECIAL RULES.—

(A) ESTIMATED TAX.—If—

(i) paragraph (1) applies to an individual for any taxable year, and

(ii) there is an overpayment of tax shown on the return for such year which the individual allows against the individual's obligation under section 6641,

then, with respect to the amount so allowed, any reference in section 6641 to the April 15 following such taxable year shall be treated as a reference to April 30.

(B) REFERENCES TO DUE DATE.—Paragraph (1) shall apply solely for purposes of determining the due date for the individual's obligation to file and pay tax and, except as otherwise provided by the Secretary, shall be treated as an extension of the due date for any other purpose under this title.

(4) TERMINATION.—This subsection shall not apply to any return filed with respect to a taxable year which begins after December 31, 2007.

* * * * * * *

Subchapter B—Miscellaneous Provisions

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SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) * * *

* * * * * * *

(c) DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.—[The Secretary]

(1) IN GENERAL.—The Secretary may, subject to such requirements and conditions as he may prescribe by regulations, disclose the return of any taxpayer, or return information with respect to such taxpayer, to such person or persons as the taxpayer may designate in a request for or consent to such disclosure, or to any other person at the taxpayer's request to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, return information shall not be disclosed to such person or persons if the Secretary determines that such disclosure would seriously impair Federal tax administration.

(2) REQUIREMENTS FOR VALID REQUESTS AND CONSENTS.—A request for or consent to disclosure under paragraph (1) shall only be valid for purposes of this section, sections 7213, 7213A, and 7431 if—

(A) at the time of execution, such request or consent designates a recipient of such disclosure and is dated, and

(B) at the time such request or consent is submitted to the Secretary, the submitter of such request or consent certifies, under penalty of perjury, that such request or consent complied with subparagraph (A).

(3) RESTRICTIONS ON PERSONS OBTAINING INFORMATION.—Any person shall, as a condition for receiving return or return information under paragraph (1)—

(A) ensure that such return and return information is kept confidential,

(B) use such return and return information only for the purpose for which it was requested, and

(C) not disclose such return and return information except to accomplish the purpose for which it was requested, unless a separate consent from the taxpayer is obtained.

(4) REQUIREMENTS FOR FORM PRESCRIBED BY SECRETARY.—For purposes of this subsection, the Secretary shall prescribe a form for requests and consents which shall—

(A) contain a warning, prominently displayed, informing the taxpayer that the form should not be signed unless it is completed,

(B) state that if the taxpayer believes there is an attempt to coerce him to sign an incomplete or blank form, the taxpayer should report the matter to the Treasury Inspector General for Tax Administration, and

(C) contain the address and telephone number of the Treasury Inspector General for Tax Administration.

* * * * * * *

(e) DISCLOSURE TO PERSONS HAVING MATERIAL INTEREST.—

(1) * * *

* * * * * * *

(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request [in writing] by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected. The preceding sentence shall not apply to any deficiency which may not be collected by reason of section 6502.

* * * * * * *

(h) DISCLOSURE TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.—

(1) DEPARTMENT OF THE TREASURY.—[Returns]

(A) IN GENERAL.—Returns and return information shall, without written request, be open to inspection by or disclosure to officers and employees of the Department of the Treasury whose official duties require such inspection or disclosure for tax administration purposes.

(B) TAXPAYER REPRESENTATIVES.—Notwithstanding subparagraph (A), the return of the representative of a taxpayer whose return is being examined by an officer or employee of the Department of the Treasury shall not be open to inspection by such officer or employee on the sole basis of the representative's relationship to the taxpayer unless a supervisor of such officer or employee has approved the inspection of the return of such representative on a basis other than by reason of such relationship.

* * * * * * *

(4) DISCLOSURE IN JUDICIAL AND ADMINISTRATIVE TAX PROCEEDINGS.—[A return]

(A) IN GENERAL.—Except as provided in subparagraph (B), a return or return information may be disclosed in a Federal or State judicial or administrative proceeding pertaining to tax administration, but only—

[(A)] *(i)* if the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability, in respect of any tax imposed under this title;

[(B)] *(ii)* if the treatment of an item reflected on such return is directly related to the resolution of an issue in the proceeding;

[(C)] *(iii)* if such return or return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer which directly affects the resolution of an issue in the proceeding; or

[(D)] *(iv)* to the extent required by order of a court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure, such court being authorized in the issuance of such order to give due consideration to congressional

policy favoring the confidentiality of returns and return information as set forth in this title.

However, such return or return information shall not be disclosed as provided in [subparagraph (A), (B), or (C)] *clause (i), (ii), or (iii)* if the Secretary determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(B) DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS OF RETURN AND RETURN INFORMATION OF PERSONS NOT PARTY TO SUCH PROCEEDINGS.—

(i) NOTICE.—Return or return information of any person who is not a party to a judicial or administrative proceeding described in this paragraph shall not be disclosed under clause (ii) or (iii) of subparagraph (A) until after the Secretary makes a reasonable effort to give notice to such person and an opportunity for such person to request the deletion of matter from such return or return information, including any of the items referred to in paragraphs (1) through (7) of section 6110(c). Such notice shall include a statement of the issue or issues the resolution of which is the reason such return or return information is sought. In the case of S corporations, partnerships, estates, and trusts, such notice shall be made at the entity level.

(ii) DISCLOSURE LIMITED TO PERTINENT PORTION.—The only portion of a return or return information described in clause (i) which may be disclosed under subparagraph (A) is that portion of such return or return information that directly relates to the resolution of an issue in such proceeding.

(iii) EXCEPTIONS.—Clause (i) shall not apply—

(I) to any civil action under section 7407, 7408, or 7409,

(II) to any ex parte proceeding for obtaining a search warrant, order for entry on premises or safe deposit boxes, or similar ex parte proceeding,

(III) to disclosure of third party return information by indictment or criminal information, or

(IV) if the Attorney General or the Attorney General's delegate determines that the application of such clause would seriously impair a criminal tax investigation or proceeding.

* * * * * * *

(i) DISCLOSURE TO FEDERAL OFFICERS OR EMPLOYEES FOR ADMINISTRATION OF FEDERAL LAWS NOT RELATING TO TAX ADMINISTRATION.—

(1) * * *

* * * * * * *

(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL OR TERRORIST ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

(A) * * *

(B) EMERGENCY CIRCUMSTANCES.—

(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal [or State], *State, or local* law enforcement agency of such circumstances.

* * * * * * *

(k) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION FOR TAX ADMINISTRATION PURPOSES.—

(1) DISCLOSURE OF ACCEPTED OFFERS-IN-COMPROMISE.—Return information *(other than the taxpayer's address and TIN)* shall be disclosed to members of the general public to the extent necessary to permit inspection of any accepted offer-in-compromise under section 7122 relating to the liability for a tax imposed by this title.

* * * * * * *

(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press [and other media], *other media, and through any other means of mass communication,* for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

* * * * * * *

(p) PROCEDURE AND RECORDKEEPING.—

(1) * * *

* * * * * * *

(3) RECORDS OF INSPECTION AND DISCLOSURE.—

(A) SYSTEM OF RECORDKEEPING.—Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section *and section 6104(c)*. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (f)(5), (h)(1), (3)(A), or (4), (i)(4), or (8)(A)(ii), (k)(1), (2), (6), (8), or (9) (l)(1), (4)(B), (5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), or (18), (m), or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to

the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

* * * * * * *

(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5), or (7), (j)(1), (2), or (5), (k)(8), (l)(1), (2), (3), (5), (11), (13), (14), or (17) or (o)(1), the General Accounting Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or 7(A)(ii), or (l)(6), (7), (8), (9), (12), (15), or (16)*, or any appropriate State officer (as defined in section 6104(c)),* or any other person described in subsection (l)(16) or (17) shall, as a condition for receiving returns or return information—

(A) * * *

* * * * * * *

(F) upon completion of use of such returns or return information—

(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (l)(6), (7), (8), (9), or (16), *or any appropriate State officer (as defined in section 6104(c)),* or any other person described in subsection (l)(16) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner, except that the conditions of subparagraphs (A), (B), (C), (D), and (E) shall cease to apply with respect to any return or return information if, and to the extent that, such return or return information is disclosed in the course of any judicial or administrative proceeding and made a part of the public record thereof. If the Secretary determines that any such agency, body, or commission, including an agency*, an appropriate State officer (as defined in section 6104(c)),* or any other person described in subsection (l)(16), or the General Accounting Office or the Congressional Budget Office has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency*, an appropriate State officer (as defined in section 6104(c)),* or any other person described in subsection (l)(16), or the General Accounting Office or the Congressional Budget Office until he determines that such requirements have been or will be met. In the case of any agency which receives any mailing address under paragraph (2), (4), (6) or (7) of subsection (m) and which discloses any such mailing address to any agent or which receives any information under paragraph (6)(A), (12)(B), or (16) of subsection (l) and which discloses any such information to any agent, or any person including an agent described in subsection (l)(16)

this paragraph shall apply to such agency and each such agent or other person (except that, in the case of an agent, or any person including an agent described in subsection (l)(16) any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency). For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term "return information" includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).

* * * * * * *

(8) STATE LAW REQUIREMENTS.—
(A) * * *

* * * * * * *

(B) DISCLOSURE OF RETURNS OR RETURN INFORMATION IN STATE RETURNS.—Nothing in subparagraph (A) *or paragraph (9)* shall be construed to prohibit the disclosure by an officer or employee of any State of any copy of any portion of a Federal return or any information on a Federal return which is required to be attached or included in a State return to another officer or employee of such State (or political subdivision of such State) if such disclosure is specifically authorized by State law.

(9) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a Federal, State, or local agency unless such agency, to the satisfaction of the Secretary—

(A) has requirements in effect which require each such contractor or other agent which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

(B) agrees to conduct an annual, on-site review (midpoint review in the case of contracts of less than 1 year in duration) of each such contractor or other agent to determine compliance with such requirements,

(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

(D) certifies to the Secretary for the most recent annual period that each such contractor or other agent is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor and other agent, a description of the contract of the contractor or other agent with the agency, and the duration of such contract.

(10) REPORT ON UNAUTHORIZED DISCLOSURE AND INSPECTION.—As part of the report required by paragraph (3)(C) for each calendar year, the Secretary shall furnish information regarding the unauthorized disclosure and inspection of returns and return information, including the number, status, and results of—

(A) administrative investigations,

(B) civil lawsuits brought under section 7431 (including the amounts for which such lawsuits were settled and the amounts of damages awarded), and

(C) criminal prosecutions.

* * * * * * *

SEC. 6104. PUBLICITY OF INFORMATION REQUIRED FROM CERTAIN EXEMPT ORGANIZATIONS AND CERTAIN.

(a) * * *

* * * * * * *

(c) PUBLICATION TO STATE OFFICIALS.—

(1) * * *

[(2) APPROPRIATE STATE OFFICER.—For purposes of this subsection, the term "appropriate State officer" means the State attorney general, State tax officer, or any State official charged with overseeing organizations of the type described in section 501(c)(3).**]**

(2) DISCLOSURE OF PROPOSED ACTIONS.—

(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

(iii) the names, addresses, and taxpayer identification numbers of organizations that have applied for recognition as organizations described in section 501(c)(3).

(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

(i) upon written request by an appropriate State officer, and

(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any

State if the Secretary determines that such inspection or disclosure may facilitate the resolution of State or Federal issues relating to the tax-exempt status of such organization.

(3) USE IN ADMINISTRATIVE AND JUDICIAL CIVIL PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in administrative and judicial civil proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

(4) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (3), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

(5) DEFINITIONS.—For purposes of this subsection—

(A) RETURN AND RETURN INFORMATION.—The terms "return" and "return information" have the respective meanings given to such terms by section 6103(b).

(B) APPROPRIATE STATE OFFICER.—The term "appropriate State officer" means—

(i) the State attorney general, or

(ii) any other State official charged with overseeing organizations of the type described in section 501(c)(3).

* * * * * * *

CHAPTER 62—TIME AND PLACE FOR PAYING TAX

* * * * * * *

Subchapter A—Place and Due Date for Payment of Tax

* * * * * * *

SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to **[**satisfy liability for payment of**]** *make payment on* any tax in installment payments if the Secretary determines that such agreement will facilitate *full or partial* collection of such liability.

* * * * * * *

(c) SECRETARY REQUIRED TO ENTER INTO INSTALLMENT AGREEMENTS IN CERTAIN CASES.—In the case of a liability for tax of an individual under subtitle A, the Secretary shall enter into an agreement to accept the *full* payment of such tax in installments if, as of the date the individual offers to enter into the agreement—

(1) * * *

* * * * * * *

(d) SECRETARY REQUIRED TO REVIEW INSTALLMENT AGREEMENTS FOR PARTIAL COLLECTION EVERY TWO YEARS.—In the case of an agreement entered into by the Secretary under subsection (a) for partial collection of a tax liability, the Secretary shall review the agreement at least once every 2 years.

[(d)**]** *(e)* ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review.

[(e)**]** *(f)* CROSS REFERENCE.—

For rights to administrative review and appeal, see section 7122(d).

* * * * * * *

CHAPTER 63—ASSESSMENT

* * * * * * *

Subchapter A—In General

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SEC. 6201. ASSESSMENT AUTHORITY.

(a) * * *

(b) AMOUNT NOT TO BE ASSESSED.—

(1) ESTIMATED INCOME TAX.—No unpaid amount of estimated income tax required to be paid under section **[**6654**]** *6641* or 6655 shall be assessed.

* * * * * * *

Subchapter B—Deficiency Procedures in the Case of Income, Estate, Gift, and Certain Excise Taxes

* * * * * * *

SEC. 6214. DETERMINATIONS BY TAX COURT.

(a) * * *

(b) JURISDICTION OVER OTHER YEARS AND QUARTERS.—The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid. *Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.*

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CHAPTER 64—COLLECTION

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Subchapter D—Seizure of Property for Collection of Taxes

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PART I—DUE PROCESS FOR COLLECTIONS

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SEC. 6330. NOTICE AND OPPORTUNITY FOR HEARING BEFORE LEVY.

(a) * * *

* * * * * * *

(d) PROCEEDING AFTER HEARING.—

[(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination—

[(A) to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter); or

[(B) if the Tax Court does not have jurisdiction of the underlying tax liability, to a district court of the United States.

If a court determines that the appeal was to an incorrect court, a person shall have 30 days after the court determination to file such appeal with the correct court.**]**

(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

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PART II—LEVY

* * * * * * *

SEC. 6343. AUTHORITY TO RELEASE LEVY AND RETURN PROPERTY.

(a) * * *

(b) RETURN OF PROPERTY.—If the Secretary determines that property has been wrongfully levied upon, it shall be lawful for the Secretary to return—

(1) * * *

* * * * * * *

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of **[**9 months**]** *2 years* from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

* * * * * * *

(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

(1) IN GENERAL.—If the Secretary determines that an individual retirement plan has been levied upon in a case to which subsection (b) or (d)(2)(A) applies, an amount equal to the sum of—

(A) the amount of money returned by the Secretary on account of such levy, and

(B) interest paid under subsection (c) on such amount of money,

may be deposited into an individual retirement plan (other than an endowment contract) to which a rollover from the plan levied upon is permitted.

(2) TREATMENT AS ROLLOVER.—The distribution on account of the levy and any deposit under paragraph (1) with respect to such distribution shall be treated for purposes of this title as if such distribution and deposit were part of a rollover described in section 408(d)(3)(A)(i); except that—

(A) interest paid under subsection (c) shall be treated as part of such distribution and as not includible in gross income,

(B) the 60-day requirement in such section shall be treated as met if the deposit is made not later than the 60th day after the day on which the individual receives an amount under paragraph (1) from the Secretary, and

(C) such deposit shall not be taken into account under section 408(d)(3)(B).

(3) REFUND, ETC., OF INCOME TAX ON LEVY.—If any amount is includible in gross income for a taxable year by reason of a levy referred to in paragraph (1) and any portion of such amount is treated as a rollover under paragraph (2), any tax imposed by chapter 1 on such portion shall not be assessed, and if assessed shall be abated, and if collected shall be credited or refunded as an overpayment made on the due date for filing the return of tax for such taxable year.

(4) INTEREST.—Notwithstanding subsection (d), interest shall be allowed under subsection (c) in a case in which the Secretary makes a determination described in subsection (d)(2)(A) with respect to a levy upon an individual retirement plan.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter A—Procedure in General

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SEC. 6404. ABATEMENTS.

(a) * * *

* * * * * * *

(e) ABATEMENT OF INTEREST ATTRIBUTABLE TO UNREASONABLE ERRORS AND DELAYS BY INTERNAL REVENUE SERVICE.—

(1) * * *

(2) INTEREST ABATED WITH RESPECT TO ERRONEOUS REFUND CHECK.—The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, [unless—

[(A) the taxpayer (or a related party) has in any way caused such erroneous refund, or

[(B) such erroneous refund exceeds $50,000.] *unless the taxpayer (or a related party) has in any way caused such erroneous refund.*

(f) ABATEMENT OF ANY [PENALTY OR ADDITION] *INTEREST, PENALTY, OR ADDITION* TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE.—

(1) IN GENERAL.—The Secretary shall abate any portion of any [penalty or addition] *interest, penalty, or addition* to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

(2) LIMITATIONS.—Paragraph (1) shall apply only if—

(A) * * *

(B) the portion of the [penalty or addition] *interest, penalty, or addition* to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

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CHAPTER 66—LIMITATIONS

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Subchapter D—Periods of Limitation in Judicial Proceedings

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SEC. 6532. PERIODS OF LIMITATION ON SUITS.

(a) * * *

* * * * * * *

(c) SUITS BY PERSONS OTHER THAN TAXPAYERS.—

(1) GENERAL RULE.—Except as provided by paragraph (2), no suit or proceeding under section 7426 shall be begun after the expiration of [9 months] *2 years* from the date of the levy or agreement giving rise to such action.

(2) PERIOD WHEN CLAIM IS FILED.—If a request is made for the return of property described in section 6343(b), the [9-month] *2-year* period prescribed in paragraph (1) shall be extended for a period of 12 months from the date of filing of such request or for a period of 6 months from the date of mailing by registered or certified mail by the Secretary to the person making such request of a notice of disallowance of the part of the request to which the action relates, whichever is shorter.

* * * * * * *

CHAPTER 67—INTEREST

Subchapter A—Interest on Underpayments

SEC. 6601. INTEREST ON UNDERPAYMENT, NONPAYMENT, OR EXTENSIONS OF TIME FOR PAYMENT, OF TAX.

(a) * * *

* * * * * * *

(h) EXCEPTION AS TO ESTIMATED TAX.—This section shall not apply to any failure to pay any estimated tax required to be paid by section [6654] *6641* or 6655.

* * * * * * *

SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF INTEREST ON POTENTIAL UNDERPAYMENTS, ETC.

(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN AS PAYMENT OF TAX.—A taxpayer may make a cash deposit with the Secretary which may be used by the Secretary to pay any tax imposed under subtitle A or B or chapter 41, 42, 43, or 44 which has not been assessed at the time of the deposit. Such a deposit shall be made in such manner as the Secretary shall prescribe.

(b) NO INTEREST IMPOSED.—To the extent that such deposit is used by the Secretary to pay tax, for purposes of section 6601 (relating to interest on underpayments), the tax shall be treated as paid when the deposit is made.

(c) RETURN OF DEPOSIT.—Except in a case where the Secretary determines that collection of tax is in jeopardy, the Secretary shall return to the taxpayer any amount of the deposit (to the extent not used for a payment of tax) which the taxpayer requests in writing.

(d) PAYMENT OF INTEREST.—

(1) IN GENERAL.—For purposes of section 6611 (relating to interest on overpayments), a deposit which is returned to a taxpayer shall be treated as a payment of tax for any period to the extent (and only to the extent) attributable to a disputable tax for such period. Under regulations prescribed by the Secretary, rules similar to the rules of section 6611(b)(2) shall apply.

(2) DISPUTABLE TAX.—

(A) IN GENERAL.—For purposes of this section, the term "disputable tax" means the amount of tax specified at the time of the deposit as the taxpayer's reasonable estimate of

the maximum amount of any tax attributable to disputable items.

(B) SAFE HARBOR BASED ON 30-DAY LETTER.—In the case of a taxpayer who has been issued a 30-day letter, the maximum amount of tax under subparagraph (A) shall not be less than the amount of the proposed deficiency specified in such letter.

(3) OTHER DEFINITIONS.—For purposes of paragraph (2)—

(A) DISPUTABLE ITEM.—The term "disputable item" means any item of income, gain, loss, deduction, or credit if the taxpayer—

(i) has a reasonable basis for its treatment of such item, and

(ii) reasonably believes that the Secretary also has a reasonable basis for disallowing the taxpayer's treatment of such item.

(B) 30-DAY LETTER.—The term "30-day letter" means the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals.

(4) RATE OF INTEREST.—The rate of interest allowable under this subsection shall be the Federal short-term rate determined under section 6621(b), compounded daily.

(e) USE OF DEPOSITS.—

(1) PAYMENT OF TAX.—Except as otherwise provided by the taxpayer, deposits shall be treated as used for the payment of tax in the order deposited.

(2) RETURNS OF DEPOSITS.—Deposits shall be treated as returned to the taxpayer on a last-in, first-out basis.

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Subchapter C—Determination of Interest Rate; Compounding of Interest

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SEC. 6621. DETERMINATION OF RATE OF INTEREST.

(a) * * *

(b) FEDERAL SHORT-TERM RATE.—For purposes of this section—

(1) * * *

(2) PERIOD DURING WHICH RATE APPLIES.—

(A) * * *

(B) SPECIAL RULE FOR INDIVIDUAL ESTIMATED TAX.—In determining the **[**addition to tax under section 6654**]** *interest required to be paid under section 6641* for failure to pay estimated tax for any taxable year, the Federal short-term rate which applies during the 3rd month following such taxable year shall also apply during the first 15 days of the 4th month following such taxable year.

* * * * * * *

(d) ELIMINATION OF INTEREST ON OVERLAPPING PERIODS OF TAX OVERPAYMENTS AND UNDERPAYMENTS.—To the extent that, for any period, interest is payable under subchapter A and allowable under subchapter B on equivalent underpayments and overpayments by

the same taxpayer of tax imposed by this title, the net rate of interest under this section on such amounts shall be zero for such period. *Solely for purposes of the preceding sentence, section 6611(e) shall not apply in the case of an individual.*

SEC. 6622. INTEREST COMPOUNDED DAILY.

(a) * * *

(b) EXCEPTION FOR [PENALTY FOR] FAILURE TO FILE ESTIMATED TAX.—Subsection (a) shall not apply for purposes of computing the amount of any [addition to tax under section 6654 or 6655] *interest required to be paid under section 6641 or addition to tax under section 6655*.

* * * * * * *

Subchapter E—Interest on Failure by Individual to Pay Estimated Income Tax

Sec. 6641. Interest on failure by individual to pay estimated income tax.

[SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

[(a) ADDITION TO THE TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying—

[(1) the underpayment rate established under section 6621,

[(2) to the amount of the underpayment,

[(3) for the period of the underpayment.

[(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

[(1) AMOUNT.—The amount of the underpayment shall be the excess of—

[(A) the required installment, over

[(B) the amount (if any) of the installment paid on or before the due date for the installment.

[(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

[(A) the 15th day of the 4th month following the close of the taxable year, or

[(B) with respect to any portion of the underpayment, the date on which such portion is paid.

[(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.]

SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

(a) IN GENERAL.—Interest shall be paid on any underpayment of estimated tax by an individual for a taxable year for each day of such underpayment. The amount of such interest for any day shall be the product of the underpayment rate established under subsection (b)(2) multiplied by the amount of the underpayment.

(b) AMOUNT OF UNDERPAYMENT; INTEREST RATE.—For purposes of subsection (a)—

(1) AMOUNT.—The amount of the underpayment on any day shall be the excess of—

(A) the sum of the required installments for the taxable year the due dates for which are on or before such day, over

(B) the sum of the amounts (if any) of estimated tax payments made on or before such day on such required installments.

(2) DETERMINATION OF INTEREST RATE.—

(A) IN GENERAL.—The underpayment rate with respect to any day in an installment underpayment period shall be the underpayment rate established under section 6621 for the first day of the calendar quarter in which such installment underpayment period begins.

(B) INSTALLMENT UNDERPAYMENT PERIOD.—For purposes of subparagraph (A), the term "installment underpayment period" means the period beginning on the day after the due date for a required installment and ending on the due date for the subsequent required installment (or in the case of the 4th required installment, the 15th day of the 4th month following the close of a taxable year).

(C) DAILY RATE.—The rate determined under subparagraph (A) shall be applied on a daily basis and shall be based on the assumption of 365 days in a calendar year.

(3) TERMINATION OF ESTIMATED TAX INTEREST.—No day after the end of the installment underpayment period for the 4th required installment specified in paragraph (2)(B) for a taxable year shall be treated as a day of underpayment with respect to such taxable year.

* * * * * * *

(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

(1) AMOUNT.—

(A) * * *

(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term "required annual payment" means the lesser of—

[(i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or**]**

(i) the lesser of—

(I) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

(II) the tax shown on the return for the taxable year (or, if no return is filed, the tax for such year) reduced (but not below zero) by $1,600, or

* * * * * * *

(e) EXCEPTIONS.—

[(1) WHERE TAX IS SMALL AMOUNT.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is

filed, the tax), reduced by the credit allowable under section 31, is less than $1,000.]

[(2)] *(1)* WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No [addition to tax] *interest* shall be imposed under subsection (a) for any taxable year if—

(A) * * *

* * * * * * *

[(3)] *(2)* WAIVER IN CERTAIN CASES.—

(A) IN GENERAL.—No [addition to tax] *interest* shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such [addition to tax] *interest* would be against equity and good conscience.

(B) NEWLY RETIRED OR DISABLED INDIVIDUALS.—No [addition to tax] *interest* shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

(i) * * *

* * * * * * *

(h) SPECIAL RULE WHERE RETURN FILED ON OR BEFORE JANUARY 31.—If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no [addition to tax] *interest* shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

* * * * * * *

CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

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Subchapter A—Additions to the Tax, Additional Amounts

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PART I—GENERAL PROVISIONS

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SEC. 6651. FAILURE TO FILE TAX RETURN OR TO PAY TAX.

(a) * * *

* * * * * * *

(i) TREATMENT OF FIRST-TIME UNINTENTIONAL MINOR ERRORS.—

(1) IN GENERAL.—In the case of a return of tax imposed by subtitle A filed by an individual, the Secretary may waive an addition to tax under subsection (a) if—

(A) the individual has a history of compliance with the requirements of this title,

(B) it is shown that the failure is due to an unintentional minor error,

(C) the penalty would be grossly disproportionate to the action or expense that would have been needed to avoid the error, and imposing the penalty would be against equity and good conscience,

(D) waiving the penalty would promote compliance with the requirements of this title and effective tax administration, and

(E) the taxpayer took all reasonable steps to remedy the error promptly after discovering it.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) the Secretary has waived any addition to tax under this subsection with respect to any prior failure by such individual,

(B) the failure is a mathematical or clerical error (as defined in section 6213(g)(2)), or

(C) the failure is the lack of a required signature.

* * * * * * *

SEC. 6658. COORDINATION WITH TITLE 11.

(a) CERTAIN FAILURES TO PAY TAX.—No addition to the tax shall be made under section 6651, **[**6654,**]** or 6655*, and no interest shall be required to be paid under section 6641,* for failure to make timely payment of tax with respect to a period during which a case is pending under title 11 of the United States Code—

(1) * * *

(2) if—

(A) * * *

(B)(i) * * *

(ii) the date for making the addition to the tax *or paying interest* occurs on or after the day on which the petition was filed.

* * * * * * *

PART III—APPLICABLE RULES

* * * * * * *

SEC. 6665. APPLICABLE RULES.

(a) * * *

(b) PROCEDURE FOR ASSESSING CERTAIN ADDITIONS TO TAX.—For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651**[**, 6654,**]** or 6655; except that it shall apply —

(1) * * *

(2) to an addition described in section **[**6654 or**]** 6655, if no return is filed for the taxable year.

* * * * * * *

Subchapter B—Assessable Penalties

* * * * * * *

PART I—GENERAL PROVISIONS

[SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

[(a) CIVIL PENALTY.—If—

[(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—

[(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

[(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

[(2) the conduct referred to in paragraph (1) is due to—

[(A) a position which is frivolous, or

[(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,then such individual shall pay a penalty of $500.

[(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law.]

SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

(1) such person files what purports to be a return of a tax imposed by this title but which—

(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

(2) the conduct referred to in paragraph (1)—

(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

(B) reflects a desire to delay or impede the administration of Federal tax laws.

(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term "specified frivolous submission" means a specified submission if any portion of such submission is based on a position which the Secretary has identified as frivolous under subsection (c).

(B) SPECIFIED SUBMISSION.—The term "specified submission" means—

(i) a request for a hearing under—

(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

(II) section 6330 (relating to notice and opportunity for hearing before levy), and

(ii) an application under—

(I) section 7811 (relating to taxpayer assistance orders),

(II) section 6159 (relating to agreements for payment of tax liability in installments), or

(III) section 7122 (relating to compromises).

(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.

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CHAPTER 74—CLOSING AGREEMENTS AND COMPROMISES

* * * * * * *

SEC. 7122. COMPROMISES.

(a) * * *

(b) RECORD.—**[**Whenever a compromise is made by the Secretary in any case, there shall be placed on file in the office of the Secretary the opinion of the General Counsel for the Department of the Treasury or his delegate**]** *If the Secretary determines that an opinion of the General Counsel for the Department of the Treasury, or the Counsel's delegate, is required with respect to a compromise, there shall be placed on file in the office of the Secretary such opinion*, with his reasons therefor, with a statement of—

(1) * * *

* * * * * * *

[Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assess-

able penalty) is less than $50,000. However, such compromise shall be subject to continuing quality review by the Secretary.]

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter A—Crimes

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PART I—GENERAL PROVISIONS

* * * * * * *

SEC. 7203. WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $25,000 ($100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution. In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under [section 6654 or 6655] *section 6655 or interest required to be paid under section 6641* with respect to such failure. In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting "felony" for "misdemeanor" and "5 years" for "1 year".

* * * * * * *

SEC. 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) RETURNS AND RETURN INFORMATION.—

(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for any officer or employee of the United States or any person described in [section 6103(n)] *subsections (c) and (n) of section 6103* (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i) or (7)(A)(ii), (l)(6), (7), (8), (9), (10), or (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section [6103.] *6103 or under section 6104(c).* Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

* * * * * * *

SEC. 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.

(a) PROHIBITIONS.—

(1) FEDERAL EMPLOYEES AND OTHER PERSONS.—It shall be unlawful for—

(A) any officer or employee of the United States, or

(B) any person described in [subsection (l)(18) or (n) of section 6103] *subsection (c), (l)(18), or (n) of section 6103* or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

(2) STATE AND OTHER EMPLOYEES.—It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 *or 6104(c)* referred to in section 7213(a)(2).

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CHAPTER 76—JUDICIAL PROCEEDINGS

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Subchapter B—Proceedings by Taxpayers and Third Parties

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SEC. 7428. DECLARATORY JUDGMENTS RELATING TO STATUS AND CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(C)(3), ETC.

(a) CREATION OF REMEDY.—In a case of actual controversy involving—

(1) a determination by the Secretary—

(A) with respect to the initial qualification or continuing qualification of an organization as an organization described in section 501(c)(3) which is exempt from tax under section 501(a) or as an organization described in section 170(c)(2),

(B) with respect to the initial classification or continuing classification of an organization as a private foundation (as defined in section 509(a)) *or as a private operating foundation (as defined in section 4942(j)(3))*, or

[(C) with respect to the initial classification or continuing classification of an organization as a private operating foundation (as defined in section 4942(j)(3)), or]

(C) with respect to the initial qualification or continuing qualification of an organization as an organization described in subsection (c) (other than paragraph (3)) or (d) of section 501 which is exempt from tax under section 501(a), or

(2) a failure by the Secretary to make a determination with respect to an issue referred to in paragraph (1),

upon the filing of an appropriate pleading, the [United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia] *United States Tax Court (in the case of any such determination or failure) or the United States Claims Court or the district court of the United States for the District of Columbia (in the case of a determination or failure with respect to an issue referred to in subparagraph (A) or (B) of paragraph (1)),* may make a declaration with respect to such initial qualification or continuing qualification or with respect to such initial classification or continuing classification. Any such declaration shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification.

* * * * * * *

SEC. 7431. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATIONS.

(a) IN GENERAL.—

(1) * * *

(2) INSPECTION OR DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103 *(including any disclosure in violation of section 6104(c))*, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

* * * * * * *

(e) NOTIFICATION OF UNLAWFUL INSPECTION AND DISCLOSURE.—If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—

(1) paragraph (1) or (2) of section 7213(a),

(2) section 7213A(a), or

(3) subparagraph (B) of section 1030(a)(2) of title 18, United States Code, the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure. *The Secretary shall also notify such taxpayer if the Treasury Inspector General for Tax Administration substantiates that such taxpayer's return or return information was inspected or disclosed in vio-*

lation of any of the provisions specified in paragraph (1), (2), or (3).

* * * * * * *

CHAPTER 77—MISCELLANEOUS PROVISIONS

SEC. 7526. LOW-INCOME TAXPAYER CLINICS.

(a) * * *

(b) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED LOW-INCOME TAXPAYER CLINIC.—

(A) IN GENERAL.—The term "qualified low-income taxpayer clinic" **[**means a clinic**]** *means an eligible clinic* that—

(i) * * *

* * * * * * *

[(2) CLINIC.—The term "clinic" includes—

[(A) a clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

[(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.**]**

(2) ELIGIBLE CLINIC.—The term "eligible clinic" means—

(A) any clinical program at an accredited law, business, or accounting school in which students represent low-income taxpayers in controversies arising under this title; and

(B) any organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1) through representation of taxpayers or referral of taxpayers to qualified representatives.

(c) SPECIAL RULES AND LIMITATIONS.—

(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than **[**$6,000,000 per year**]** *$9,000,000 for 2004, $12,000,000 for 2005, and $15,000,000 for each year thereafter* (exclusive of costs of administering the program) to grants under this section.

* * * * * * *

(6) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.

(7) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the general

overhead expenses of any institution sponsoring a qualified low-income taxpayer clinic.

* * * * * * *

SEC. 7528. ENROLLED AGENTS.

(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under section (a) herein shall be allowed to use the credentials or designation as "enrolled agent", "EA", or "E.A.".

SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.

(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

(2) other similar requests.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

(A) shall vary according to categories (or subcategories) established by the Secretary,

(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

(C) shall be payable in advance.

(2) EXEMPTIONS, ETC.—

(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

(i) made after the later of—

(I) the fifth plan year the pension benefit plan is in existence, or

(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

(i) PENSION BENEFIT PLAN.—The term "pension benefit plan" means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

(ii) ELIGIBLE EMPLOYER.—The term "eligible employer" means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee

who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	***Average Fee***
Employee plan ruling and opinion	*$250*
Exempt organization ruling	*$350*
Employee plan determination	*$300*
Exempt organization determination	*$275*
Chief counsel ruling	*$200.*

(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.

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CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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Subchapter A—Examination and Inspection

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SEC. 7611. RESTRICTIONS ON CHURCH TAX INQUIRIES AND EXAMINATIONS.

(a) * * *

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(i) SECTION NOT TO APPLY TO CRIMINAL INVESTIGATIONS, ETC.—This section shall not apply to—

(1) * * *

* * * * * * *

(4) any willful attempt to defeat or evade any tax imposed by this title, **[**or**]**

(5) any knowing failure to file a return of tax imposed by this title**[**.**]**, *or*

(6) information provided by the Secretary related to the standards for exemption from tax under this title and the requirements under this title relating to unrelated business taxable income.

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CHAPTER 80—GENERAL RULES

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Subchapter A—Application of Internal Revenue Laws

SEC. 7803. COMMISSIONER OF INTERNAL REVENUE; OTHER OFFICIALS.

(a) * * *

* * * * * * *

(c) OFFICE OF THE TAXPAYER ADOVOCATE.—
(1) * * *
(2) FUNCTIONS OF OFFICE.—
(A) * * *

* * * * * * *

(D) PERSONNEL ACTIONS.—
(i) IN GENERAL.—The National Taxpayer Advocate shall have the responsibility and authority to—
(I) appoint local taxpayer advocates and make available at least 1 such advocate for each State; **[**and**]**
(II) evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of a taxpayer advocate described in subclause (I)**[**.**]**, *and*
(III) appoint a counsel in the Office of the Taxpayer Advocate to report solely to the National Taxpayer Advocate.

* * * * * * *

(4) OPERATION OF LOCAL OFFICES.—
(A) IN GENERAL.—Each local taxpayer advocate—
(i) shall report to the National Taxpayer Advocate or delegate thereof;
(ii) may consult with the appropriate supervisory personnel of the Internal Revenue Service regarding the daily operation of the local office of the taxpayer advocate; *and*
(iii) shall, at the initial meeting with any taxpayer seeking the assistance of a local office of the taxpayer advocate, notify such taxpayer that the taxpayer advocate offices operate independently of any other Internal Revenue Service office and report directly to Congress through the National Taxpayer Advocate**[**; and**]**.
[(iv) may, at the taxpayer advocate's discretion, not disclose to the Internal Revenue Service contact with, or information provided by, such taxpayer.**]**

* * * * * * *

(5) CONFIDENTIALITY OF TAXPAYER INFORMATION.—
(A) IN GENERAL.—To the extent authorized by the National Taxpayer Advocate or pursuant to guidance issued under subparagraph (B), any officer or employee of the Of-

fice of the Taxpayer Advocate may withhold from the Internal Revenue Service and the Department of Justice any information provided by, or regarding contact with, any taxpayer.

(B) ISSUANCE OF GUIDANCE.—In consultation with the Chief Counsel for the Internal Revenue Service and subject to the approval of the Commissioner of Internal Revenue, the National Taxpayer Advocate may issue guidance regarding the circumstances (including with respect to litigation) under which, and the persons to whom, employees of the Office of the Taxpayer Advocate shall not disclose information obtained from a taxpayer. To the extent to which any provision of the Internal Revenue Manual would require greater disclosure by employees of the Office of the Taxpayer Advocate than the disclosure required under such guidance, such provision shall not apply.

(C) EMPLOYEE PROTECTION.—Section 7214(a)(8) shall not apply to any failure to report knowledge or information if—

(i) such failure to report is authorized under subparagraph (A), and

(ii) such knowledge or information is not of fraud committed by a person against the United States under any revenue law.

(d) ADDITIONAL DUTIES OF THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—

(1) * * *

(2) SEMIANNUAL REPORTS.—

(A) IN GENERAL.—The Treasury Inspector General for Tax Administration shall include in each semiannual report under section 5 of the Inspector General Act of 1978—

(i) the number of taxpayer complaints during the reporting period;

(ii) the number of employee misconduct and taxpayer abuse allegations received by the Internal Revenue Service or the Inspector General during the period from taxpayers, Internal Revenue Service employees, and other sources*, including a summary (by category) of the 10 most common complaints made and the number of such common complaints*;

* * * * * * *

SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.

(a) DISCIPLINARY ACTIONS.—

(1) IN GENERAL.—Subject to subsection (c), the Commissioner shall take an action in accordance with the guidelines established under paragraph (2) against any employee of the Internal Revenue Service if there is a final administrative or judicial determination that such employee committed any act or omission described under subsection (b) in the performance of the employee's official duties or where a nexus to the employee's position exists.

(2) GUIDELINES.—The Commissioner shall issue guidelines for determining the appropriate level of discipline, up to and including termination of employment, for committing any act or omission described under subsection (b).

(b) ACTS OR OMISSIONS.—The acts or omissions described under this subsection are—

(1) willful failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets;

(2) willfully providing a false statement under oath with respect to a material matter involving a taxpayer or taxpayer representative;

(3) with respect to a taxpayer or taxpayer representative, the willful violation of—

(A) any right under the Constitution of the United States;

(B) any civil right established under—

(i) title VI or VII of the Civil Rights Act of 1964;

(ii) title IX of the Education Amendments of 1972;

(iii) the Age Discrimination in Employment Act of 1967;

(iv) the Age Discrimination Act of 1975;

(v) section 501 or 504 of the Rehabilitation Act of 1973; or

(vi) title I of the Americans with Disabilities Act of 1990; or

(C) the Internal Revenue Service policy on unauthorized inspection of returns or return information;

(4) willfully falsifying or destroying documents to conceal mistakes made by any employee with respect to a matter involving a taxpayer or taxpayer representative;

(5) assault or battery on a taxpayer or taxpayer representative, but only if there is a criminal conviction, or a final adverse judgment by a court in a civil case, with respect to the assault or battery;

(6) willful violations of this title, Department of the Treasury regulations, or policies of the Internal Revenue Service (including the Internal Revenue Manual) for the purpose of retaliating against, or harassing, a taxpayer or taxpayer representative;

(7) willful misuse of the provisions of section 6103 for the purpose of concealing information from a congressional inquiry;

(8) willful failure to file any return of tax required under this title on or before the date prescribed therefor (including any extensions) when a tax is due and owing, unless such failure is due to reasonable cause and not due to willful neglect;

(9) willful understatement of Federal tax liability, unless such understatement is due to reasonable cause and not due to willful neglect; and

(10) threatening to audit a taxpayer, or to take other action under this title, for the purpose of extracting personal gain or benefit.

(c) DETERMINATIONS OF COMMISSIONER.—

(1) IN GENERAL.—The Commissioner may take a personnel action other than a disciplinary action provided for in the guidelines under subsection (a)(2) for an act or omission described under subsection (b).

(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may not be delegated to any other officer. The Commissioner, in his sole discretion, may establish a procedure to determine if an in-

dividual should be referred to the Commissioner for a determination by the Commissioner under paragraph (1).

(3) NO APPEAL.—Notwithstanding any other provision of law, any determination of the Commissioner under this subsection may not be reviewed in any administrative or judicial proceeding. A finding that an act or omission described under subsection (b) occurred may be reviewed.

(d) DEFINITION.—For the purposes of the provisions described in clauses (i), (ii), and (iv) of subsection (b)(3)(B), references to a program or activity regarding Federal financial assistance or an education program or activity receiving Federal financial assistance shall include any program or activity conducted by the Internal Revenue Service for a taxpayer.

(e) ANNUAL REPORT.—The Commissioner shall submit to Congress annually a report on disciplinary actions under this section.

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SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

(a) * * *

* * * * * * *

(d) SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.—The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the National Taxpayer Advocate's decision with respect to such application, *but only if the date of such decision is at least 7 days after the date of the taxpayer's application,* and

* * * * * * *

CHAPTER 33 OF TITLE 31, UNITED STATES CODE

CHAPTER 33—DEPOSITING, KEEPING, AND PAYING MONEY

SUBCHAPTER I—DEPOSITS AND DEPOSITARIES

Sec.
3301. General duties of the Secretary of the Treasury.

* * * * * * *

SUBCHAPTER II—PAYMENTS

3321. Disbursing authority in the executive branch.

* * * * * * *

3337. Payment of motor fuel excise tax refunds by direct deposit.

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SUBCHAPTER II—PAYMENTS

* * * * * * *

§ 3337. Payment of motor fuel excise tax refunds by direct deposit

The Secretary of the Treasury shall make payments under sections 6420, 6421, and 6427 of the Internal Revenue Code of 1986

by electronic funds transfer (as defined in section 3332(j)(1)) if the person who is entitled to the payment—

(1) elects to receive the payment by electronic funds transfer; and

(2) satisfies the requirements of section 3332(g) with respect to such payment at such time and in such manner as the Secretary may require.

* * * * * * *

SECTION 211 OF THE SOCIAL SECURITY ACT

SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

Net Earnings From Self-Employment

(a) The term "net earnings from self-employment" means the gross income, as computed under subtitle A of the Internal Revenue Code of 1986, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 702(a)(8) of such Code, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) * * *

* * * * * * *

(14) There shall be excluded income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights); **[**and**]**

(15) The deduction under section 162(m) (relating to health insurance costs of self-employed individuals) shall not be allowed**[**.**]***; and*

(16) Notwithstanding the preceding provisions of this subsection, each spouse's share of income or loss from a qualified joint venture shall be taken into account as provided in section 761(f) of the Internal Revenue Code of 1986 in determining net earnings from self-employment of such spouse.

* * * * * * *

SECTION 202 OF THE GOVERNMENT SECURITIES ACT AMENDMENTS OF 1993

SEC. 202. TREASURY AUCTION REFORMS.

(a) * * *

* * * * * * *

(c) MEETINGS OF TREASURY BORROWING ADVISORY COMMITTEE.—

(1) * * *

* * * * * * *

(4) PROHIBITION ON OUTSIDE DISCUSSIONS.—

(A) * * *

(B) APPLICABLE PERIOD OF PROHIBITION.—The prohibition contained in subparagraph (A) on discussions and disclosures of any discussion, debate, or recommendation at a meeting of the advisory committee shall cease to apply—

(i) with respect to any discussion, debate, or recommendation which relates to the securities to be auctioned in a midquarter refunding by the Secretary of the Treasury, at the time the Secretary makes a public announcement of the refunding *(or, if earlier, at the time the Secretary releases the minutes of the meeting in accordance with paragraph (2))*; and

* * * * * * *

SECTION 10511 OF THE REVENUE ACT OF 1987

[SEC. 10511. FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS.

[(a) GENERAL RULE.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

[(b) PROGRAM CRITERIA.—

[(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

[(A) shall vary according to categories (or subcategories) established by the Secretary,

[(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

[(C) shall be payable in advance.

[(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

[(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

[Category	Average Fee
Employee plan ruling and opinion	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination	$275
Chief counsel ruling	$200.

[(c) APPLICATION OF SECTION.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act and before September 30, 1990. Subsection (a) shall also apply with

respect to requests made after September 30, 1990, and before October 1, 2003.]

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SECTION 620 OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

[SEC. 620. ELIMINATION OF USER FEE FOR REQUESTS TO IRS REGARDING PENSION PLANS.

[(a) ELIMINATION OF CERTAIN USER FEES.—The Secretary of the Treasury or the Secretary's delegate shall not require payment of user fees under the program established under section 10511 of the Revenue Act of 1987 for requests to the Internal Revenue Service for determination letters with respect to the qualified status of a pension benefit plan maintained solely by one or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

[(1) made after the later of—

[(A) the fifth plan year the pension benefit plan is in existence; or

[(B) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years; or

[(2) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

[(b) PENSION BENEFIT PLAN.—For purposes of this section, the term "pension benefit plan" means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

[(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term "eligible employer" means an eligible employer (as defined in section 408(p)(2)(C)(i)(I) of the Internal Revenue Code of 1986) which has at least one employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under this section shall be made as of the date of the request described in subsection (a).

[(d) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subsection (a) applies shall not be taken into account.

[(e) EFFECTIVE DATE.—The provisions of this section shall apply with respect to requests made after December 31, 2001.]

SECTION 208 OF THE TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 2002

(Public Law 107–147)

SEC. 208. APPLICABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment—

(1) * * *

(2) ending *on or* before June 1, 2003.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in the case of an individual who has amounts remaining in an account established under section 203 as of [May 31] *June 1*, 2003, temporary extended unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such date for which the individual meets the eligibility requirements of this title.

(2) NO AUGMENTATION AFTER [MAY 31] *JUNE 1*, 2003.—If the account of an individual is exhausted after [May 31] *June 1*, 2003, then section 203(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

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