

HALT TAX INCREASES ON THE MIDDLE CLASS AND  
SENIORS ACT

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JULY 5, 2016.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

\_\_\_\_\_

Mr. BRADY of Texas, from the Committee on Ways and Means,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3590]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3590) to amend the Internal Revenue Code of 1986 to repeal the increase in the income threshold used in determining the deduction for medical care, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Halt Tax Increases on the Middle Class and Seniors Act”.

**SEC. 2. REPEAL OF INCREASE IN INCOME THRESHOLD FOR DETERMINING MEDICAL CARE DEDUCTION.**

(a) **IN GENERAL.**—Section 213(a) of the Internal Revenue Code of 1986 is amended by striking “10 percent” and inserting “7.5 percent”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 213 of such Code is amended by striking subsection (f).

(2) Section 56(b)(1)(B) of such Code is amended by striking “without regard to subsection (f) of such section” and inserting “by substituting ‘10 percent’ for ‘7.5 percent’”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2015.

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**I. SUMMARY AND BACKGROUND****A. PURPOSE AND SUMMARY**

The bill, H.R. 3590, as reported by the Committee on Ways and Means, repeals the increase in the income threshold used to determine eligibility for the tax deduction for medical care expenses.

**B. BACKGROUND AND NEED FOR LEGISLATION**

Under current law, qualified medical expenses are deductible by an individual, as an itemized deduction, to the extent the expenses exceed a floor measured as a percentage of adjusted gross income (“AGI”). The President’s health care law, the Affordable Care Act (“ACA”), increased the AGI floor from 7.5 percent of AGI to 10 percent of AGI. Taxpayers aged 65 and older are able to continue to use the 7.5 percentage floor through tax year 2016. Beginning in tax year 2017, however, all Americans will be subject to the 10 percent AGI threshold.

The bill would provide relief for Americans with expensive medical bills by repealing an Obamacare tax hike and reinstating the previous threshold of 7.5 percent of AGI for all ages. This change is especially important for seniors because, according to the AARP, 56 percent of all returns claiming the deduction had at least one member of the household age 65 or older.

**C. LEGISLATIVE HISTORY***Background*

H.R. 3590 was introduced on September 22, 2015 and was referred to the Committee on Ways and Means.

*Committee action*

The Committee on Ways and Means marked up H.R. 3590, the “Halt Tax Increases on the Middle Class and Seniors Act” on June 15, 2016, and ordered the bill, as amended, favorably reported (with a quorum being present).

*Committee hearings*

The issue of tax pertaining to health care and the ACA has been discussed at two Ways and Means hearings during the 114th Congress:

- Full Committee Hearing on the Tax Treatment of Health Care (April 14, 2016);
- Subcommittee on Health Member Day Hearing on Tax-Related Proposals to Improve Health Care (May 17, 2016).

**II. EXPLANATION OF THE BILL****A. REPEAL OF INCREASE IN INCOME THRESHOLD FOR MEDICAL EXPENSE DEDUCTION (SEC. 2 OF THE BILL AND SEC. 213 OF THE CODE)****PRESENT LAW**

Individuals may claim an itemized deduction for unreimbursed medical expenses, but only to the extent that such expenses exceed 10-percent of AGI.<sup>1</sup> For taxable years beginning before January 1, 2017, the 10-percent threshold is reduced to 7.5 percent in the case of taxpayers who have attained the age of 65 before the close of the taxable year. In the case of married taxpayers, the 7.5 percent threshold applies if either spouse has obtained the age of 65 before the close of the taxable year. For these taxpayers, during these years, the threshold is 10 percent for AMT purposes.

**REASONS FOR CHANGE**

The Committee believes that individuals with high health care costs should not be subject to a tax increase after 2016. Furthermore, the Committee believes that the ten-percent AGI threshold currently applicable to taxpayers under age 65 is too high and does not allow individuals with normal medical expenses to benefit from the deduction. Thus, the Committee believes that it is appropriate to lower permanently the AGI threshold back to the pre-2013 level of 7.5 percent for all taxpayers.

**EXPLANATION OF PROVISION**

The provision permanently lowers the adjusted gross income threshold from 10 percent to 7.5 percent for all taxpayers, regardless of age. Under the provision, the threshold continues to be 10 percent for AMT purposes.

**EFFECTIVE DATE**

The provision is effective for taxable years beginning after December 31, 2015.

<sup>1</sup>Sec. 213. The threshold was amended by the Patient Protection and Affordable Care Act (Pub. L. No. 111–118). For taxable years beginning before January 1, 2013, the threshold was 7.5 percent for purposes of the regular tax and 10 percent for alternative minimum tax (“AMT”) purposes.

### III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 3590, the “Halt Tax Increases on the Middle Class and Seniors Act” on June 15, 2016.

#### MOTION TO REPORT THE BILL

The bill, H.R. 3590, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 24 yeas to 11 nays (with a quorum being present).

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Brady .....	X	.....	.....	Mr. Levin .....	.....	X	.....
Mr. Johnson .....	X	.....	.....	Mr. Rangel .....	.....	X	.....
Mr. Nunes .....	X	.....	.....	Mr. McDermott .....	.....	X	.....
Mr. Tiberi .....	X	.....	.....	Mr. Lewis .....	.....	X	.....
Mr. Reichert .....	.....	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Boustany .....	X	.....	.....	Mr. Becerra .....	.....	X	.....
Mr. Roskam .....	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Price .....	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Buchanan .....	X	.....	.....	Mr. Larson .....	X	.....	.....
Mr. Smith (NE) .....	X	.....	.....	Mr. Blumenauer .....	.....	.....	.....
Ms. Jenkins .....	X	.....	.....	Mr. Kind .....	.....	X	.....
Mr. Paulsen .....	X	.....	.....	Mr. Pascrell .....	X	.....	.....
Mr. Marchant .....	X	.....	.....	Mr. Crowley .....	.....	.....	.....
Ms. Black .....	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Reed .....	X	.....	.....	Ms. Sanchez .....	.....	X	.....
Mr. Young .....	X	.....	.....				
Mr. Kelly .....	X	.....	.....				
Mr. Renacci .....	X	.....	.....				
Mr. Meehan .....	X	.....	.....				
Ms. Noem .....	X	.....	.....				
Mr. Holding .....	X	.....	.....				
Mr. Smith (MO) .....	.....	.....	.....				
Mr. Dold .....	X	.....	.....				
Mr. Rice .....	X	.....	.....				

### IV. BUDGET EFFECTS OF THE BILL

#### A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 3590, as reported.

The bill, as reported, is estimated to have the following effect on Federal budget receipts for fiscal years 2017–2026.

**FISCAL YEARS**  
[millions of dollars]

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2017-21	2017-26
	- 1,570	- 2,494	- 2,756	- 2,972	- 3,205	- 3,436	- 3,687	- 3,948	- 4,216	- 4,413	- 12,998	- 32,697

NOTE: Details do not add to totals due to rounding.

Pursuant to clause 8 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 gross budgetary effect (before incorporating macroeconomic effects) in any fiscal year is less than 0.25 percent of the current projected gross domestic product of the United States for that fiscal year; therefore, the bill is not “major legislation” for purposes of requiring that the estimate include the budgetary effects of changes in economic output, employment, capital stock and other macroeconomic variables.

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 involves no new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. See amounts shown in the 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, June 30, 2016.*

Hon. KEVIN BRADY,  
*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. 3590, the Halt Tax Increases on the Middle Class and Seniors Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Peter Huether.

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 3590—Halt Tax Increases on the Middle Class and Seniors Act*

Under current law, individuals may generally claim an itemized deduction for unreimbursed medical expenses to the extent that such expenses exceed a threshold of 10 percent of adjusted gross income (AGI). For taxpayers 65 years of age or older, the threshold is generally 7.5 percent in 2016, but it rises to 10 percent thereafter. Regardless of the age of the taxpayer, the threshold is 10 percent for the purposes of the alternative minimum tax (AMT). H.R. 3590 would amend the Internal Revenue Code to permanently lower the threshold from 10 percent to 7.5 percent of AGI under the regular income tax, regardless of the age of the taxpayer, effective for tax years beginning after December 31, 2015. H.R. 3590

maintains the threshold at its current-law level of 10 percent for AMT purposes.

The staff of the Joint Committee on Taxation (JCT) estimates that enacting H.R. 3590 would reduce revenues by \$32.7 billion over the 2016–2026 period.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting revenues or direct spending. The net changes in revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO and JCT estimate that enacting the bill would increase net direct spending or on-budget deficits by more than \$5 billion in at least one of the four 10-year periods beginning in 2027.

JCT has determined that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Peter Huether. The estimate was approved by Mark Booth, Unit Chief, Revenue Estimating.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 3590, AS ORDERED REPORTED BY THE  
HOUSE COMMITTEE ON WAYS AND MEANS ON JUNE 15, 2016

	By fiscal year, in millions of dollars—													2016- 2021	2016- 2026
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026				
NET INCREASE IN THE DEFICIT															
Statutory Pay-As-You-Go Effects .....	0	1,570	2,494	2,756	2,972	3,205	3,436	3,687	3,948	4,216	4,413	12,998	32,697		

Source: Staff of the Joint Committee on Taxation.

Note: Components may not sum to total because of rounding.

## V. 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 as a result of the Committee’s review of the provisions of H.R. 3590 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

### 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 Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

### C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

### D. 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 bill, and states that the bill does not involve any Federal income tax rate increases within the meaning of the rule.

### E. TAX COMPLEXITY ANALYSIS

The following statement is made pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives. Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (“IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code of 1986 and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, 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 of 1986 and that have “widespread applicability” to individuals or small businesses, within the meaning of the rule.

### F. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

### G. DUPLICATION OF FEDERAL PROGRAMS

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program, (2) a program included in any report from the Government Accountability Office to Congress pur-

suant to section 21 of Public Law 111–139, or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169).

#### H. DISCLOSURE OF DIRECTED RULE MAKINGS

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

### VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

#### A. TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

#### INTERNAL REVENUE CODE OF 1986

\* \* \* \* \*

### Subtitle A—Income Taxes

\* \* \* \* \*

#### CHAPTER 1—NORMAL TAXES AND SURTAXES

\* \* \* \* \*

#### Subchapter A—Determination of Tax Liability

\* \* \* \* \*

#### PART VI—ALTERNATIVE MINIMUM TAX

\* \* \* \* \*

#### SEC. 56. ADJUSTMENTS IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.

(a) ADJUSTMENTS APPLICABLE TO ALL TAXPAYERS.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) DEPRECIATION.—

(A) IN GENERAL.—

(i) **PROPERTY OTHER THAN CERTAIN PERSONAL PROPERTY.**—Except as provided in clause (ii), the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g). In the case of property placed in service after December 31, 1998, the preceding sentence shall not apply but clause (ii) shall continue to apply.

(ii) **150-PERCENT DECLINING BALANCE METHOD FOR CERTAIN PROPERTY.**—The method of depreciation used shall be—

- (I) the 150 percent declining balance method,
- (II) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance.

The preceding sentence shall not apply to any section 1250 property (as defined in section 1250(c)) (and the straight line method shall be used for such section 1250 property) or to any other property if the depreciation deduction determined under section 168 with respect to such other property for purposes of the regular tax is determined by using the straight line method.

(B) **EXCEPTION FOR CERTAIN PROPERTY.**—This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f), or in section 168(e)(3)(C)(iv).

(C) **COORDINATION WITH TRANSITIONAL RULES.**—

(i) **IN GENERAL.**—This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply by reason of section 203, 204, or 251(d) of such Act.

(ii) **TREATMENT OF CERTAIN PROPERTY PLACED IN SERVICE BEFORE 1987.**—This paragraph shall apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

(D) **NORMALIZATION RULES.**—With respect to public utility property described in section 168(i)(10), the Secretary shall prescribe the requirements of a normalization method of accounting for this section.

(2) **MINING EXPLORATION AND DEVELOPMENT COSTS.**—

(A) **IN GENERAL.**—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) (determined without regard to section 291(b)) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10-year period begin-

ning with the taxable year in which the expenditures were made.

(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

- (i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or
- (ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(3) TREATMENT OF CERTAIN LONG-TERM CONTRACTS.—In the case of any long-term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)). For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(1) by using the simplified procedures for allocation of costs prescribed under section 460(b)(3). The first sentence of this paragraph shall not apply to any home construction contract (as defined in section 460(e)(6)).

(4) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

(5) POLLUTION CONTROL FACILITIES.—In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 (without regard to section 291) shall be determined under the alternative system of section 168(g). In the case of such a facility placed in service after December 31, 1998, such deduction shall be determined under section 168 using the straight line method.

(6) ADJUSTED BASIS.—The adjusted basis of any property to which paragraph (1) or (5) applies (or with respect to which there are any expenditures to which paragraph (2) or subsection (b)(2) applies) shall be determined on the basis of the treatment prescribed in paragraph (1), (2), or (5), or subsection (b)(2), whichever applies.

(7) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply.

(b) ADJUSTMENTS APPLICABLE TO INDIVIDUALS.—In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) LIMITATION ON DEDUCTIONS.—

(A) IN GENERAL.—No deduction shall be allowed—

- (i) for any miscellaneous itemized deduction (as defined in section 67(b)), or
- (ii) for any taxes described in paragraph (1), (2), or (3) of section 164(a) or clause (ii) of section 164(b)(5)(A).

Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

(B) MEDICAL EXPENSES.—In determining the amount allowable as a deduction under section 213, subsection (a) of section 213 shall be applied without regard to subsection (f) of such section.

(C) INTEREST.—In determining the amount allowable as a deduction for interest, subsections (d) and (h) of section 163 shall apply, except that—

(i) in lieu of the exception under section 163(h)(2)(D), the term “personal interest” shall not include any qualified housing interest (as defined in subsection (e)),

(ii) interest on any specified private activity bond (and any amount treated as interest on a specified private activity bond under section 57(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A), shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d),

(iii) in lieu of the exception under section 163(d)(3)(B)(i), the term “investment interest” shall not include any qualified housing interest (as defined in subsection (e)), and

(iv) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d).

(D) TREATMENT OF CERTAIN RECOVERIES.—No recovery of any tax to which subparagraph (A)(ii) applied shall be included in gross income for purposes of determining alternative minimum taxable income.

(E) STANDARD DEDUCTION AND DEDUCTION FOR PERSONAL EXEMPTIONS NOT ALLOWED.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed. The preceding sentence shall not apply to so much of the standard deduction as is determined under subparagraphs (D) and (E) of section 63(c)(1).

(F) SECTION 68 NOT APPLICABLE.—Section 68 shall not apply.

(2) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(A) IN GENERAL.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—

(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction

shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(C) SPECIAL RULE FOR PERSONAL HOLDING COMPANIES.—

In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

(D) EXCEPTION FOR CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—If the taxpayer materially participates (within the meaning of section 469(h)) in an activity, this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity.

(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired pursuant to the exercise of an incentive stock option (as defined in section 422). Section 422(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within the same taxable year and such section shall not apply in any other case. The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by this paragraph.

(c) ADJUSTMENTS APPLICABLE TO CORPORATIONS.—In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

(1) ADJUSTMENT FOR ADJUSTED CURRENT EARNINGS.—Alternative minimum taxable income shall be adjusted as provided in subsection (g).

(2) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—In the case of a capital construction fund established under chapter 535 of title 46, United States Code—

(A) subparagraphs (A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such chapter 535) shall not apply to—

(i) any amount deposited in such fund after December 31, 1986, or

(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

(B) no reduction in basis shall be made under section 7518(f) (or the corresponding provisions of such chapter 535) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

(3) SPECIAL DEDUCTION FOR CERTAIN ORGANIZATIONS NOT ALLOWED.—The deduction determined under section 833(b) shall not be allowed.

(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—

(1) IN GENERAL.—For purposes of subsection (a)(4), the term “alternative tax net operating loss deduction” means the net operating loss deduction allowable for the taxable year under section 172, except that—

(A) the amount of such deduction shall not exceed the sum of—

(i) the lesser of—

(I) the amount of such deduction attributable to net operating losses (other than the deduction described in clause (ii)(I)), or

(II) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under section 199, plus

(ii) the lesser of—

(I) the amount of such deduction attributable to an applicable net operating loss with respect to which an election is made under section 172(b)(1)(H), or

(II) alternative minimum taxable income determined without regard to such deduction and the deduction under section 199 reduced by the amount determined under clause (i), and

(B) in determining the amount of such deduction—

(i) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).

(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

(A) POST-1986 LOSS YEARS.—In the case of a loss year beginning after December 31, 1986, the net operating loss for such year under section 172(c) shall—

(i) be determined with the adjustments provided in this section and section 58, and

(ii) be reduced by the items of tax preference determined under section 57 for such year.

An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c).

(B) PRE-1987 YEARS.—In the case of loss years beginning before January 1, 1987, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1986, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.

(e) QUALIFIED HOUSING INTEREST.—For purposes of this part—

(1) IN GENERAL.—The term “qualified housing interest” means interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued during the taxable

year on indebtedness which is incurred in acquiring, constructing, or substantially improving any property which—

(A) is the principal residence (within the meaning of section 121) of the taxpayer at the time such interest accrues, or

(B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(4)).

Such term also includes interest on any indebtedness resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence; but only to the extent that the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness immediately before the refinancing.

(2) QUALIFIED DWELLING.—The term “qualified dwelling” means any—

(A) house,

(B) apartment,

(C) condominium, or

(D) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

(3) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term “qualified housing interest” includes interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued on indebtedness which—

(A) was incurred by the taxpayer before July 1, 1982, and

(B) is secured by property which, at the time such indebtedness was incurred, was—

(i) the principal residence (within the meaning of section 121) of the taxpayer, or

(ii) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

(g) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—

(1) IN GENERAL.—The alternative minimum taxable income of any corporation for any taxable year shall be increased by 75 percent of the excess (if any) of—

(A) the adjusted current earnings of the corporation, over

(B) the alternative minimum taxable income (determined without regard to this subsection and the alternative tax net operating loss deduction).

(2) ALLOWANCE OF NEGATIVE ADJUSTMENTS.—

(A) IN GENERAL.—The alternative minimum taxable income for any corporation of any taxable year, shall be reduced by 75 percent of the excess (if any) of—

(i) the amount referred to in subparagraph (B) of paragraph (1), over

(ii) the amount referred to in subparagraph (A) of paragraph (1).

(B) LIMITATION.—The reduction under subparagraph (A) for any taxable year shall not exceed the excess (if any) of—

- (i) the aggregate increases in alternative minimum taxable income under paragraph (1) for prior taxable years, over
  - (ii) the aggregate reductions under subparagraph (A) of this paragraph for prior taxable years.
- (3) ADJUSTED CURRENT EARNINGS.—For purposes of this subsection, the term “adjusted current earnings” means the alternative minimum taxable income for the taxable year—
- (A) determined with the adjustments provided in paragraph (4), and
  - (B) determined without regard to this subsection and the alternative tax net operating loss deduction.
- (4) ADJUSTMENTS.—In determining adjusted current earnings, the following adjustments shall apply:
- (A) DEPRECIATION.—
- (i) PROPERTY PLACED IN SERVICE AFTER 1989.—The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under the alternative system of section 168(g). The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).
  - (ii) PROPERTY TO WHICH NEW ACRS SYSTEM APPLIES.—In the case of any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—
    - (I) by taking into account the adjusted basis of such property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990, and
    - (II) by using the straight-line method over the remainder of the recovery period applicable to such property under the alternative system of section 168(g).
  - (iii) PROPERTY TO WHICH ORIGINAL ACRS SYSTEM APPLIES.—In the case of any property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 and without regard to subsection (d)(1)(A)(ii) thereof) applies and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—
    - (I) by taking into account the adjusted basis of such property (as determined for purposes of computing the regular tax) as of the close of the last taxable year beginning before January 1, 1990, and
    - (II) by using the straight line method over the remainder of the recovery period which would

apply to such property under the alternative system of section 168(g).

(iv) PROPERTY PLACED IN SERVICE BEFORE 1981.—In the case of any property not described in clause (i), (ii), or (iii), the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing taxable income.

(v) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g).

(B) INCLUSION OF ITEMS INCLUDED FOR PURPOSES OF COMPUTING EARNINGS AND PROFITS.—

(i) IN GENERAL.—In the case of any amount which is excluded from gross income for purposes of computing alternative minimum taxable income but is taken into account in determining the amount of earnings and profits—

(I) such amount shall be included in income in the same manner as if such amount were includible in gross income for purposes of computing alternative minimum taxable income, and

(II) the amount of such income shall be reduced by any deduction which would have been allowable in computing alternative minimum taxable income if such amount were includible in gross income.

The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law) or under section 139A or 1357. In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).

(ii) INCLUSION OF BUILDUP IN LIFE INSURANCE CONTRACTS.—In the case of any life insurance contract—

(I) the income on such contract (as determined under section 7702(g)) for any taxable year shall be treated as includible in gross income for such year, and

(II) there shall be allowed as a deduction that portion of any premium which is attributable to insurance coverage.

(iii) TAX EXEMPT INTEREST ON CERTAIN HOUSING BONDS.—Clause (i) shall not apply in the case of any interest on a bond to which section 57(a)(5)(C)(iii) applies.

(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—

(I) IN GENERAL.—Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011.

(II) TREATMENT OF REFUNDING BONDS.—For purposes of subclause (I), a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).

(III) EXCEPTION FOR CERTAIN REFUNDING BONDS.—Subclause (II) shall not apply to any refunding bond which is issued to refund any bond which was issued after December 31, 2003, and before January 1, 2009.

(C) DISALLOWANCE OF ITEMS NOT DEDUCTIBLE IN COMPUTING EARNINGS AND PROFITS.—

(i) IN GENERAL.—A deduction shall not be allowed for any item if such item would not be deductible for any taxable year for purposes of computing earnings and profits.

(ii) SPECIAL RULE FOR CERTAIN DIVIDENDS.—

(I) IN GENERAL.—Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100-percent dividend or which is received from a 20-percent owned corporation (as defined in section 243(c)(2)), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 30A, 936 (including subsections (a)(4), (i) and (j) thereof) and 921 (as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)).

(II) 100-PERCENT DIVIDEND.—For purposes of subclause (I), the term “100 percent dividend” means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent.

(iii) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

(I) IN GENERAL.—For purposes of determining the alternative minimum foreign tax credit, 75 percent of any withholding or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

(II) LIMITATION.—If the aggregate amount of the dividends referred to in subclause (I) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as tax paid to a foreign country under subclause (I) shall not exceed the amount which would be so treated without regard to this subclause multiplied by a fraction the numerator of which is the excess referred to in

paragraph (1) and the denominator of which is the aggregate amount of such dividends.

(III) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this clause, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated).

(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I).

(VI) APPLICATION TO SECTION 30A CORPORATIONS.—References in this clause to section 936 shall be treated as including references to section 30A.

(iv) SPECIAL RULE FOR CERTAIN DIVIDENDS RECEIVED BY CERTAIN COOPERATIVES.—In the case of an organization to which part I of subchapter T (relating to tax treatment of cooperatives) applies which is engaged in the marketing of agricultural or horticultural products, clause (i) shall not apply to any amount allowable as a deduction under section 245(c).

(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.

(vi) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS FROM CONTROLLED FOREIGN CORPORATIONS.—Clause (i) shall not apply to any deduction allowable under section 965.

(D) CERTAIN OTHER EARNINGS AND PROFITS ADJUSTMENTS.—

(i) INTANGIBLE DRILLING COSTS.—The adjustments provided in section 312(n)(2)(A) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1989. In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts

paid or incurred in taxable years beginning after December 31, 1992.

(ii) CERTAIN AMORTIZATION PROVISIONS NOT TO APPLY.—Sections 173 and 248 shall not apply to expenditures paid or incurred in taxable years beginning after December 31, 1989.

(iii) LIFO INVENTORY ADJUSTMENTS.—The adjustments provided in section 312(n)(4) shall apply, but only with respect to taxable years beginning after December 31, 1989.

(iv) INSTALLMENT SALES.—In the case of any installment sale in a taxable year beginning after December 31, 1989, adjusted current earnings shall be computed as if the corporation did not use the installment method. The preceding sentence shall not apply to the applicable percentage (as determined under section 453A) of the gain from any installment sale with respect to which section 453A(a)(1) applies.

(E) DISALLOWANCE OF LOSS ON EXCHANGE OF DEBT POOLS.—No loss shall be recognized on the exchange of any pool of debt obligations for another pool of debt obligations having substantially the same effective interest rates and maturities.

(F) DEPLETION.—

(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—Clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c).

(G) TREATMENT OF CERTAIN OWNERSHIP CHANGES.—If—

(i) there is an ownership change (within the meaning of section 382) in a taxable year beginning after 1989 with respect to any corporation, and

(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change.

(H) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph.

(I) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.

- (5) OTHER DEFINITIONS.—For purposes of paragraph (4)—
  - (A) EARNINGS AND PROFITS.—The term “earnings and profits” means earnings and profits computed for purposes of subchapter C.
  - (B) TREATMENT OF ALTERNATIVE MINIMUM TAXABLE INCOME.—The treatment of any item for purposes of computing alternative minimum taxable income shall be determined without regard to this subsection.
- (6) EXCEPTION FOR CERTAIN CORPORATIONS.—This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.

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### Subchapter B—Computation of Taxable Income

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### PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

\* \* \* \* \*

#### SEC. 213. MEDICAL, DENTAL, ETC., EXPENSES.

- (a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof), to the extent that such expenses exceed 10 percent of adjusted gross income.
- (b) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.
- (c) SPECIAL RULE FOR DECEDENTS.—
  - (1) TREATMENT OF EXPENSES PAID AFTER DEATH.—For purposes of subsection (a), expenses for the medical care of the taxpayer which are paid out of his estate during the 1-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.
  - (2) LIMITATION.—Paragraph (1) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this paragraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—
    - (A) a statement that such amount has not been allowed as a deduction under section 2053, and
    - (B) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.
- (d) DEFINITIONS.—For purposes of this section—
  - (1) The term “medical care” means amounts paid—
    - (A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body,
    - (B) for transportation primarily for and essential to medical care referred to in subparagraph (A),

(C) for qualified long-term care services (as defined in section 7702B(c)), or

(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in subparagraphs (A) and (B) or for any qualified long-term care insurance contract (as defined in section 7702B(b)).

In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D).

(2) Amounts paid for certain lodging away from home treated as paid for medical care

Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed \$50 for each night for each individual.

(3) Prescribed drug

The term “prescribed drug” means a drug or biological which requires a prescription of a physician for its use by an individual.

(4) Physician

The term “physician” has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

(5) Special rule in the case of child of divorced parents, etc. Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this section.

(6) In the case of an insurance contract under which amounts are payable for other than medical care referred to in subparagraphs (A), (B), and (C) of paragraph (1)—

(A) no amount shall be treated as paid for insurance to which paragraph (1)(D) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement,

(B) the amount taken into account as the amount paid for such insurance shall not exceed such charge, and

(C) no amount shall be treated as paid for such insurance if the amount specified in the contract (or furnished to the policyholder by the insurance company in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract.

(7) Subject to the limitations of paragraph (6), premiums paid during the taxable year by a taxpayer before he attains the age of 65 for insurance covering medical care (within the

meaning of subparagraphs (A), (B), and (C) of paragraph (1) for the taxpayer, his spouse, or a dependent after the taxpayer attains the age of 65 shall be treated as expenses paid during the taxable year for insurance which constitutes medical care if premiums for such insurance are payable (on a level payment basis) under the contract for a period of 10 years or more or until the year in which the taxpayer attains the age of 65 (but in no case for a period of less than 5 years).

(8) The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 6013(d) (relating to determination of status as husband and wife).

(9) COSMETIC SURGERY.—

(A) IN GENERAL.—The term “medical care” does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

(B) COSMETIC SURGERY DEFINED.—For purposes of this paragraph, the term “cosmetic surgery” means any procedure which is directed at improving the patient’s appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

(A) IN GENERAL.—For purposes of this section, the term “eligible long-term care Premiums” means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	\$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500

(B) INDEXING.—

(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of \$10, such increase shall be rounded to the nearest multiple of \$10.

(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

(11) Certain payments to relatives treated as not paid for medical care --An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term “relative” means an individual bearing a relationship to the individual which is described in any of subparagraphs (A) through (G) of section 152(d)(2). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance.

(e) EXCLUSION OF AMOUNTS ALLOWED FOR CARE OF CERTAIN DEPENDENTS.—Any expense allowed as a credit under section 21 shall not be treated as an expense paid for medical care.

(f) SPECIAL RULE FOR 2013, 2014, 2015, AND 2016.—In the case of any taxable year beginning after December 31, 2012, and ending before January 1, 2017, subsection (a) shall be applied with respect to a taxpayer by substituting “7.5 percent” for “10 percent” if such taxpayer or such taxpayer’s spouse has attained age 65 before the close of such taxable year.

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#### B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed 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 italics, existing law in which no change is proposed is shown in roman):

##### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed 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 italics, and 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 VI—ALTERNATIVE MINIMUM TAX**

\* \* \* \* \*

**SEC. 56. ADJUSTMENTS IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.**

(a) **ADJUSTMENTS APPLICABLE TO ALL TAXPAYERS.**—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

**(1) DEPRECIATION.**—**(A) IN GENERAL.**—

(i) **PROPERTY OTHER THAN CERTAIN PERSONAL PROPERTY.**—Except as provided in clause (ii), the depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g). In the case of property placed in service after December 31, 1998, the preceding sentence shall not apply but clause (ii) shall continue to apply.

(ii) **150-PERCENT DECLINING BALANCE METHOD FOR CERTAIN PROPERTY.**—The method of depreciation used shall be—

(I) the 150 percent declining balance method,

(II) switching to the straight line method for the 1st taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of the year will yield a higher allowance.

The preceding sentence shall not apply to any section 1250 property (as defined in section 1250(c)) (and the straight line method shall be used for such section 1250 property) or to any other property if the depreciation deduction determined under section 168 with respect to such other property for purposes of the regular tax is determined by using the straight line method.

(B) EXCEPTION FOR CERTAIN PROPERTY.—This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f), or in section 168(e)(3)(C)(iv).

(C) COORDINATION WITH TRANSITIONAL RULES.—

(i) IN GENERAL.—This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply by reason of section 203, 204, or 251(d) of such Act.

(ii) TREATMENT OF CERTAIN PROPERTY PLACED IN SERVICE BEFORE 1987.—This paragraph shall apply to any property to which the amendments made by section 201 of the Tax Reform Act of 1986 apply by reason of an election under section 203(a)(1)(B) of such Act without regard to the requirement of subparagraph (A) that the property be placed in service after December 31, 1986.

(D) NORMALIZATION RULES.—With respect to public utility property described in section 168(i)(10), the Secretary shall prescribe the requirements of a normalization method of accounting for this section.

(2) MINING EXPLORATION AND DEVELOPMENT COSTS.—

(A) IN GENERAL.—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) (determined without regard to section 291(b)) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(3) TREATMENT OF CERTAIN LONG-TERM CONTRACTS.—In the case of any long-term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)). For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(1) by using the simplified procedures for allocation of costs prescribed under section 460(b)(3). The first sentence of this paragraph shall not apply to any home construction contract (as defined in section 460(e)(6)).

(4) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The alternative tax net operating loss deduction shall be allowed in

lieu of the net operating loss deduction allowed under section 172.

(5) POLLUTION CONTROL FACILITIES.—In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 (without regard to section 291) shall be determined under the alternative system of section 168(g). In the case of such a facility placed in service after December 31, 1998, such deduction shall be determined under section 168 using the straight line method.

(6) ADJUSTED BASIS.—The adjusted basis of any property to which paragraph (1) or (5) applies (or with respect to which there are any expenditures to which paragraph (2) or subsection (b)(2) applies) shall be determined on the basis of the treatment prescribed in paragraph (1), (2), or (5), or subsection (b)(2), whichever applies.

(7) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply.

(b) ADJUSTMENTS APPLICABLE TO INDIVIDUALS.—In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

(1) LIMITATION ON DEDUCTIONS.—

(A) IN GENERAL.—No deduction shall be allowed—

- (i) for any miscellaneous itemized deduction (as defined in section 67(b)), or
- (ii) for any taxes described in paragraph (1), (2), or (3) of section 164(a) or clause (ii) of section 164(b)(5)(A).

Clause (ii) shall not apply to any amount allowable in computing adjusted gross income.

(B) MEDICAL EXPENSES.—In determining the amount allowable as a deduction under section 213, subsection (a) of section 213 shall be applied [without regard to subsection (f) of such section] *by substituting “10 percent” for “7.5 percent”*.

(C) INTEREST.—In determining the amount allowable as a deduction for interest, subsections (d) and (h) of section 163 shall apply, except that—

- (i) in lieu of the exception under section 163(h)(2)(D), the term “personal interest” shall not include any qualified housing interest (as defined in subsection (e)),
- (ii) interest on any specified private activity bond (and any amount treated as interest on a specified private activity bond under section 57(a)(5)(B)), and any deduction referred to in section 57(a)(5)(A), shall be treated as includible in gross income (or as deductible) for purposes of applying section 163(d),
- (iii) in lieu of the exception under section 163(d)(3)(B)(i), the term “investment interest” shall not include any qualified housing interest (as defined in subsection (e)), and

(iv) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d).

(D) TREATMENT OF CERTAIN RECOVERIES.—No recovery of any tax to which subparagraph (A)(ii) applied shall be included in gross income for purposes of determining alternative minimum taxable income.

(E) STANDARD DEDUCTION AND DEDUCTION FOR PERSONAL EXEMPTIONS NOT ALLOWED.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed. The preceding sentence shall not apply to so much of the standard deduction as is determined under subparagraphs (D) and (E) of section 63(c)(1).

(F) SECTION 68 NOT APPLICABLE.—Section 68 shall not apply.

(2) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(A) IN GENERAL.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—

(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

(C) SPECIAL RULE FOR PERSONAL HOLDING COMPANIES.—In the case of circulation expenditures described in section 173, the adjustments provided in this paragraph shall apply also to a personal holding company (as defined in section 542).

(D) EXCEPTION FOR CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—If the taxpayer materially participates (within the meaning of section 469(h)) in an activity, this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity.

(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired pursuant to the exercise of an incentive stock option (as defined in section 422). Section 422(c)(2) shall apply in any case where the disposition and the inclusion for purposes of this part are within

the same taxable year and such section shall not apply in any other case. The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by this paragraph.

(c) ADJUSTMENTS APPLICABLE TO CORPORATIONS.—In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

(1) ADJUSTMENT FOR ADJUSTED CURRENT EARNINGS.—Alternative minimum taxable income shall be adjusted as provided in subsection (g).

(2) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—In the case of a capital construction fund established under chapter 535 of title 46, United States Code—

(A) subparagraphs (A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such chapter 535) shall not apply to—

(i) any amount deposited in such fund after December 31, 1986, or

(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

(B) no reduction in basis shall be made under section 7518(f) (or the corresponding provisions of such chapter 535) with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies.

For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

(3) SPECIAL DEDUCTION FOR CERTAIN ORGANIZATIONS NOT ALLOWED.—The deduction determined under section 833(b) shall not be allowed.

(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—

(1) IN GENERAL.—For purposes of subsection (a)(4), the term “alternative tax net operating loss deduction” means the net operating loss deduction allowable for the taxable year under section 172, except that—

(A) the amount of such deduction shall not exceed the sum of—

(i) the lesser of—

(I) the amount of such deduction attributable to net operating losses (other than the deduction described in clause (ii)(I)), or

(II) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under section 199, plus

(ii) the lesser of—

(I) the amount of such deduction attributable to an applicable net operating loss with respect to which an election is made under section 172(b)(1)(H), or

(II) alternative minimum taxable income determined without regard to such deduction and the deduction under section 199 reduced by the amount determined under clause (i), and

(B) in determining the amount of such deduction—

(i) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).

(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

(A) POST-1986 LOSS YEARS.—In the case of a loss year beginning after December 31, 1986, the net operating loss for such year under section 172(c) shall—

(i) be determined with the adjustments provided in this section and section 58, and

(ii) be reduced by the items of tax preference determined under section 57 for such year.

An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c).

(B) PRE-1987 YEARS.—In the case of loss years beginning before January 1, 1987, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1986, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.

(e) QUALIFIED HOUSING INTEREST.—For purposes of this part—

(1) IN GENERAL.—The term “qualified housing interest” means interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially improving any property which—

(A) is the principal residence (within the meaning of section 121) of the taxpayer at the time such interest accrues, or

(B) is a qualified dwelling which is a qualified residence (within the meaning of section 163(h)(4)).

Such term also includes interest on any indebtedness resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence; but only to the extent that the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness immediately before the refinancing.

(2) QUALIFIED DWELLING.—The term “qualified dwelling” means any—

(A) house,

(B) apartment,

(C) condominium, or

(D) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

(3) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term “qualified housing interest” includes interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued on indebtedness which—

- (A) was incurred by the taxpayer before July 1, 1982, and
- (B) is secured by property which, at the time such indebtedness was incurred, was—
- (i) the principal residence (within the meaning of section 121) of the taxpayer, or
  - (ii) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).
- (g) ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS.—
- (1) IN GENERAL.—The alternative minimum taxable income of any corporation for any taxable year shall be increased by 75 percent of the excess (if any) of—
    - (A) the adjusted current earnings of the corporation, over
    - (B) the alternative minimum taxable income (determined without regard to this subsection and the alternative tax net operating loss deduction).
  - (2) ALLOWANCE OF NEGATIVE ADJUSTMENTS.—
    - (A) IN GENERAL.—The alternative minimum taxable income for any corporation of any taxable year, shall be reduced by 75 percent of the excess (if any) of—
      - (i) the amount referred to in subparagraph (B) of paragraph (1), over
      - (ii) the amount referred to in subparagraph (A) of paragraph (1).
    - (B) LIMITATION.—The reduction under subparagraph (A) for any taxable year shall not exceed the excess (if any) of—
      - (i) the aggregate increases in alternative minimum taxable income under paragraph (1) for prior taxable years, over
      - (ii) the aggregate reductions under subparagraph (A) of this paragraph for prior taxable years.
  - (3) ADJUSTED CURRENT EARNINGS.—For purposes of this subsection, the term “adjusted current earnings” means the alternative minimum taxable income for the taxable year—
    - (A) determined with the adjustments provided in paragraph (4), and
    - (B) determined without regard to this subsection and the alternative tax net operating loss deduction.
  - (4) ADJUSTMENTS.—In determining adjusted current earnings, the following adjustments shall apply:
    - (A) DEPRECIATION.—
      - (i) PROPERTY PLACED IN SERVICE AFTER 1989.—The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under the alternative system of section 168(g). The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).
      - (ii) PROPERTY TO WHICH NEW ACRS SYSTEM APPLIES.—In the case of any property to which the

amendments made by section 201 of the Tax Reform Act of 1986 apply and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight-line method over the remainder of the recovery period applicable to such property under the alternative system of section 168(g).

(iii) PROPERTY TO WHICH ORIGINAL ACRS SYSTEM APPLIES.—In the case of any property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 and without regard to subsection (d)(1)(A)(ii) thereof) applies and which is placed in service in a taxable year beginning before 1990, the depreciation deduction shall be determined—

(I) by taking into account the adjusted basis of such property (as determined for purposes of computing the regular tax) as of the close of the last taxable year beginning before January 1, 1990, and

(II) by using the straight line method over the remainder of the recovery period which would apply to such property under the alternative system of section 168(g).

(iv) PROPERTY PLACED IN SERVICE BEFORE 1981.—In the case of any property not described in clause (i), (ii), or (iii), the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing taxable income.

(v) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g).

(B) INCLUSION OF ITEMS INCLUDED FOR PURPOSES OF COMPUTING EARNINGS AND PROFITS.—

(i) IN GENERAL.—In the case of any amount which is excluded from gross income for purposes of computing alternative minimum taxable income but is taken into account in determining the amount of earnings and profits—

(I) such amount shall be included in income in the same manner as if such amount were includable in gross income for purposes of computing alternative minimum taxable income, and

(II) the amount of such income shall be reduced by any deduction which would have been allow-

able in computing alternative minimum taxable income if such amount were includible in gross income.

The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law) or under section 139A or 1357. In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b).

(ii) INCLUSION OF BUILDUP IN LIFE INSURANCE CONTRACTS.—In the case of any life insurance contract—

(I) the income on such contract (as determined under section 7702(g)) for any taxable year shall be treated as includible in gross income for such year, and

(II) there shall be allowed as a deduction that portion of any premium which is attributable to insurance coverage.

(iii) TAX EXEMPT INTEREST ON CERTAIN HOUSING BONDS.—Clause (i) shall not apply in the case of any interest on a bond to which section 57(a)(5)(C)(iii) applies.

(iv) TAX EXEMPT INTEREST ON BONDS ISSUED IN 2009 AND 2010.—

(I) IN GENERAL.—Clause (i) shall not apply in the case of any interest on a bond issued after December 31, 2008, and before January 1, 2011.

(II) TREATMENT OF REFUNDING BONDS.—For purposes of subclause (I), a refunding bond (whether a current or advance refunding) shall be treated as issued on the date of the issuance of the refunded bond (or in the case of a series of refundings, the original bond).

(III) EXCEPTION FOR CERTAIN REFUNDING BONDS.—Subclause (II) shall not apply to any refunding bond which is issued to refund any bond which was issued after December 31, 2003, and before January 1, 2009.

(C) DISALLOWANCE OF ITEMS NOT DEDUCTIBLE IN COMPUTING EARNINGS AND PROFITS.—

(i) IN GENERAL.—A deduction shall not be allowed for any item if such item would not be deductible for any taxable year for purposes of computing earnings and profits.

(ii) SPECIAL RULE FOR CERTAIN DIVIDENDS.—

(I) IN GENERAL.—Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100-percent dividend or which is received from a 20-percent owned corporation (as defined in section 243(c)(2)), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 30A, 936 (including sub-

sections (a)(4), (i) and (j) thereof) and 921 (as in effect before its repeal by the FSC Repeal and Extraterritorial Income Exclusion Act of 2000)).

(II) 100-PERCENT DIVIDEND.—For purposes of subclause (I), the term “100 percent dividend” means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent.

(iii) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

(I) IN GENERAL.—For purposes of determining the alternative minimum foreign tax credit, 75 percent of any withholding or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

(II) LIMITATION.—If the aggregate amount of the dividends referred to in subclause (I) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as tax paid to a foreign country under subclause (I) shall not exceed the amount which would be so treated without regard to this subclause multiplied by a fraction the numerator of which is the excess referred to in paragraph (1) and the denominator of which is the aggregate amount of such dividends.

(III) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this clause, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated).

(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I).

(VI) APPLICATION TO SECTION 30A CORPORATIONS.—References in this clause to section 936 shall be treated as including references to section 30A.

(iv) SPECIAL RULE FOR CERTAIN DIVIDENDS RECEIVED BY CERTAIN COOPERATIVES.—In the case of an organization to which part I of subchapter T (relating to tax treatment of cooperatives) applies which is engaged in the marketing of agricultural or horticultural products, clause (i) shall not apply to any amount allowable as a deduction under section 245(c).

(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.

(vi) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS FROM CONTROLLED FOREIGN CORPORATIONS.—Clause (i) shall not apply to any deduction allowable under section 965.

(D) CERTAIN OTHER EARNINGS AND PROFITS ADJUSTMENTS.—

(i) INTANGIBLE DRILLING COSTS.—The adjustments provided in section 312(n)(2)(A) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1989. In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.

(ii) CERTAIN AMORTIZATION PROVISIONS NOT TO APPLY.—Sections 173 and 248 shall not apply to expenditures paid or incurred in taxable years beginning after December 31, 1989.

(iii) LIFO INVENTORY ADJUSTMENTS.—The adjustments provided in section 312(n)(4) shall apply, but only with respect to taxable years beginning after December 31, 1989.

(iv) INSTALLMENT SALES.—In the case of any installment sale in a taxable year beginning after December 31, 1989, adjusted current earnings shall be computed as if the corporation did not use the installment method. The preceding sentence shall not apply to the applicable percentage (as determined under section 453A) of the gain from any installment sale with respect to which section 453A(a)(1) applies.

(E) DISALLOWANCE OF LOSS ON EXCHANGE OF DEBT POOLS.—No loss shall be recognized on the exchange of any pool of debt obligations for another pool of debt obligations having substantially the same effective interest rates and maturities.

(F) DEPLETION.—

(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—Clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c).

(G) TREATMENT OF CERTAIN OWNERSHIP CHANGES.—If—

(i) there is an ownership change (within the meaning of section 382) in a taxable year beginning after 1989 with respect to any corporation, and

(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change.

(H) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph.

(I) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings.

(5) OTHER DEFINITIONS.—For purposes of paragraph (4)—

(A) EARNINGS AND PROFITS.—The term “earnings and profits” means earnings and profits computed for purposes of subchapter C.

(B) TREATMENT OF ALTERNATIVE MINIMUM TAXABLE INCOME.—The treatment of any item for purposes of computing alternative minimum taxable income shall be determined without regard to this subsection.

(6) EXCEPTION FOR CERTAIN CORPORATIONS.—This subsection shall not apply to any S corporation, regulated investment company, real estate investment trust, or REMIC.

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**Subchapter B—Computation of Taxable Income**

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**PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS**

\* \* \* \* \*

**SEC. 213. MEDICAL, DENTAL, ETC., EXPENSES.**

(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B))

thereof), to the extent that such expenses exceed **[10 percent]** 7.5 percent of adjusted gross income.

(b) **LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.**—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

(c) **SPECIAL RULE FOR DECEDENTS.**—

(1) **TREATMENT OF EXPENSES PAID AFTER DEATH.**—For purposes of subsection (a), expenses for the medical care of the taxpayer which are paid out of his estate during the 1-year period beginning with the day after the date of his death shall be treated as paid by the taxpayer at the time incurred.

(2) **LIMITATION.**—Paragraph (1) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this paragraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—

(A) a statement that such amount has not been allowed as a deduction under section 2053, and

(B) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

(d) **DEFINITIONS.**—For purposes of this section—

(1) The term “medical care” means amounts paid—

(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body,

(B) for transportation primarily for and essential to medical care referred to in subparagraph (A),

(C) for qualified long-term care services (as defined in section 7702B(c)), or

(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in subparagraphs (A) and (B) or for any qualified long-term care insurance contract (as defined in section 7702B(b)).

In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D).

(2) Amounts paid for certain lodging away from home treated as paid for medical care

Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed \$50 for each night for each individual.

(3) Prescribed drug

The term “prescribed drug” means a drug or biological which requires a prescription of a physician for its use by an individual.

(4) Physician

The term “physician” has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

(5) Special rule in the case of child of divorced parents, etc.

Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this section.

(6) In the case of an insurance contract under which amounts are payable for other than medical care referred to in subparagraphs (A), (B), and (C) of paragraph (1)—

(A) no amount shall be treated as paid for insurance to which paragraph (1)(D) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement,

(B) the amount taken into account as the amount paid for such insurance shall not exceed such charge, and

(C) no amount shall be treated as paid for such insurance if the amount specified in the contract (or furnished to the policyholder by the insurance company in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract.

(7) Subject to the limitations of paragraph (6), premiums paid during the taxable year by a taxpayer before he attains the age of 65 for insurance covering medical care (within the meaning of subparagraphs (A), (B), and (C) of paragraph (1)) for the taxpayer, his spouse, or a dependent after the taxpayer attains the age of 65 shall be treated as expenses paid during the taxable year for insurance which constitutes medical care if premiums for such insurance are payable (on a level payment basis) under the contract for a period of 10 years or more or until the year in which the taxpayer attains the age of 65 (but in no case for a period of less than 5 years).

(8) The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 6013(d) (relating to determination of status as husband and wife).

(9) COSMETIC SURGERY.—

(A) IN GENERAL.—The term “medical care” does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

(B) COSMETIC SURGERY DEFINED.—For purposes of this paragraph, the term “cosmetic surgery” means any procedure which is directed at improving the patient’s appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

(A) IN GENERAL.—For purposes of this section, the term “eligible long-term care Premiums” means the amount

paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	\$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	2,000
More than 70	2,500

**(B) INDEXING.—**

(i) **IN GENERAL.**—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of \$10, such increase shall be rounded to the nearest multiple of \$10.

(ii) **MEDICAL CARE COST ADJUSTMENT.**—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

(11) Certain payments to relatives treated as not paid for medical care --An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term “relative” means an individual bearing a relationship to the individual which is described in any of subparagraphs (A) through (G) of section 152(d)(2). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance.

(e) EXCLUSION OF AMOUNTS ALLOWED FOR CARE OF CERTAIN DEPENDENTS.—Any expense allowed as a credit under section 21 shall not be treated as an expense paid for medical care.

[(f) SPECIAL RULE FOR 2013, 2014, 2015, AND 2016.—In the case of any taxable year beginning after December 31, 2012, and ending before January 1, 2017, subsection (a) shall be applied with respect to a taxpayer by substituting “7.5 percent” for “10 percent” if such taxpayer or such taxpayer’s spouse has attained age 65 before the close of such taxable year.]

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## VII. DISSENTING VIEWS

### H.R. 3590: HALT TAX INCREASES ON THE MIDDLE CLASS AND SENIORS ACT

We strongly object to H.R. 3590, which would repeal one of the revenue provisions in the Affordable Care Act (ACA). The ACA increased the income threshold for claiming an itemized deduction for medical expenses from 7.5% of adjusted gross income to 10% of adjusted gross income beginning in 2013. For four years (2013 to 2016), seniors age 65 plus were generally provided the lower floor (7.5%) for claiming the deduction.

We object because the cost of the bill is \$33 billion and its cost is not offset. Adding \$33 billion to our record-high federal deficits is irresponsible. It is a continuation of a reckless policy of passing hundreds of billions of dollars of tax cuts, often benefiting higher income Americans and corporations, without paying for them.

In contrast, the ACA was fully paid-for. Revenue provisions in the ACA helped pay for over \$1 trillion dollars in benefits for American families, including insurance market reforms and premium tax credits to help with paying for coverage in the reformed markets, expansion of Medicaid coverage, and closing the prescription drug donut hole for seniors on Medicare. In the past six years since the ACA's passage, the Majority has been wholly unable to offer an alternative to the ACA that would reduce the ranks of the uninsured and provide affordable coverage to American families.

We are also concerned because the tax benefits of H.R. 3590 accrue disproportionately to upper income households. According to data supplied by the Joint Committee on Taxation, approximately 55% of the aggregate tax benefit in 2016 and 66% of the benefit in later years will accrue to taxpayers with adjusted gross income of \$100,000 and above. Taxpayers with that level of income are in the top 15% of earners according to statistical information published by the Internal Revenue Service.

For these reasons we strongly object to H.R. 3590.

SANDER M. LEVIN.

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