Public Law 98-369
98th Congress

An Act

July 18, 1984
[H.R. 4170]

To provide for tax reform, and for deficit reduction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Deficit Reduction Act of 1984.
26 USC 1 note.

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Deficit Reduction Act of 1984".

(b) ACT DIVIDED INTO 2 DIVISIONS.—This Act consists of 2 divisions as follows:

(1) DIVISION A.—Tax Reform Act of 1984.

(2) DIVISION B.—Spending Reduction Act of 1984.

DIVISION A—TAX REFORM ACT OF 1984

Tax Reform Act of 1984.
26 USC 1 note.

SEC. 5. SHORT TITLE; ETC.

(a) SHORT TITLE.—This division may be cited as the "Tax Reform Act of 1984".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

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PART I—INCOME TAX PROVISIONS

SEC. 11. AMOUNT OF USED PROPERTY ELIGIBLE FOR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 48(c)(2) (relating to dollar limitation on amount of used section 38 property) is amended— 26 USC 48.

(1) by striking out "$150,000 ($125,000 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$125,000 ($150,000 for taxable years beginning after 1987)", and

(2) by striking out "$150,000 (or $125,000" each place it appears and inserting in lieu thereof "$125,000 (or $150,000".

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 48(c)(2) is amended by striking out "$75,000 ($62,500 for taxable years beginning in 1981, 1982, 1983, or 1984)" and inserting in lieu thereof "$62,500 ($75,000 for taxable years beginning after 1987)".

SEC. 12. FINANCE LEASE PROVISIONS.

(a) FOUR-YEAR DEFERRAL OF FINANCE LEASE PROVISIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 209(d)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "December 31, 1983" and inserting in lieu thereof "December 31, 1987". 26 USC 168 note.

(2) FINANCE LEASE PROVISIONS CONTINUE TO APPLY TO FARM PROPERTY.—Clause (i) of section 209(d)(1)(B) of such Act is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1988". 26 USC 168 note.

(3) TECHNICAL AMENDMENTS.—

(A) Subclause (I) of section 168(f)(8)(B)(ii) (relating to requirement that only 40 percent of lessee's property may be treated as qualified), as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "1986" and inserting in lieu thereof "1990". 26 USC 168.

(B) Paragraph (4) of section 168(i) (relating to limitations), as so amended, is amended by striking out "1985" each place it appears and inserting in lieu thereof "1989".

26 USC 168 note.

(b) TERMINATION OF SAFE HARBOR LEASING RULES.—Paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (relating to special rules for leasing), as in effect after the amendments made by section 208 of the Tax Equity and Fiscal Responsibility Act of 1982 but before the amendments made by section 209 of such Act, shall not apply to agreements entered into after December 31, 1983. The preceding sentence shall not apply to property described in paragraph (3)(G) or (5) of section 208(d) of such Act.

96 Stat. 432.
96 Stat. 442.

Post, p. 1048.

26 USC 168 note.

(c) TRANSITIONAL RULES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall not apply with respect to any property if—

(A) a binding contract to acquire or to construct such property was entered into by or for the lessee before March 7, 1984, or

(B) such property was acquired by the lessee, or the construction of such property was begun, by or for the lessee, before March 7, 1984.

(2) SPECIAL RULE FOR CERTAIN AUTOMOTIVE PROPERTY.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply to property which is placed in service before January 1, 1988—

(i) which is automotive manufacturing property, and

(ii) with respect to which the lessee is a qualified lessee (within the meaning of section 208(d)(6) of the Tax Equity and Fiscal Responsibility Act of 1982).

26 USC 168 note.

(B) $150,000,000 LIMITATION.—The provisions of subparagraph (A) shall not apply to any agreement if the sum of—

(i) the cost basis of the property subject to the agreement, plus

(ii) the cost basis of any property subject to an agreement to which subparagraph (A) previously applied and with respect to which the lessee was the lessee under the agreement described in clause (i) (or any related person within the meaning of section 168(e)(4)(D) of the Internal Revenue Code of 1954),

exceeds $150,000,000.

(C) AUTOMOTIVE MANUFACTURING PROPERTY.—For purposes of this paragraph, the term "automotive manufacturing property" means—

(i) property used principally by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacturing of automobiles or trucks (other than truck tractors) with a gross vehicle weight of 13,000 pounds or less,

(ii) machinery, equipment, and special tools of the type included in former depreciation range guideline classes 37.11 and 37.12, and

(iii) any special tools owned by the taxpayer which are used by a vendor solely for the production of component parts for sale to the taxpayer.

(3) SPECIAL RULE FOR CERTAIN COGENERATION FACILITIES.—The amendments made by subsection (a) shall not apply with respect to any property which is part of a coal-fired cogeneration facility—

(A) for which an application for certification was filed with the Federal Energy Regulatory Commission on December 30, 1983,

(B) for which an application for a construction permit was filed with a State environmental protection agency on February 20, 1984, and

(C) which is placed in service before January 1, 1988.

SEC. 13. ELECTION TO EXPENSE CERTAIN DEPRECIABLE BUSINESS ASSETS.

Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 179.

"If the taxable year begins in:	The applicable amount is:
1983, 1984, 1985, 1986, or 1987	$5,000
1988 or 1989	7,500
1990 or thereafter	10,000."

SEC. 14. EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 44G(a)(2) (relating to employee stock ownership credit), as in effect before the amendments made by title IV of this Act, is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 44G. *Post*, p. 788.

"For aggregate compensation paid or accrued during a portion of the taxable year occurring in calendar year:	The applicable percentage is:
1983, 1984, 1985, 1986, or 1987	0.5"
1988 or thereafter	0."

SEC. 15. COST-OF-LIVING ADJUSTMENTS IN PENSION PLAN LIMITATIONS.

(a) GENERAL RULE.—Paragraph (3) of section 415(d) (relating to freeze on adjustment to defined contribution and benefit plan limits) is amended by striking out "January 1, 1986" and inserting in lieu thereof "January 1, 1988". 26 USC 415.

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 415(d)(2) (defining base periods), as amended by section 235(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1986". 96 Stat. 505.

SEC. 16. REPEAL OF PARTIAL INTEREST EXCLUSION.

(a) GENERAL RULE.—Subsections (a) and (c) of section 302 of the Economic Recovery Tax Act of 1981 are hereby repealed, and the Internal Revenue Code of 1954 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted. 26 USC 46, 101, 128 and note, 265, 854, 857. 95 Stat. 270. 26 USC 1 *et seq.*

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 57(a) is amended to read as follows: 26 USC 57.

"(1) EXCLUSION OF DIVIDENDS.—Any amount excluded from gross income for the taxable year under section 116."

SEC. 17. FOREIGN EARNED INCOME OF INDIVIDUALS.

Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 911.

"In the case of taxable years beginning in:	The annual rate is:
1983, 1984, 1985, 1986, or 1987	$80,000
1988	85,000
1989	90,000
1990 and thereafter	95,000."

26 USC 48 note.

SEC. 18. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this part shall apply to taxable years ending after December 31, 1983.

Ante, p. 505.

(b) SPECIAL RULE FOR SECTION 14.—The amendment made by section 14 shall not apply in the case of a tax credit employee stock ownership plan if—

(1) such plan was favorably approved on September 23, 1983, by employees, and

(2) not later than January 11, 1984, the employer of such employees was 100 percent owned by such plan.

PART II—ESTATE AND GIFT TAX RATES

SEC. 21. MAXIMUM RATE.

26 USC 2001.

(a) GENERAL RULE.—Paragraph (2) of section 2001(c) (relating to phase-in of 50 percent maximum rate) is amended—

(1) by striking out "1985" in subparagraph (A) and inserting in lieu thereof "1988", and

(2) by striking out "1984" each place it appears in subparagraph (D) and inserting in lieu thereof "1984, 1985, 1986, or 1987".

26 USC 2001 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to the estates of decedents dying after, and gifts made after, December 31, 1983.

PART III—EXCISE TAXES

SEC. 25. TAX RATE ON NEWLY DISCOVERED OIL.

26 USC 4987.

(a) GENERAL RULE.—Subparagraph (B) of section 4987(b)(3) (relating to rate of tax on newly discovered oil) is amended by striking out the table contained therein and inserting in lieu thereof the following:

"For taxable periods beginning in:	The applicable percentage is:
1984, 1985, 1986, or 1987	22½
1988	20
1989 and thereafter	15."

(b) CONTINUATION OF PERCENTAGE DEPLETION FOR OIL AND GAS FROM SECONDARY OR TERTIARY PROCESS.—

26 USC 613A.

(1) Paragraph (2) of section 613A(c) (relating to exemption for independent producers and royalty owners) is amended by striking out the last sentence.

(2) Subparagraph (A) of section 613A(c)(3) (defining depletable oil quantity) is amended by adding at the end thereof the following new sentence:

"Clause (ii) shall not apply after December 31, 1983."

(3) Subparagraph (E) of section 613A(c)(7) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply after December 31, 1983."

(4) Subparagraph (A) of section 613A(c)(9) (relating to transfer of oil or gas property) is amended by striking out "paragraph (1)" and inserting in lieu thereof "this subsection".

(c) EFFECTIVE DATES.—

26 USC 4987 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable periods beginning after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on January 1, 1984. 26 USC 613A.

SEC. 26. EXCISE TAX ON COMMUNICATIONS SERVICES.

Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by striking out the table contained therein and inserting in lieu thereof the following: 26 USC 4251.

"With respect to amount paid pursuant to bills first rendered:	The applicable percentage is:
During 1983, 1984, 1986, or 1987	3
During 1988 or thereafter	0."

SEC. 27. EXCISE TAX ON DISTILLED SPIRITS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking out "$10.50" and inserting in lieu thereof "$12.50". 26 USC 5001.

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking out "$10.50" and inserting in lieu thereof "$12.50". 26 USC 5010.

(b) FLOOR STOCKS TAXES ON DISTILLED SPIRITS.— 26 USC 5001 note.

(1) IMPOSITION OF TAX.—On distilled spirits on which tax was imposed under section 5001 or 7652 of the Internal Revenue Code of 1954 before October 1, 1985, and which were held on such date for sale by any person, there shall be imposed a tax at the rate of $2.00 for each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on distilled spirits held on October 1, 1985, by any dealer if—

(A) the aggregate liquid volume of distilled spirits held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(3) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $800. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which the dealer is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding distilled spirits on October 1, 1985, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall by regulations prescribe.

(C) TIME FOR PAYMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the tax imposed by paragraph (1) shall be paid on or before April 1, 1986.

(ii) INSTALLMENT PAYMENT OF TAX IN CASE OF SMALL OR MIDDLE-SIZED DEALERS.—In the case of any small or middle-sized dealer, the tax imposed by paragraph (1) may be paid in 3 equal installments due as follows:

(I) The first installment shall be paid on or before April 1, 1986.

(II) The second installment shall be paid on or before July 1, 1986.

(III) The third installment shall be paid on or before October 1, 1986.

If the taxpayer does not pay any installment under this clause on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary.

(iii) SMALL OR MIDDLE-SIZED DEALER.—For purposes of clause (ii), the term "small or middle-sized dealer" means any dealer if the aggregate gross sales receipts of such dealer for its most recent taxable year ending before October 1, 1985, does not exceed $500,000.

(5) CONTROLLED GROUPS.—

(A) CONTROLLED GROUPS OF CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (2),

(ii) the $800 amount specified in paragraph (3), and

(iii) the $500,000 amount specified in paragraph (4)(C)(iii),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1954; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5001 of the Internal Revenue Code of 1954 shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply in respect of the taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 5001.

(7) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) DEALER.—The term "dealer" means—

(i) any wholesale dealer in liquors (as defined in section 5112(b) of the Internal Revenue Code of 1954), and

(ii) any retail dealer in liquors (as defined in section 5122(a) of such Code).

(B) DISTILLED SPIRITS.—The term "distilled spirits" has the meaning given such term by section 5002(a)(8) of the Internal Revenue Code of 1954.

(C) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(D) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—Any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided in regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on October 1, 1985, on the premises of a retail establishment.

(c) REQUIREMENT OF ELECTRONIC FUNDS TRANSFER FOR ALCOHOL AND TOBACCO EXCISE TAXES.—

(1) ALCOHOL TAXES.—Section 5061 (relating to method of collecting tax on distilled spirits) is amended by adding at the end thereof the following new subsection: 26 USC 5061.

"(e) PAYMENT BY ELECTRONIC FUND TRANSFER.—

"(1) IN GENERAL.—Any person who in any 12-month period ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on distilled spirits, wines, or beer by sections 5001, 5041, and 5051 (or 7652), respectively, shall pay such taxes during the succeeding calendar year by electronic fund transfer to a Federal Reserve Bank.

"(2) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account."

(2) TOBACCO TAXES.—Subsection (b) of section 5703 (relating to method of payment of tobacco taxes) is amended by adding at the end thereof the following new paragraph: 26 USC 5703.

"(3) PAYMENT BY ELECTRONIC FUND TRANSFER.—Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank." *Supra.*

(d) EFFECTIVE DATES.— 26 USC 5001 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 1985.

(2) ELECTRONIC TRANSFER PROVISIONS.—The amendments made by subsection (c) shall apply to taxes required to be paid on or after September 30, 1984.

Subtitle B—Tax-Exempt Entity Leasing

SEC. 31. DENIAL OF TAX INCENTIVES FOR PROPERTY LEASED TO GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.

(a) GENERAL RULE.—Section 168 (relating to accelerated cost recovery system) is amended by redesignating subsection (j) as subsec- 26 USC 168.

tion (k) and by inserting after subsection (i) the following new subsection:

"(j) PROPERTY LEASED TO GOVERNMENTS AND OTHER TAX-EXEMPT ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the deduction allowed under subsection (a) (and any other deduction allowable for depreciation or amortization) for any taxable year with respect to tax-exempt use property shall be determined—

"(A) by using the straight-line method (without regard to salvage value), and

"(B) by using a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(I) Property not described in subclause (II) or subclause (III)	The present class life.
(II) Personal property with no present class life	12 years.
(III) 18-year real property	40 years.

"(2) OPERATING RULES.—

"(A) RECOVERY PERIOD MUST AT LEAST EQUAL 125 PERCENT OF LEASE TERM.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (1) shall not be less than 125 percent of the lease term.

"(B) CONVENTIONS.—

"(i) PROPERTY OTHER THAN 18-YEAR REAL PROPERTY.—In the case of property other than 18-year real property, the half-year convention shall apply for purposes of paragraph (1).

"(ii) 18-YEAR REAL PROPERTY.—In the case of 18-year real property, the amount determined under paragraph (1) shall be determined on the basis of the number of months (using a mid-month, convention) in the year in which the property is in service.

"(C) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLIES.—Paragraph (1) shall not apply to any recovery property if the recovery period which applies to such property (without regard to this subsection) exceeds the recovery period for such property determined under this subsection.

"(D) DETERMINATION OF CLASS FOR REAL PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of any real property which is not recovery property, for purposes of this subsection, the determination of whether such property is 18-year real property shall be made as if such property were recovery property.

"(E) COORDINATION WITH SUBSECTION (f)(12).—Paragraph (12) of subsection (f) shall not apply to any tax-exempt use property to which this subsection applies.

"(F) 18-YEAR REAL PROPERTY.—For purposes of this subsection, the term '18-year real property' includes—

"(i) low-income housing, and

"(ii) any property which was treated as 15-year real property under this section (as in effect before the amendments made by the Tax Reform Act of 1984).

Ante, p. 494.

"(3) TAX-EXEMPT USE PROPERTY.—For purposes of this subsection—

"(A) PROPERTY OTHER THAN 18-YEAR REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means that portion of any tangible property (other than 18-year real property) leased to a tax-exempt entity.

"(B) 18-YEAR REAL PROPERTY.—

"(i) IN GENERAL.—In the case of 18-year real property, the term 'tax-exempt use property' means that portion of the property leased to a tax-exempt entity in a disqualified lease.

"(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term 'disqualified lease' means any lease of the property to a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

"(III) such lease has a lease term in excess of 20 years, or

"(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

"(iii) 35-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

"(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

"(v) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(C) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

"(ii) SHORT-TERM LEASE.—For purposes of clause (i), the term 'short-term lease' means any lease the term of which is—

"(I) less than 3 years, and

"(II) less than the greater of 1 year or 30 percent of the property's present class life.

In the case of 18-year real property and property with no present class life, subclause (II) shall not apply.

"(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term 'tax-exempt use property' shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511.

"(4) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) EXCEPTIONS FOR CERTAIN PROPERTY USED BY FOREIGN PERSON OR ENTITY.—

"(i) INCOME FROM PROPERTY SUBJECT TO UNITED STATES TAX.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(I) subject to tax under this chapter, or

"(II) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(ii) MOVIES AND SOUND RECORDINGS.—Clause (iii) of subparagraph (A) shall not apply with respect to any qualified film (as defined in section 48(k)(1)(B)) or any sound recording (as defined in section 48(r)).

Post, p. 635.

"(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

Corporations.

"(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection and paragraph (5) of section 48(a), a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

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"(i) all of the activities of such corporation are subject to tax under this chapter, and

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

"(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

"(i) IN GENERAL.—For purposes of this subsection and paragraph (4) of section 48(a), an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property of which such organization is the lessee if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first leased to such organization. The preceding sentence shall not apply to the Federal Home Loan Mortgage Corporation.

"(ii) ELECTION NOT TO HAVE CLAUSE (i) APPLY.—

"(I) IN GENERAL.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property of which such organization is the lessee if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

"(II) TAX-EXEMPT USE PERIOD.—For purposes of subclause (I), the term 'tax-exempt use period' means the period beginning with the taxable year in which the property described in subclause (I) is placed in service under the lease and ending with the close of the 15th taxable year following the last taxable year of the recovery period of such property.

"(III) ELECTION.—Any election under subclause (I), once made, shall be irrevocable.

"(iii) TREATMENT OF SUCCESSOR ORGANIZATIONS.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

"(5) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

"(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS.—For purposes of this subsection, the term 'tax-exempt use property' shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less.

"(B) RECOVERY PERIOD WHERE LEASE TERM IS GREATER THAN 5 YEARS.—In the case of any qualified technological equipment not described in subparagraph (A) and which is not property to which subsection (f)(2) applies, the recovery period used for purposes of paragraph (1) shall be 5 years.

"(C) QUALIFIED TECHNOLOGICAL EQUIPMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'qualified technological equipment' means—

"(I) any computer or peripheral equipment,

"(II) any high technology telephone station equipment installed on the customer's premises, and

"(III) any high technology medical equipment,

"(ii) EXCEPTION FOR CERTAIN PROPERTY.—The term 'qualified technological equipment' shall not include any property leased to a tax-exempt entity if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103,

"(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

"(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

"(iii) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (II) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(iv) PROPERTY NOT SUBJECT TO RAPID OBSOLESCENCE MAY BE EXCLUDED.—The term 'qualified technological equipment' shall not include any equipment described in subclause (II) or (III) of clause (i)—

"(I) which the Secretary determines by regulations is not subject to rapid obsolescence, and

Federal Register, publication.

"(II) which is placed in service after the date on which final regulations implementing such determination are published in the Federal Register.

"(D) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'computer or peripheral equipment' means—

"(I) any computer, and

"(II) any related peripheral equipment.

"(ii) COMPUTER.—The term 'computer' means a programmable electronically activated device which—

"(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

"(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

"(iii) RELATED PERIPHERAL EQUIPMENT.—The term 'related peripheral equipment' means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

"(iv) EXCEPTIONS.—The term 'computer or peripheral equipment' shall not include—

"(I) any equipment which is an integral part of other property which is not a computer,

"(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

"(III) equipment of a kind used primarily for amusement or entertainment of the user.

"(E) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(6) OTHER SPECIAL RULES.—For purposes of this subsection—

"(A) LEASE.—The term 'lease' includes any grant of a right to use property.

"(B) LEASE TERM.—In determining a lease term—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

"(C) SPECIAL RULE FOR FAIR RENTAL OPTIONS ON 18-YEAR REAL PROPERTY.—For purposes of clause (i) of subparagraph (B), in the case of 18-year real property, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

"(7) RELATED ENTITIES.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection, section 46(e), paragraph (4) or (5) of section 48(a), or clause (vi) of section 48(g)(2)(B).

Post, p. 517.
Post, p. 518.

"(8) TAX-EXEMPT USE OF PROPERTY LEASED TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER LEVEL.—For purposes of this subsection and paragraphs (4) and (5) of section 48(a)—

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"(A) IN GENERAL.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (9)(C)) of such property as being leased to such partner.

"(B) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(C) PRESUMPTION WITH RESPECT TO FOREIGN ENTITIES.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

"(9) TREATMENT OF PROPERTY OWNED BY PARTNERSHIPS, ETC.—

"(A) IN GENERAL.—For purposes of this subsection and paragraphs (4) and (5) of section 48(a), if—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (3)(D)) be treated as tax-exempt use property.

"(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same distributive share of each item of income, gain, loss deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

"(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

Post, p. 589.

"(C) DETERMINATION OF PROPORTIONATE SHARE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such

share shall be the highest share such entity may receive.

"(D) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), and (C) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(E) REGULATIONS.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (10) for purposes of this paragraph—

"(i) shall set forth the proper treatment for partnership guaranteed payments, and

"(ii) may provide for the exclusion or segregation of items.

"(10) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) DENIAL OF INVESTMENT TAX CREDIT FOR PROPERTY USED BY FOREIGN GOVERNMENTS AND OTHER FOREIGN PERSONS.—Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended to read as follows: 26 USC 48.

"(5) PROPERTY USED BY GOVERNMENTAL UNITS OR FOREIGN PERSONS OR ENTITIES.—

"(A) IN GENERAL.—Property used—

"(i) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(ii) by any foreign person or entity (as defined in section 168(j)(4)(C)), but only with respect to property to which section 168(j)(4)(A)(iii) applies (determined after the application of section 168(j)(4)(B)), *Ante*, p. 509.

shall not be treated as section 38 property.

"(B) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—This paragraph and paragraph (4) shall not apply to any property by reason of use under a lease with a term of less than 6 months (determined under section 168(j)(6)).

"(ii) EXCEPTION FOR CERTAIN OIL DRILLING PROPERTY AND CERTAIN CONTAINERS.—For purposes of this paragraph and paragraph (4), clause (i) shall be applied by substituting the lease term limitation in section 168(j)(3)(C)(ii) for the lease term limitation in clause (i) in the case of property which is leased to a foreign person or entity and—

"(I) which is used in offshore drilling for oil and gas (including drilling vessels, barges, platforms, and drilling equipment) and support vessels with respect to such property, or

"(II) which is a container described in section 48(a)(2)(B)(v) (without regard to whether such container is used outside the United States) or container chassis or trailer but only if such container, chassis, or trailer has a present class life of not more than 6 years.

"(iii) EXCEPTION FOR CERTAIN AIRCRAFT.—

"(I) IN GENERAL.—In the case of any aircraft used under a qualifying lease (as defined in section 47(a)(7)(C)) and which is leased to a foreign person or entity before January 1, 1990, clause (i) shall be applied by substituting '3 years' for '6 months'.

"(II) RECAPTURE PERIOD EXTENDED.—For purposes of applying subparagraph (B) of section 47(a)(5) and paragraph (1) of section 47(a), there shall not be taken into account any period of a lease to which subclause (I) applies.

"(C) EXCEPTION FOR QUALIFIED REHABILITATED BUILDINGS LEASED TO GOVERNMENTS, ETC.—If any qualified rehabilitated building is leased to a governmental unit (or a foreign person or entity), this paragraph shall not apply to that portion of the basis of such building which is attributable to qualified rehabilitation expenditures.

"(D) CROSS REFERENCE.—

"For provisions providing special rules for the application of this paragraph and paragraph (4), see section 168(j)."

Ante, p. 509.

(c) REHABILITATION CREDIT NOT TO APPLY WHERE PROPERTY USED BY TAX-EXEMPT ENTITY.—

26 USC 48.

(1) IN GENERAL.—Subparagraph (B) of section 48(g)(2) (relating to certain expenditures not treated as qualified rehabilitation expenditures) is amended by adding at the end thereof the following new clause:

"(vi) TAX-EXEMPT USE PROPERTY.—

"(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(j)(3)).

Ante, p. 509.

"(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated."

(2) TECHNICAL AMENDMENT.—Clause (i) of section 48(g)(2)(B) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any expenditure to the extent subsection (f)(12) or (j) of section 168 applies to such expenditure."

(d) AUTHORITY TO PRESCRIBE PRESENT CLASS LIFE FOR CERTAIN PROPERTY.—Paragraph (2) of section 168(g) (defining present class life) is amended by adding at the end thereof the following new sentence: "If any property (other than section 1250 class property) does not have a present class life within the meaning of the preceding sentence, the Secretary may prescribe a present class life for such property which reasonably reflects the anticipated useful life of such property to the industry or other group."

26 USC 168.

(e) TREATMENT OF CERTAIN CONTRACTS FOR PROVIDING SERVICES, ETC.—Section 7701 (relating to definitions), as amended by this Act, is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

26 USC 7701.

Post, p. 672.

"(e) TREATMENT OF CERTAIN CONTRACTS FOR PROVIDING SERVICES, ETC.—For purposes of chapter 1—

26 USC 1 *et seq.*

"(1) IN GENERAL.—A contract which purports to be a service contract shall be treated as a lease of property if such contract is properly treated as a lease of property, taking into account all relevant factors including whether or not—

"(A) the service recipient is in physical possession of the property,

"(B) the service recipient controls the property,

"(C) the service recipient has a significant economic or possessory interest in the property,

"(D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

"(E) the service provider does not use the property concurrently to provide significant services to entities unrelated to the service recipient, and

"(F) the total contract price does not substantially exceed the rental value of the property for the contract period.

"(2) OTHER ARRANGEMENTS.—An arrangement (including a partnership or other pass-thru entity) which is not described in paragraph (1) shall be treated as a lease if such arrangement is properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

"(3) SPECIAL RULES FOR CONTRACTS OR ARRANGEMENTS INVOLVING SOLID WASTE DISPOSAL, ENERGY, AND CLEAN WATER FACILITIES.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient—

"(i) with respect to—

"(I) the operation of a qualified solid waste disposal facility,

"(II) the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility, or

"(III) the operation of a water treatment works facility, and

"(ii) which purports to be a service contract,

shall be treated as a service contract.

"(B) QUALIFIED SOLID WASTE DISPOSAL FACILITY.—For purposes of subparagraph (A), the term 'qualified solid waste disposal facility' means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

"(C) COGENERATION FACILITY.—For purposes of subparagraph (A), the term 'cogeneration facility' means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

"(D) ALTERNATIVE ENERGY FACILITY.—For purposes of subparagraph (A), the term 'alternative energy facility' means a facility for producing electrical or thermal energy if the

primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

"(E) WATER TREATMENT WORKS FACILITY.—For purposes of subparagraph (A), the term 'water treatment works facility' means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

33 USC 1292.

"(4) PARAGRAPH (3) NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (3) shall not apply to any qualified solid waste disposal facility, cogeneration facility, alternative energy facility, or water treatment works facility used under a contract or arrangement if—

"(i) the service recipient (or a related entity) operates such facility,

"(ii) the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

"(iii) the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility are less than the standards of performance or operation under the contract or arrangement, or

"(iv) the service recipient (or a related entity) has an option to purchase, or may be required to purchase, all or a part of such facility at a fixed and determinable price (other than for fair market value).

"(B) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) WITH RESPECT TO CERTAIN RIGHTS AND ALLOCATIONS UNDER THE CONTRACT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any right of a service recipient to inspect any facility, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

"(ii) any allocation of any financial burden or benefits in the event of any change in any law.

"(C) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (A) IN THE CASE OF CERTAIN EVENTS.—

"(i) TEMPORARY SHUT-DOWNS, ETC.—For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut-down of the facility for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or similar financial difficulty of the service provider.

"(ii) REDUCED COSTS.—For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products.

"(5) EXCEPTION FOR CERTAIN LOW-INCOME HOUSING.—This subsection shall not apply to any low-income housing (within the meaning of section 168(C)(2)(F)) if—

Post, p. 632.

"(A) such property is operated by or for an organization described in paragraph (3) or (4) of section 501(c), and

"(B) at least 80 percent of the units in such property are leased to low-income tenants (within the meaning of section 167(k)(3)(B)).

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection."

(f) INVESTMENT TAX CREDIT FOR PROPERTY LEASED BY CERTAIN PERSONS NOT TO EXCEED CREDIT ALLOWED IF SUCH PERSONS OWNED PROPERTY.—Section 46(e) (relating to limitations with respect to certain persons) is amended by adding at the end thereof the following new paragraph: 26 USC 46.

"(4) SPECIAL RULES WHERE SECTION 593 ORGANIZATION IS LESSEE.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), if an organization described in section 593 is the lessee of any section 38 property, the lessor of such property shall be treated as an organization described in section 593 with respect to such property.

"(B) EXCEPTION FOR SHORT-TERM LEASES.—This paragraph shall not apply to any property by reason of use under a lease with a term of less than 6 months (determined under section 168(j)(6)). *Ante*, p. 509.

"(C) ELECTION NOT TO HAVE SUBPARAGRAPH (A) APPLY.—Subparagraph (A) shall not apply for any taxable year to an organization described in section 593 if such organization elects to compute for such year and all subsequent taxable years the amount of the deduction for a reasonable addition to a reserve for bad debts on the basis of actual experience. Any such election shall apply to any successor organization engaged in substantially similar activities and, once made, shall be irrevocable."

(g) EFFECTIVE DATES.— 26 USC 168 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply—

(A) to property placed in service by the taxpayer after May 23, 1983, in taxable years ending after such date, and

(B) to property placed in service by the taxpayer on or before May 23, 1983, if the lease to the tax-exempt entity is entered into after May 23, 1983.

(2) LEASES ENTERED INTO ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity if the property is leased pursuant to—

(A) a lease entered into on or before May 23, 1983 (or a sublease under such a lease), or

(B) any renewal or extension of a lease entered into on or before May 23, 1983, if such renewal or extension is pursuant to an option exercisable by the tax-exempt entity which was held by the tax-exempt entity on May 23, 1983.

(3) BINDING CONTRACTS, ETC.—

(A) The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity if such lease is pursuant to 1 or more written binding contracts which, on May 23, 1983, and at all times thereafter, required—

(i) the taxpayer (or his predecessor in interest under the contract) to acquire, construct, reconstruct, or rehabilitate such property, and

(ii) the tax-exempt entity (or a tax-exempt predecessor thereof) to be the lessee of such property.

(B) The amendments made by this section shall not apply with respect to any property owned by a partnership if—

(i) such property was acquired by such partnership on or before October 21, 1983, or

(ii) such partnership entered into a written binding contract which, on October 21, 1983, and at all times thereafter, required the partnership to acquire or construct such property.

(C) The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity (other than any foreign person or entity)—

(i) if—

(I) on or before May 23, 1983, the taxpayer (or his predecessor in interest under the contract) or the tax-exempt entity entered into a written binding contract to acquire, construct, reconstruct, or rehabilitate such property and such property had not previously been used by the tax-exempt entity, or

(II) the taxpayer or the tax-exempt entity acquired the property after June 30, 1982, and on or before May 23, 1983, or completed the construction, reconstruction, or rehabilitation of the property after December 31, 1982, and on or before May 23, 1983, and

(ii) if such lease is pursuant to a written binding contract entered into before January 1, 1985, which requires the tax-exempt entity to be the lessee of such property.

(4) OFFICIAL GOVERNMENTAL ACTION ON OR BEFORE NOVEMBER 1, 1983.—

(A) IN GENERAL.—The amendments made by this section shall not apply with respect to any property leased to a tax-exempt entity (other than the United States, any agency or instrumentality thereof, or any foreign person or entity) if—

(i) on or before November 1, 1983, there was significant official governmental action with respect to the project or its design, and

(ii) the lease to the tax-exempt entity is pursuant to a written binding contract entered into before January 1, 1985, which requires the tax-exempt entity to be the lessee of the property.

(B) SIGNIFICANT OFFICIAL GOVERNMENTAL ACTION.—For purposes of subparagraph (A), the term "significant official governmental action" does not include granting of permits, zoning changes, environmental impact statements, or similar governmental actions.

(5) MASS COMMUTING VEHICLES.—The amendments made by this section shall not apply to any qualified mass commuting vehicle (as defined in section 103(b)(9) of the Internal Revenue Code of 1954) which is financed in whole or in part by obliga-

tions the interest on which is excludable from gross income under section 103(a) of such Code if—

(A) such vehicle is placed in service before January 1, 1988, or

(B) such vehicle is placed in service on or after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) CERTAIN TURBINES AND BOILERS.—The amendments made by this section shall not apply to any property described in section 208(d)(3)(E) of the Tax Equity and Fiscal Responsibility Act of 1982. 96 Stat. 439.

(7) CERTAIN FACILITIES FOR WHICH RULING REQUESTS FILED ON OR BEFORE MAY 23, 1983.—The amendments made by this section shall not apply with respect to any facilities described in clause (ii) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (relating to certain sewage or solid waste disposal facilities), as in effect on the day before the date of the enactment of this Act, if a ruling request with respect to the lease of such facility to the tax-exempt entity was filed with the Internal Revenue Service on or before May 23, 1983.

(8) RECOVERY PERIOD FOR CERTAIN QUALIFIED SEWAGE FACILITIES.—

(A) IN GENERAL.—In the case of any property (other than 15-year real property) which is part of a qualified sewage facility, the recovery period used for purposes of paragraph (1) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall be 12 years. For purposes of the preceding sentence, the term "15-year real property" includes 18-year real property. *Ante*, p. 509.

(B) QUALIFIED SEWAGE FACILITY.—For purposes of subparagraph (A), the term "qualified sewage facility" means any facility which is part of the sewer system of a city, if—

(i) on June 15, 1983, the City Council approved a resolution under which the city authorized the procurement of equity investments for such facility, and

(ii) on July 12, 1983, the Industrial Development Board of the city approved a resolution to issue a $100,000,000 industrial development bond issue to provide funds to purchase such facility.

(9) PROPERTY USED BY THE POSTAL SERVICE.—In the case of property used by the United States Postal Service, paragraphs (1) and (2) shall be applied by substituting "October 31" for "May 23".

(10) EXISTING APPROPRIATIONS.—The amendments made by this section shall not apply to personal property leased to or used by the United States if—

(A) an express appropriation has been made for rentals under such lease for the fiscal year 1983 before May 23, 1983, and

(B) the United States or an agency or instrumentality thereof has not provided an indemnification against the loss of all or a portion of the tax benefits claimed under the lease or service contract.

(11) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—

(A) PARTNERSHIPS FOR WHICH QUALIFYING ACTION EXISTED BEFORE OCTOBER 21, 1983.—Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to any property acquired, directly or indirectly, before January 1, 1985, by any partnership described in subparagraph (B).

Ante, p. 509.

(B) APPLICATION FILED BEFORE OCTOBER 21, 1983.—A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized, a request for exemption with respect to such partnership was filed with the Department of Labor, and a private placement memorandum stating the maximum number of units in the partnership that would be offered had been circulated,

(ii) the interest in the property to be acquired, directly or indirectly (including through acquiring an interest in another partnership) by such partnership was described in such private placement memorandum, and

(iii) the marketing of partnership units in such partnership is completed not later than two years after the later of the date of the enactment of this Act or the date of publication in the Federal Register of such exemption by the Department of Labor and the aggregate number of units in such partnership sold does not exceed the amount described in clause (i).

Federal Register, publication.

(C) PARTNERSHIPS FOR WHICH QUALIFYING ACTION EXISTED BEFORE MARCH 6, 1984.—Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to any property acquired directly or indirectly, before January 1, 1986, by any partnership described in subparagraph (D). For purposes of this subparagraph, property shall be deemed to have been acquired prior to January 1, 1986, if the partnership had entered into a written binding contract to acquire such property prior to January 1, 1986 and the closing of such contract takes place within 6 months of the date of such contract (24 months in the case of new construction).

Ante, p. 509.

(D) PARTNERSHIP ORGANIZED BEFORE MARCH 6, 1984.—A partnership is described in this subparagraph if—

(i) before March 6, 1984, the partnership was organized and publicly announced the maximum amount (as shown in the registration statement, prospectus or partnership agreement, whichever is greater) of interests which would be sold in the partnership, and

(ii) the marketing or partnership interests in such partnership was completed not later than the 90th day after the date of the enactment of this Act and the aggregate amount of interest in such partnership sold does not exceed the maximum amount described in clause (i).

(12) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (c)(2).—The amendment made by subsection (c)(2) to the extent it relates to subsection (f)(12) of section 168 of the Internal Revenue Code of 1954 shall take effect as if it had been included

in the amendments made by section 216(a) of the Tax Equity and Fiscal Responsibility Act of 1982. 96 Stat. 470.

(13) SPECIAL RULE FOR SERVICE CONTRACTS NOT INVOLVING TAX-EXEMPT ENTITIES.—In the case of a service contract or other arrangement described in section 7701(e) of the Internal Revenue Code of 1954 (as added by this section) with respect to which no party is a tax-exempt entity, such section 7701(e) shall not apply to— *Ante*, p. 518.

(A) such contract or other arrangement if such contract or other arrangement was entered into before November 5, 1983, or

(B) any renewal or other extension of such contract or other arrangement pursuant to an option contained in such contract or other arrangement on November 5, 1983.

(14) PROPERTY LEASED TO SECTION 593 ORGANIZATIONS.—For purposes of the amendment made by subsection (f), paragraphs (1), (2), and (4) shall be applied by substituting—

(A) "November 5, 1983" for "May 23, 1983" and "November 1, 1983", as the case may be, and

(B) "organization described in section 593 of the Internal Revenue Code of 1954" for "tax-exempt entity".

(15) SPECIAL RULES RELATING TO FOREIGN PERSONS OR ENTITIES—

(A) IN GENERAL.—In the case of tax-exempt use property which is used by a foreign person or entity, the amendments made by this section shall not apply to any property which—

(i) is placed in service by the taxpayer before January 1, 1984, and

(ii) is used by such foreign person or entity pursuant to a lease entered into before January 1, 1984.

(B) SPECIAL RULE FOR SUBLEASES.—If tax-exempt use property is being used by a foreign person or entity pursuant to a sublease under a lease described in subparagraph (A)(ii), subparagraph (A) shall apply to such property only if such property was used before January 1, 1984, by any foreign person or entity pursuant to such lease.

(C) BINDING CONTRACTS, ETC.—The amendments made by this section shall not apply with respect to any property (other than aircraft described in subparagraph (D)) leased to a foreign person or entity—

(i) if—

(I) on or before May 23, 1983, the taxpayer (or a predecessor in interest under the contract) or the foreign person or entity entered into a written binding contract to acquire, construct, or rehabilitate such property and such property had not previously been used by the foreign person or entity, or

(II) the taxpayer or the foreign person or entity acquired the property or completed the construction, reconstruction, or rehabilitation of the property after December 31, 1982 and on or before May 23, 1983, and

(ii) if such lease is pursuant to a written binding contract entered into before January 1, 1984, which

requires the foreign person or entity to be the lessee of such property.

(D) CERTAIN AIRCRAFT.—The amendments made by this section shall not apply with respect to any wide-body, four-engine, commercial aircraft used by a foreign person or entity if—

(i) on or before November 1, 1983, the foreign person or entity entered into a written binding contract to acquire such aircraft, and

(ii) such aircraft is placed in service before January 1, 1986.

(E) USE AFTER 1983.—Qualified container equipment placed in service before January 1, 1984, which is used before such date by a foreign person shall not, for purposes of section 47 of the Internal Revenue Code of 1954, be treated as ceasing to be section 38 property by reason of the use of such equipment before January 1, 1985, by a foreign person or entity. For purposes of this subparagraph, the term "qualified container equipment" means any container, container chassis, or container trailer of a United States person with a present class life of not more than 6 years.

(16) ORGANIZATIONS ELECTING EXEMPTION FROM RULES RELATING TO PREVIOUSLY TAX-EXEMPT ORGANIZATIONS MUST ELECT TAXATION OF EXEMPT ARBITRAGE PROFITS.—

(A) IN GENERAL.—An organization may make the election under section 168(j)(4)(E)(ii) of the Internal Revenue Code of 1954 (relating to election not to have rules relating to previously tax-exempt organizations apply) only if such organization elects the tax treatment of exempt arbitrage profits described in subparagraph (B).

Ante, p. 509.

(B) TAXATION OF EXEMPT ARBITRAGE PROFITS.—

(i) IN GENERAL.—In the case of an organization which elects the application of this subparagraph, there is hereby imposed a tax on the exempt arbitrage profits of such organization.

(ii) RATE OF TAX, ETC.—The tax imposed by clause (i)—

(I) shall be the amount of tax which would be imposed by section 11 of such Code if the exempt arbitrage profits were taxable income (and there were no other taxable income), and

(II) shall be imposed for the first taxable year of the tax-exempt use period (as defined in section 168(j)(4)(E)(ii) of such Code).

(C) EXEMPT ARBITRAGE PROFITS.—

(i) IN GENERAL.—For purposes of this paragraph, the term exempt arbitrage profits means the aggregate amount described in clauses (i) and (ii) of subparagraph (D) of section 103(c)(6) of such Code for all taxable years for which the organization was exempt from tax under section 501(a) of such Code with respect to obligations—

Post, p. 922.

(I) associated with property described in section 168(j)(4)(E)(i)(I), and

(II) issued before January 1, 1985.

(ii) APPLICATION OF SECTION 103(B)(6).—For purposes of this paragraph, section 103(b)(6) of such Code shall

apply to obligations issued before January 1, 1985, but the amount described in clauses (i) and (ii) of subparagraph (D) thereof shall be determined without regard to clauses (i)(II) and (ii) of subparagraph (F) thereof.

(D) OTHER LAWS APPLICABLE.—

(i) IN GENERAL.—Except as provided in clause (ii), all provisions of law, including penalties, applicable with respect to the tax imposed by section 11 of such Code shall apply with respect to the tax imposed by this paragraph.

(ii) NO CREDITS AGAINST TAX, ETC.—The tax imposed by this paragraph shall not be treated as imposed by section 11 of such Code for purposes of—

(I) part VI of subchapter A of chapter 1 of such Code (relating to minimum tax for tax preferences), and 26 USC 55.

(II) determining the amount of any credit allowable under subpart A of part IV of such subchapter. 26 USC 31.

(E) ELECTION.—Any election under subparagraph (A)—

(i) shall be made at such time and in such manner as the Secretary may prescribe,

(ii) shall apply to any successor organization which is engaged in substantially similar activities, and

(iii) once made, shall be irrevocable.

(17) CERTAIN TRANSITIONAL LEASED PROPERTY.—The amendments made by this section shall not apply to property described in section 168(c)(2)(D) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of this Act, and which is described in any of the following subparagraphs:

(A) Property is described in this subparagraph if such property is leased to a university, and—

(i) on June 16, 1983, the Board of Administrators of the university adopted a resolution approving the rehabilitation of the property in connection with an overall campus development program; and

(ii) the property houses a basketball arena and university offices.

(B) Property is described in this subparagraph if such property is leased to a charitable organization, and—

(i) on August 21, 1981, the charitable organization acquired the property, with a view towards rehabilitating the property; and

(ii) on June 12, 1982, an arson fire caused substantial damage to the property, delaying the planned rehabilitation.

(C) Property is described in this subparagraph if such property is leased to a corporation that is described in section 501(c)(3) of the Internal Revenue Code of 1954 (relating to organizations exempt from tax) pursuant to a contract—

(i) which was entered into on August 3, 1983; and

(ii) under which the corporation first occupied the property on December 22, 1983.

(D) Property is described in this subparagraph if such property is leased to an educational institution for use as an Arts and Humanities Center and with respect to which—

(i) in November 1982, an architect was engaged to design a planned renovation;

(ii) in January 1983, the architectural plans were completed;

(iii) in December 1983, a demolition contract was entered into; and

(iv) in March 1984, a renovation contract was entered into.

(E) Property is described in this subparagraph if such property is used by a college as a dormitory, and—

(i) in October 1981, the college purchased the property with a view towards renovating the property;

(ii) renovation plans were delayed because of a zoning dispute; and

(iii) in May 1983, the court of highest jurisdiction in the State in which the college is located resolved the zoning dispute in favor of the college.

(F) Property is described in this subparagraph if such property is a fraternity house related to a university with respect to which—

(i) in August 1982, the university retained attorneys to advise the university regarding the rehabilitation of the property;

(ii) on January 21, 1983, the governing body of the university established a committee to develop rehabilitation plans;

(iii) on January 10, 1984, the governor of the state in which the university is located approved historic district designation for an area that includes the property; and

(iv) on February 2, 1984, historic preservation certification applications for the property were filed with a historic landmarks commission.

(G) Property is described in this subparagraph if such property is leased to a retirement community with respect to which—

(i) on January 5, 1977, a certificate of incorporation was filed with the appropriate authority of the state in which the retirement community is located; and

(ii) on November 22, 1983, the Board of Trustees adopted a resolution evidencing the intention to begin immediate construction of the property.

(H) Property is described in this subparagraph if such property is used by a university, and—

(i) in July 1982, the Board of Trustees of the university adopted a master plan for the financing of the property; and

(ii) as of August 1, 1983, at least $60,000 in private expenditures had been expended in connection with the property.

(I) Property is described in this subparagraph if such property is used by a university as a fine arts center and the Board of Trustees of such university authorized the sale-leaseback agreement with respect to such property on March 7, 1984.

(J) Property is described in this subparagraph if such property is used by a tax-exempt entity as an international trade center, and

(i) prior to 1982, an environmental impact study for such property was completed;

(ii) on June 24, 1981, a developer made a written commitment to provide one-third of the financing for the development of such property; and

(iii) on October 20, 1983, such developer was approved by the Board of Directors of the tax-exempt entity.

(K) Property is described in this subparagraph if such property is used by university of osteopathic medicine and health sciences, and on or before December 31, 1983, the Board of Trustees of such university approved the construction of such property.

(L) Property is described in this subparagraph if such property is used by a tax-exempt entity, and—

(i) such use is pursuant to a lease with a taxpayer which placed substantial improvements in service;

(ii) on May 23, 1983, there existed architectural plans and specifications (within the meaning of sec. 48(g)(1)(C)(ii) of the Internal Revenue Code of 1954); and

(iii) prior to May 23, 1983, at least 10 percent of the total cost of such improvements was actually paid or incurred.

(M) Property is described in this subparagraph if such property is used as a convention center and on June 2, 1983, the City Council of the city in which the center is located provided for over $6 million for the project.

(18) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (c)(1).—

(A) IN GENERAL.—The amendment made by subsection (c)(1) shall not apply to property—

(i) leased by the taxpayer on or before November 1, 1983, or

(ii) leased by the taxpayer after November 1, 1983, if on or before such date the taxpayer entered into a written binding contract requiring the taxpayer to lease such property.

(B) LIMITATION.—Subparagraph (A) shall apply to the amendment made by subsection (c)(1) only to the extent such amendment relates to property described in subclause (II), (III), or (IV) of section 168(j)(3)(B)(ii) of the Internal Revenue Code of 1954 (as added by this section). *Ante*, p. 509.

(19) SPECIAL RULE FOR CERTAIN ENERGY MANAGEMENT CONTRACTS.—

(A) IN GENERAL.—The amendments made by subsection (e) shall not apply to property used pursuant to an energy management contract that was entered into prior to May 1, 1984.

(B) DEFINITION OF ENERGY MANAGEMENT CONTRACT.—For purposes of subparagraph (A), the term "energy management contract" means a contract for the providing of energy conservation or energy management services.

(20) DEFINITIONS.—For purposes of this subsection—

(A) TAX-EXEMPT ENTITY.—The term "tax-exempt entity" has the same meaning as when used in section 168(j) of the

Internal Revenue Code of 1954 (as added by this section), except that such term shall include any related entity (within the meaning of such section).

(B) TREATMENT OF IMPROVEMENTS.—

(i) IN GENERAL.—For purposes of this subsection, an improvement to property shall not be treated as a separate property unless such improvement is a substantial improvement with respect to such property.

(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), the term "substantial improvement" has the meaning given such term by section 168(f)(1)(C) of such Code determined—

(I) by substituting "20 percent" for "25 percent" in clause (ii) thereof, and

(II) without regard to clause (iii) thereof.

(C) FOREIGN PERSON OR ENTITY.—The term "foreign person or entity" has the meaning given to such term by subparagraph (C) of section 168(j)(4) of such Code (as added by this section). For purposes of this subparagraph and subparagraph (A), such subparagraph (C) shall be applied without regard to the last sentence thereof.

Ante, p. 509.

(D) LEASES AND SUBLEASES.—The determination of whether there is a lease or sublease to a tax-exempt entity shall take into account sections 168(j)(6)(A), 168(j)(8)(A), and 7701(e) of the Internal Revenue Code of 1954 (as added by this section).

Ante, p. 518.

SEC. 32. MOTOR VEHICLE OPERATING LEASES.

26 USC 168.

(a) IN GENERAL.—Section 168(f) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(13) MOTOR VEHICLE OPERATING LEASES.—

"(A) IN GENERAL.—For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

"(i) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

"(ii) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

"(B) QUALIFIED MOTOR VEHICLE OPERATING AGREEMENT DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of clauses (ii), (iii), and (iv) of this subparagraph.

"(ii) MINIMUM LIABILITY OF LESSOR.—An agreement meets the requirements of this clause if under such agreement the sum of—

"(I) the amount the lessor is personally liable to repay, and

"(II) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There

shall not be taken into account under subclause (II) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

"(iii) CERTIFICATION BY LESSEE; NOTICE OF TAX OWNERSHIP.—An agreement meets the requirements of this clause if such agreement contains a separate written statement separately signed by the lessee—

"(I) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

"(II) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

"(iv) LESSOR MUST HAVE NO KNOWLEDGE THAT CERTIFICATION IS FALSE.—An agreement meets the requirements of this clause if the lessor does not know that the certification described in clause (iii)(I) is false.

"(C) TERMINAL RENTAL ADJUSTMENT CLAUSE DEFINED.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

"(ii) SPECIAL RULE FOR LESSEE DEALERS.—The term 'terminal rental adjustment clause' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in clause (i)."

(b) TERMINATION OF SECTION 210.—Section 210(a) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting "entered into on or before the 90th day after the date of the enactment of the Tax Reform Act of 1984" after "agreement" the first place it appears. 26 USC 168 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to agreements described in section 168(f)(13) of the Internal Revenue Code of 1954 (as added by subsection (a)) entered into more than 90 days after the date of the enactment of this Act. 26 USC 168 note.

Subtitle C—Treatment of Bonds and Other Debt Instruments

SEC. 41. TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) GENERAL RULE.—Subchapter P of chapter 1 (relating to special rules for capital gains and losses) is amended by adding at the end thereof the following new part:

"PART V—SPECIAL RULES FOR BONDS AND OTHER DEBT INSTRUMENTS

"Subpart A. Original issue discount.
"Subpart B. Market discount.
"Subpart C. Discount on short-term obligations.
"Subpart D. Miscellaneous provisions.

"Subpart A—Original Issue Discount

"Sec. 1271. Treatment of amounts received on retirement or sale or exchange of debt instruments.
"Sec. 1272. Current inclusion in income of original issue discount.
"Sec. 1273. Determination of amount of original issue discount.
"Sec. 1274. Determination of issue price in the case of certain debt instruments issued for property.
"Sec. 1275. Other definitions and special rules.

26 USC 1271.

"SEC. 1271. TREATMENT OF AMOUNTS RECEIVED ON RETIREMENT OR SALE OR EXCHANGE OF DEBT INSTRUMENTS.

"(a) GENERAL RULE.—For purposes of this title—

"(1) RETIREMENT.—Amounts received by the holder on retirement of any debt instrument shall be considered as amounts received in exchange therefor.

"(2) ORDINARY INCOME ON SALE OR EXCHANGE WHERE INTENTION TO CALL BEFORE MATURITY.—

"(A) IN GENERAL.—If at the time of original issue there was an intention to call a debt instrument before maturity, any gain realized on the sale or exchange thereof which does not exceed an amount equal to—

"(i) the original issue discount, reduced by

"(ii) the portion of original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)),

shall be treated as ordinary income.

Post, p. 533.

"(B) EXCEPTIONS.—This paragraph (and paragraph (2) of subsection (c)) shall not apply to—

"(i) any tax-exempt obligation, or

"(ii) any holder who has purchased the debt instrument at a premium.

"(3) CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term Government obligation, any gain realized which does not exceed an amount equal to the ratable share of the acquisition discount shall be treated as ordinary income.

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia which is—

"(i) issued on a discount basis, and

"(ii) payable without interest at a fixed maturity date not more than 1 year from the date of issue.

Such term does not include any tax-exempt obligation.

"(C) ACQUISITION DISCOUNT.—For purposes of this paragraph, the term 'acquisition discount' means the excess of

the stated redemption price at maturity over the taxpayer's basis for the obligation.

"(D) RATABLE SHARE.—For purposes of this paragraph, the ratable share of the acquisition discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date the taxpayer acquired the obligation and up to (and including) the date of its maturity.

"(b) EXCEPTIONS.—This section shall not apply to—

"(1) NATURAL PERSONS.—Any obligation issued by a natural person.

"(2) OBLIGATIONS ISSUED BEFORE JULY 2, 1982, BY CERTAIN ISSUERS.—Any obligation issued before July 2, 1982, by an issuer which—

"(A) is not a corporation, and

"(B) is not a government or political subdivision thereof.

"(c) TRANSITION RULES.—

"(1) SPECIAL RULE FOR CERTAIN OBLIGATIONS ISSUED BEFORE JANUARY 1, 1955.—Paragraph (1) of subsection (a) shall apply to a debt instrument issued before January 1, 1955, only if such instrument was issued with interest coupons or in registered form, or was in such form on March 1, 1954.

"(2) SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CURRENTLY INCLUDIBLE.—

"(A) IN GENERAL.—On the sale or exchange of debt instruments issued by a government or political subdivision thereof after December 31, 1954, and before July 2, 1982, or by a corporation after December 31, 1954, and on or before May 27, 1969, any gain realized which does not exceed—

"(i) an amount equal to the original issue discount, or

"(ii) if at the time of original issue there was no intention to call the debt instrument before maturity, an amount which bears the same ratio to the original issue discount as the number of complete months that the debt instrument was held by the taxpayer bears to the number of complete months from the date of original issue to the date of maturity,

shall be considered as ordinary income.

"(B) SUBSECTION (a)(2)(A) NOT TO APPLY.—Subsection (a)(2)(A) shall not apply to any debt instrument referred to in subparagraph (A) of this paragraph.

"(C) CROSS REFERENCE.—

"For current inclusion of original issue discount, see section 1272.

"(d) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—This section and sections 1272 and 1286 shall not require the inclusion of any amount previously includible in gross income.

Post, p. 551.

"SEC. 1272. CURRENT INCLUSION IN INCOME OF ORIGINAL ISSUE DISCOUNT.

26 USC 1272.

"(a) ORIGINAL ISSUE DISCOUNT ON DEBT INSTRUMENTS ISSUED AFTER JULY 1, 1982, INCLUDED IN INCOME ON BASIS OF CONSTANT INTEREST RATE.—

"(1) GENERAL RULE.—For purposes of this title, there shall be included in the gross income of the holder of any debt instru-

ment having original issue discount issued after July 1, 1982, an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such debt instrument.

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

"(A) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation.

"(B) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(C) SHORT-TERM OBLIGATIONS.—Any debt instrument which has a fixed maturity date not more than 1 year from the date of issue.

"(D) OBLIGATIONS ISSUED BY NATURAL PERSONS BEFORE MARCH 2, 1984.—Any obligation issued by a natural person before March 2, 1984.

"(E) LOANS BETWEEN NATURAL PERSONS.—

"(i) IN GENERAL.—Any loan made by a natural person to another natural person if—

"(I) such loan is not made in the course of a trade or business of the lender, and

"(II) the amount of such loan (when increased by the outstanding amount of prior loans by such natural person to such other natural person) does not exceed $10,000.

"(ii) CLAUSE (i) NOT TO APPLY WHERE TAX AVOIDANCE A PRINCIPAL PURPOSE.—Clause (i) shall not apply if the loan has as 1 of its principal purposes the avoidance of any Federal tax.

"(iii) TREATMENT OF HUSBAND AND WIFE.—For purposes of this subparagraph, a husband and wife shall be treated as 1 person. The preceding sentence shall not apply where the spouses lived apart at all times during the taxable year in which the loan is made.

"(3) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any debt instrument shall be determined by allocating to each day in any accrual period its ratable portion of the increase during such accrual period in the adjusted issue price of the debt instrument. For purposes of the preceding sentence, the increase in the adjusted issue price for any accrual period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the debt instrument at the beginning of such accrual period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period), over

"(B) the sum of the amounts payable as interest on such debt instrument during such accrual period.

"(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any debt instrument at the beginning of any accrual period is the sum of—

"(A) the issue price of such debt instrument, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such accrual period.

"(5) ACCRUAL PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'accrual period' means a 6-month period (or shorter period from the date of original issue of the debt instrument) which ends on a day in the calendar year corresponding to the maturity date of the debt instrument or the date 6 months before such maturity date.

"(6) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, in the case of any purchase after its original issue of a debt instrument to which this subsection applies, the daily portion for any day shall be reduced by an amount equal to the amount which would be the daily portion for such day (without regard to this paragraph) multiplied by the fraction determined under subparagraph (B).

"(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is a fraction—

"(i) the numerator of which is the excess (if any) of—

"(I) the cost of such debt instrument incurred by the purchaser, over

"(II) the issue price of such debt instrument, increased by the portion of original issue discount previously includible in the gross income of any holder (computed without regard to this paragraph), and

"(ii) the denominator of which is the sum of the daily portions for such debt instrument for all days after the date of such purchase and ending on the stated maturity date (computed without regard to this paragraph).

"(b) RATABLE INCLUSION RETAINED FOR CORPORATE DEBT INSTRUMENTS ISSUED BEFORE JULY 2, 1982.—

"(1) GENERAL RULE.—There shall be included in the gross income of the holder of any debt instrument issued by a corporation after May 27, 1969, and before July 2, 1982—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such debt instrument during the taxable year.

"(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the debt instrument.

"(3) MONTH DEFINED.—For purposes of this subsection—

"(A) COMPLETE MONTH.—A complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day).

"(B) TRANSFERS DURING MONTH.—In any case where a debt instrument is acquired on any day other than a day determined under subparagraph (A), the ratable monthly portion of original issue discount for the complete month

(or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the debt instrument.

"(4) REDUCTION WHERE SUBSEQUENT HOLDER PAYS ACQUISITION PREMIUM.—

"(A) REDUCTION.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include its share of the acquisition premium.

"(B) SHARE OF ACQUISITION PREMIUM.—For purposes of subparagraph (A), any month's share of the acquisition premium is an amount (determined at the time of the purchase) equal to—

"(i) the excess of—

"(I) the cost of such debt instrument incurred by the holder, over

"(II) the issue price of such debt instrument, increased by the portion of original issue discount previously includible in the gross income of any holder (computed without regard to this paragraph),

"(ii) divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such debt instrument.

"(c) EXCEPTIONS.—This section shall not apply to any holder—

"(1) who has purchased the debt instrument at a premium, or

Post, p. 740. "(2) which is a life insurance company to which section 811(b) applies.

"(d) DEFINITION AND SPECIAL RULE.—

"(1) PURCHASE DEFINED.—For purposes of this section, the term 'purchase' means—

"(A) any acquisition of a debt instrument, where

"(B) the basis of the debt instrument is not determined in whole or in part by reference to the adjusted basis of such debt instrument in the hands of the person from whom acquired.

"(2) BASIS ADJUSTMENT.—The basis of any debt instrument in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section.

26 USC 1273. "SEC. 1273. DETERMINATION OF AMOUNT OF ORIGINAL ISSUE DISCOUNT.

"(a) GENERAL RULE.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'original issue discount' means the excess (if any) of—

"(A) the stated redemption price at maturity, over

"(B) the issue price.

"(2) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' means the amount fixed by the last modification of the purchase agreement and includes interest and other amounts payable at that time (other than any interest based on a fixed rate, and payable unconditionally at fixed periodic intervals of 1 year or less during the entire term of the debt instrument).

"(3) ¼ OF 1 PERCENT DE MINIMIS RULE.—If the original issue discount determined under paragraph (1) is less than—

"(A) ¼ of 1 percent of the stated redemption price at maturity, multiplied by

"(B) the number of complete years to maturity,

then the original issue discount shall be treated as zero.

"(b) ISSUE PRICE.—For purposes of this subpart—

"(1) PUBLICLY OFFERED DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any issue of debt instruments—

"(A) publicly offered, and

"(B) not issued for property,

the issue price is the initial offering price to the public (excluding bond houses and brokers) at which price a substantial amount of such debt instruments was sold.

"(2) OTHER DEBT INSTRUMENTS NOT ISSUED FOR PROPERTY.—In the case of any issue of debt instruments not issued for property and not publicly offered, the issue price of each such instrument is the price paid by the first buyer of such debt instrument.

"(3) DEBT INSTRUMENTS ISSUED FOR PROPERTY WHERE THERE IS PUBLIC TRADING.—In the case of a debt instrument which is issued for property and which—

"(A) is part of an issue a portion of which is traded on an established securities market, or

"(B) is issued for stock or securities which are traded on an established securities market,

the issue price of such debt instrument shall be the fair market value of such property.

"(4) OTHER CASES.—Except in any case—

"(A) to which paragraph (1), (2), or (3) of this subsection applies, or

"(B) to which section 1274 applies,

Post, p. 538.

the issue price of a debt instrument which is issued for property shall be the stated redemption price at maturity.

"(5) PROPERTY.—In applying this subsection, the term 'property' includes services and the right to use property, but such term does not include money.

"(c) SPECIAL RULES FOR APPLYING SUBSECTION (b).—For purposes of subsection (b)—

"(1) INITIAL OFFERING PRICE; PRICE PAID BY THE FIRST BUYER.—The terms 'initial offering price' and 'price paid by the first buyer' include the aggregate payments made by the purchaser under the purchase agreement, including modifications thereof.

"(2) TREATMENT OF INVESTMENT UNITS.—In the case of any debt instrument and an option, security, or other property issued together as an investment unit—

"(A) the issue price for such unit shall be determined in accordance with the rules of this subsection and subsection (b) as if it were a debt instrument,

"(B) the issue price determined for such unit shall be allocated to each element of such unit on the basis of the relationship of the fair market value of such element to the fair market value of all elements in such unit, and

"(C) the issue price of any debt instrument included in such unit shall be the portion of the issue price of the unit allocated to the debt instrument under subparagraph (B).

26 USC 1274.

"SEC. 1274. DETERMINATION OF ISSUE PRICE IN THE CASE OF CERTAIN DEBT INSTRUMENTS ISSUED FOR PROPERTY.

"(a) IN GENERAL.—In the case of any debt instrument to which this section applies, for purposes of this subpart, the issue price shall be—

"(1) where there is adequate stated interest, the stated principal amount, or

"(2) in any other case, the imputed principal amount.

"(b) IMPUTED PRINCIPAL AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (3), the imputed principal amount of any debt instrument shall be equal to the sum of the present values of all payments due under such debt instrument.

"(2) DETERMINATION OF PRESENT VALUE.—For purposes of paragraph (1), the present value of a payment shall be determined in the manner provided by regulations prescribed by the Secretary—

"(A) as of the date of the sale or exchange, and

"(B) by using a discount rate equal to 120 percent of the applicable Federal rate, compounded semiannually.

"(3) FAIR MARKET VALUE RULE IN POTENTIALLY ABUSIVE SITUATIONS.—

"(A) IN GENERAL.—In the case of any potentially abusive situation, the imputed principal amount of any debt instrument received in exchange for property shall be the fair market value of such property adjusted to take into account other consideration involved in the transaction.

"(B) POTENTIALLY ABUSIVE SITUATION DEFINED.—For purposes of subparagraph (A), the term 'potentially abusive situation' means—

"(i) a tax shelter (as defined in section 6661(b)(2)(C)(ii)), and

"(ii) any other situation which, by reason of—

"(I) recent sales transactions,

"(II) nonrecourse financing,

"(III) financing with a term in excess of the economic life of the property, or

"(IV) other circumstances,

is of a type which the Secretary specifies by regulations as having potential for tax avoidance.

"(c) DEBT INSTRUMENTS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any debt instrument given in consideration for the sale or exchange of property if—

"(A) the stated redemption price at maturity for such debt instrument exceeds—

"(i) where there is adequate stated interest, the stated principal amount, or

"(ii) in any other case, the testing amount, and

"(B) some or all of the payments due under such debt instrument are due more than 6 months after the date of such sale or exchange.

"(2) ADEQUATE STATED INTEREST.—For purposes of this section, there is adequate stated interest with respect to any debt instrument if the stated principal amount for such debt instrument is less than or equal to the testing amount.

"(3) TESTING AMOUNT.—For purposes of this section, the term 'testing amount' means, with respect to any debt instrument, the imputed principal amount of such debt instrument which would be determined under subsection (b) (including paragraph (3) thereof) if a discount rate equal to 110 percent of the applicable Federal rate were used.

"(4) EXCEPTIONS.—This section shall not apply to—

"(A) SALES FOR LESS THAN $1,000,000 OF FARMS BY INDIVIDUALS OR SMALL BUSINESSES.—

"(i) IN GENERAL.—Any debt instrument arising from the sale or exchange of a farm (within the meaning of section 6420(c)(2))—

"(I) by an individual, estate, or testamentary trust,

"(II) by a corporation which as of the date of the sale or exchange is a small business corporation (as defined in section 1244(c)(3)), or

"(III) by a partnership which as of the date of the sale or exchange meets requirements similar to those of section 1244(c)(3).

"(ii) $1,000,000 LIMITATION.—Clause (i) shall apply only if it can be determined at the time of the sale or exchange that the sales price cannot exceed $1,000,000. For purposes of the preceding sentence, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(B) SALES OF PRINCIPAL RESIDENCES.—Any debt instrument arising from the sale or exchange by an individual of his principal residence (within the meaning of section 1034).

"(C) SALES INVOLVING TOTAL PAYMENTS OF $250,000 OR LESS.—

"(i) IN GENERAL.—Any debt instrument arising from the sale or exchange of property if the sum of the following amounts does not exceed $250,000:

"(I) the aggregate amount of the payments due under such debt instrument and all other debt instruments received as consideration for the sale or exchange, and

"(II) the aggregate amount of any other consideration to be received for the sale or exchange.

"(ii) CONSIDERATION OTHER THAN DEBT INSTRUMENT TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—For purposes of clause (i), any consideration (other than a debt instrument) shall be taken into account at its fair market value.

"(iii) AGGREGATION OF TRANSACTIONS.—For purposes of this subparagraph, all sales and exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(D) DEBT INSTRUMENTS WHICH ARE PUBLICLY TRADED OR ISSUED FOR PUBLICLY TRADED PROPERTY.—Any debt instrument to which section 1273(b)(3) applies.

Ante, p. 536.

"(E) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), any amount contingent on the productivity, use, or disposition of the property transferred.

Post, p. 553.

"(F) SALES OR EXCHANGES TO WHICH SECTION 483(e) APPLIES.—Any debt instrument to the extent section 483(e) (relating to certain land transfers between related persons) applies to such instrument.

"(d) DETERMINATION OF APPLICABLE FEDERAL RATE.—For purposes of this section—

"(1) APPLICABLE FEDERAL RATE.—

"(A) IN GENERAL.—

"In the case of a debt instrument with a term of:	The applicable Federal rate is:
Not over 3 years	The Federal short-term rate.
Over 3 years but not over 9 years.	The Federal mid-term rate.
Over 9 years	The Federal long-term rate.

"(B) DETERMINATION OF RATES.—Within 15 days after the close of—

"(i) the 6-month period ending on September 30 of any calendar year, or

"(ii) the 6-month period ending on March 31 of any calendar year,

the Secretary shall determine the Federal short-term rate, mid-term rate, and long-term rate for such 6-month period.

"(C) EFFECTIVE DATE OF DETERMINATION.—Any Federal rate determined under subparagraph (A) shall—

"(i) apply during the 6-month period beginning on January 1 of the succeeding calendar year in the case of a determination made under subparagraph (B)(i), and

"(ii) apply during the 6-month period beginning on July 1 of the calendar year in the case of a determination made under subparagraph (B)(ii).

"(D) FEDERAL RATE FOR ANY 6-MONTH PERIOD.—For purposes of this paragraph—

"(i) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any 6-month period shall be the rate determined by the Secretary based on the average market yield (during such 6-month period) on outstanding marketable obligations of the United States with remaining periods to maturity of 3 years or less.

"(ii) FEDERAL MID-TERM AND LONG-TERM RATES.—The Federal mid-term rate and long-term rate shall be determined in accordance with the principles of clause (i).

"(2) RATE APPLICABLE TO ANY SALE OR EXCHANGE.—In the case of any sale or exchange, the determination of the applicable Federal rate shall be made as of the first day on which there is a binding contract in writing for the sale or exchange.

"(3) TERM OF DEBT INSTRUMENT.—In determining the term of a debt instrument for purposes of this subsection, under regulations prescribed by the Secretary, there shall be taken into account options to renew or extend.

26 USC 1275.

"SEC. 1275. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) DEBT INSTRUMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt instrument' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(B) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—The term 'debt instrument' shall not include any annuity contract to which section 72 applies and which—

"(i) depends (in whole or in substantial part) on the life expectancy of 1 or more individuals, or

"(ii) is issued by an insurance company subject to tax under subchapter L—

"(I) in a transaction in which there is no consideration other than cash or another annuity contract meeting the requirements of this clause,

"(II) pursuant to the exercise of an election under an insurance contract by a beneficiary thereof on the death of the insured party under such contract, or

"(III) in a transaction involving a qualified pension or employee benefit plan.

"(2) ISSUE DATE.—

"(A) PUBLICLY OFFERED DEBT INSTRUMENTS.—In the case of any debt instrument which is publicly offered, the term 'date of original issue' means the date on which the issue was first issued to the public.

"(B) ISSUES NOT PUBLICLY OFFERED AND NOT ISSUED FOR PROPERTY.—In the case of any debt instrument to which section 1273(b)(2) applies, the term 'date of original issue' means the date on which the debt instrument was sold by the issuer.

Ante, p. 536.

"(C) OTHER DEBT INSTRUMENTS.—In the case of any debt instrument not described in subparagraph (A) or (B), the term 'date of original issue' means the date on which the debt instrument was issued in a sale or exchange.

"(3) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' means any obligation if—

"(A) the interest on such obligation is not includible in gross income under section 103, or

"(B) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(4) SPECIAL RULE FOR DETERMINATION OF ISSUE PRICE IN CASE OF EXCHANGE OF DEBT INSTRUMENTS IN REORGANIZATIONS.—

"(A) IN GENERAL.—If—

"(i) any debt instrument is issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) for another debt instrument (hereinafter in this paragraph referred to as the 'old debt instrument'), and

"(ii) the amount which (but for this paragraph) would be the issue price of the debt instrument so issued is less than the adjusted issue price of the old debt instrument,

then the issue price of the debt instrument so issued shall be treated as equal to the adjusted issue price of the old debt instrument.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT INSTRUMENT.—The term 'debt instrument' includes an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—

"(I) IN GENERAL.—The adjusted issue price of the old debt instrument is its issue price, increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(6) or (b)(4) of section 1272 (or the corresponding provisions of prior law)).

Ante, p. 533.

"(II) SPECIAL RULE FOR APPLYING SECTION 163(e).—For purposes of section 163(e), the adjusted issue price of the old debt instrument is its issue price, increased by any original issue discount previously allowed as a deduction.

Post, pp. 556, 654.

"(b) TREATMENT OF BORROWER IN THE CASE OF CERTAIN LOANS FOR PERSONAL USE.—

"(1) SECTIONS 1274 AND 483 NOT TO APPLY.—In the case of the obligor under any debt instrument given in consideration for the sale or exchange of property, sections 1274 and 483 shall not apply if such property is personal use property.

Ante, p. 538.
Post, p. 553.

"(2) ORIGINAL ISSUE DISCOUNT DEDUCTED ON CASH BASIS IN CERTAIN CASES.—In the case of any debt instrument, if—

"(A) such instrument—

"(i) is incurred in connection with the acquisition or carrying of personal use property, and

"(ii) has original issue discount (determined after the application of paragraph (1)), and

"(B) the obligor under such instrument uses the cash receipts and disbursements method of accounting,

notwithstanding section 163(e), the original issue discount on such instrument shall be deductible only when paid.

Post, pp. 556, 654.

"(3) PERSONAL USE PROPERTY.—For purposes of this subsection, the term 'personal use property' means any property substantially all of the use of which by the taxpayer is not in connection with a trade or business of the taxpayer or an activity described in section 212. The determination of whether property is described in the preceding sentence shall be made as of the time of issuance of the debt instrument.

"(c) INFORMATION REQUIREMENTS.—

"(1) INFORMATION REQUIRED TO BE SET FORTH ON INSTRUMENT.—

"(A) IN GENERAL.—In the case of any debt instrument having original issue discount, the Secretary may by regulations require that—

"(i) the amount of the original issue discount, and

"(ii) the issue date,

be set forth on such instrument.

"(B) SPECIAL RULE FOR INSTRUMENTS NOT PUBLICLY OFFERED.—In the case of any issue of debt instruments not publicly offered, the regulations prescribed under subparagraph (A) shall not require the information to be set forth on the debt instrument before any disposition of such instrument by the first buyer.

"(2) INFORMATION REQUIRED TO BE SUBMITTED TO SECRETARY.—In the case of any issue of publicly offered debt instruments having original issue discount, the issuer shall (at such time and

in such manner as the Secretary shall by regulation prescribe) furnish the Secretary the following information:

"(A) The amount of the original issue discount.

"(B) The issue date.

"(C) Such other information with respect to the issue as the Secretary may by regulations require.

For purposes of the preceding sentence, any person who makes a public offering of stripped bonds (or stripped coupons) shall be treated as the issuer of a publicly offered debt instrument having original issue discount.

"(3) EXCEPTIONS.—This subsection shall not apply to any obligation referred to in section 1272(a)(2) (relating to exceptions from current inclusion of original issue discount).

Ante, p. 533.

"(4) CROSS REFERENCE.—

"For civil penalty for failure to meet requirements of this subsection, see section 6706.

Post, p. 555.

"(d) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, or other circumstances, the tax treatment under this subpart (or section 163(e)) does not carry out the purposes of this subpart (or section 163(e)), such treatment shall be modified to the extent appropriate to carry out the purposes of this subpart (or section 163(e)).

Post, pp. 556, 654.

"Subpart B—Market Discount on Bonds

"Sec. 1276. Disposition gain representing accrued market discount treated as ordinary income.

"Sec. 1277. Deferral of interest deduction allocable to accrued market discount.

"Sec. 1278. Definitions and special rules.

"SEC. 1276. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME.

26 USC 1276.

"(a) ORDINARY INCOME.—

"(1) IN GENERAL.—Except as otherwise provided in this section, gain on the disposition of any market discount bond shall be treated as ordinary income to the extent it does not exceed the accrued market discount on such bond. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) DISPOSITIONS OTHER THAN SALES, ETC.—For purposes of paragraph (1), a person disposing of any market discount bond in any transaction other than a sale, exchange, or involuntary conversion shall be treated as realizing an amount equal to the fair market value of the bond.

"(3) GAIN TREATED AS INTEREST FOR CERTAIN PURPOSES.—Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 (and such other provisions as may be specified in regulations), any amount treated as ordinary income under paragraph (1) shall be treated as interest for purposes of this title.

"(b) ACCRUED MARKET DISCOUNT.—For purposes of this section—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection or subsection (c), the accrued market discount on any bond shall be an amount which bears the same ratio to the market discount on such bond as—

"(A) the number of days which the taxpayer held the bond, bears to

"(B) the number of days after the date the taxpayer acquired the bond and up to (and including) the date of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any bond, the accrued market discount on such bond shall be the aggregate amount which would have been includible in the gross income of the taxpayer under section 1272(a) (determined without regard to paragraph (2) thereof) with respect to such bond for all periods during which the bond was held by the taxpayer if such bond had been—

Ante, p. 533.

"(i) originally issued on the date on which such bond was acquired by the taxpayer,

"(ii) for an issue price equal to the basis of the taxpayer in such bond immediately after its acquisition.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of applying subparagraph (A)—

"(i) the stated redemption price at maturity of such bond shall be treated as equal to its revised issue price, and

"(ii) the determination of the portion of the original issue discount which would have been includible in the gross income of the taxpayer under section 1272(a) shall be made under regulations prescribed by the Secretary.

"(C) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any bond, shall be irrevocable.

"(c) TREATMENT OF NONRECOGNITION TRANSACTIONS.—Under regulations prescribed by the Secretary—

"(1) TRANSFERRED BASIS PROPERTY.—If a market discount bond is transferred in a nonrecognition transaction and such bond is transferred basis property in the hands of the transferee, for purposes of determining the amount of the accrued market discount with respect to the transferee—

"(A) the transferee shall be treated as having acquired the bond on the date on which it was acquired by the transferor for an amount equal to the basis of the transferor, and

"(B) proper adjustments shall be made for gain recognized by the transferor on such transfer (and for any original issue discount or market discount included in the gross income of the transferor).

"(2) EXCHANGED BASIS PROPERTY.—If any market discount bond is disposed of by the taxpayer in a nonrecognition transaction and paragraph (1) does not apply to such transaction, any accrued market discount determined with respect to the property disposed of to the extent not theretofore treated as ordinary income under subsection (a)—

"(A) shall be treated as accrued market discount with respect to the exchanged basis property received by the taxpayer in such transaction if such property is a market discount bond, and

"(B) shall be treated as ordinary income on the disposition of the exchanged basis property received by the taxpayer in such exchange if such property is not a market discount bond.

"(3) PARAGRAPH (1) TO APPLY TO CERTAIN DISTRIBUTIONS BY CORPORATIONS OR PARTNERSHIPS.—For purposes of paragraph (1), if the basis of any market discount bond in the hands of a transferee is determined under section 334(c), 732(a), or 732(b), such property shall be treated as transferred basis property in the hands of such transferee.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rules of subsection (b) of section 1245 shall apply for purposes of this section; except that—

"(A) paragraph (1) of such subsection shall not apply, and

"(B) an exchange qualifying under section 354(a), 355(a), or 356(a) (determined without regard to subsection (a) of this section) shall be treated as an exchange described in paragraph (3) of such subsection, and

"(2) appropriate adjustments shall be made to the basis of any property to reflect gain recognized under subsection (a).

"(e) SECTION NOT TO APPLY TO MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—This section shall not apply to any market discount bond issued on or before the date of the enactment of this section.

"SEC. 1277. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT. 26 USC 1277.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any market discount bond shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the portion of the market discount allocable to the days during the taxable year on which such bond was held by the taxpayer (as determined under the rules of section 1276(b)). *Ante*, p. 543.

"(b) DISALLOWED DEDUCTION ALLOWED FOR LATER YEARS.—

"(1) ELECTION TO TAKE INTO ACCOUNT IN LATER YEAR WHERE NET INTEREST INCOME FROM BOND.—

"(A) IN GENERAL.—If—

"(i) there is net interest income for any taxable year with respect to any market discount bond, and

"(ii) the taxpayer makes an election under this subparagraph with respect to such bond,

any disallowed interest expense with respect to such bond shall be treated as interest paid or accrued by the taxpayer during such taxable year to the extent such disallowed interest expense does not exceed the net interest income with respect to such bond.

"(B) DETERMINATION OF DISALLOWED INTEREST EXPENSE.—For purposes of subparagraph (A), the amount of the disallowed interest expense—

"(i) shall be determined as of the close of the preceding taxable year, and

"(ii) shall not include any amount previously taken into account under subparagraph (A).

"(C) NET INTEREST INCOME.—For purposes of this paragraph, the term 'net interest income' means the excess of the

amount determined under paragraph (2) of subsection (c) over the amount determined under paragraph (1) of subsection (c).

"(2) REMAINDER OF DISALLOWED INTEREST EXPENSE ALLOWED FOR YEAR OF DISPOSITION.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amount of the disallowed interest expense with respect to any market discount bond shall be treated as interest paid or accrued by the taxpayer in the taxable year in which such bond is disposed of.

"(B) NONRECOGNITION TRANSACTIONS.—If any market discount bond is disposed of in a nonrecognition transaction—

"(i) the disallowed interest expense with respect to such bond shall be treated as interest paid or accrued in the year of disposition only to the extent of the amount of gain recognized on such disposition, and

"(ii) the disallowed interest expense with respect to such property (to the extent not so treated) shall be treated as disallowed interest expense—

"(I) in the case of a transaction described in section 1276(c)(1), of the transferee with respect to the transferred basis property, or

Ante, p. 543.

"(II) in the case of a transaction described in section 1276(c)(2), with respect to the exchanged basis property.

"(C) DISALLOWED INTEREST EXPENSE REDUCED FOR AMOUNTS PREVIOUSLY TAKEN INTO ACCOUNT UNDER PARAGRAPH 1.—For purposes of this paragraph, the amount of the disallowed interest expense shall not include any amount previously taken into account under paragraph (1).

"(3) DISALLOWED INTEREST EXPENSE.—For purposes of this subsection, the term 'disallowed interest expense' means the aggregate amount disallowed under subsection (a) with respect to the market discount bond.

"(c) NET DIRECT INTEREST EXPENSE.—For purposes of this section, the term 'net direct interest expense' means, with respect to any market discount bond, the excess (if any) of—

"(1) the amount of interest paid or accrued during the taxable year on indebtedness which is incurred or continued to purchase or carry such bond, over

"(2) the aggregate amount of interest (including original issue discount) includible in gross income for the taxable year with respect to such bond.

In the case of any financial institution to which section 585 or 593 applies, the determination of whether interest is described in paragraph (1) shall be made under principles similar to the principles of section 291(e)(1)(B)(ii). Under rules similar to the rules of section 265(5), short sale expenses shall be treated as interest for purposes of determining net direct interest expense.

Post, p. 574.

"(d) SPECIAL RULE FOR GAIN RECOGNIZED ON DISPOSITION OF MARKET DISCOUNT BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF SECTION.—In the case of a market discount bond issued on or before the date of the enactment of this section, any gain recognized by the taxpayer on any disposition of such bond shall be treated as ordinary income to the extent the amount of such gain does not exceed the amount allowable with respect to such bond under

subsection (b)(2) for the taxable year in which such bond is disposed of.

"SEC. 1278. DEFINITIONS AND SPECIAL RULES. 26 USC 1278.

"(a) IN GENERAL.—For purposes of this part—

"(1) MARKET DISCOUNT BOND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'market discount bond' means any bond having market discount.

"(B) EXCEPTIONS.—The term 'market discount bond' shall not include—

"(i) SHORT-TERM OBLIGATIONS.—Any obligation with a fixed maturity date not exceeding 1 year from the date of issue.

"(ii) TAX-EXEMPT OBLIGATIONS.—Any tax-exempt obligation (as defined in section 1275(a)(3)). *Ante*, p. 540.

"(iii) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(iv) INSTALLMENT OBLIGATIONS.—Any installment obligation to which section 453B applies.

"(2) MARKET DISCOUNT.—

"(A) IN GENERAL.—The term 'market discount' means the excess (if any) of—

"(i) the stated redemption price of the bond at maturity, over

"(ii) the basis of such bond immediately after its acquisition by the taxpayer.

"(B) COORDINATION WHERE BOND HAS ORIGINAL ISSUE DISCOUNT.—In the case of any bond having original issue discount, for purposes of subparagraph (A), the stated redemption price of such bond at maturity shall be treated as equal to its revised issue price.

"(C) DE MINIMIS RULE.—If the market discount is less than ¼ of 1 percent of the stated redemption price of the bond at maturity multiplied by the number of complete years to maturity (after the taxpayer acquired the bond), then the market discount shall be considered to be zero.

"(3) BOND.—The term 'bond' means any bond, debenture, note, certificate, or other evidence of indebtedness.

"(4) REVISED ISSUE PRICE.—The term 'revised issue price' means of the sum of—

"(A) the issue price of the bond, and

"(B) the aggregate amount of the original issue discount includible in the gross income of all holders for periods before the acquisition of the bond by the taxpayer (determined without regard to section 1272 (a)(6) or (b)(4)). *Ante*, p. 533.

"(5) ORIGINAL ISSUE DISCOUNT, ETC.—The terms 'original issue discount', 'stated redemption price at maturity', and 'issue price' have the respective meanings given such terms by subpart A of this part.

"(b) ELECTION TO INCLUDE MARKET DISCOUNT CURRENTLY.—

"(1) IN GENERAL.—If the taxpayer makes an election under this subsection—

"(A) sections 1276 and 1277 shall not apply, and *Ante*, pp. 543, 545.

"(B) market discount on any market discount bond shall be included in the gross income of the taxpayer for the

Ante, p. 543.

taxable years to which it is attributable (as determined under the rules of subsection (b) of section 1276).

Except for purposes of sections 871(a), 881, 1441, 1442, and 6049 (and such other provisions as may be specified in regulations), any amount included in gross income under subparagraph (B) shall be treated as interest for purposes of this title.

"(2) SCOPE OF ELECTION.—An election under this subsection shall apply to all market discount bonds acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this subsection shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subpart.

"Subpart C—Discount on Short-Term Obligations

"Sec. 1281. Current inclusion in income of discount on certain short-term obligations.
"Sec. 1282. Deferral of interest deduction allocable to accrued discount.
"Sec. 1283. Definitions and special rules.

26 USC 1281.

"SEC. 1281. CURRENT INCLUSION IN INCOME OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.

"(a) IN GENERAL.—In the case of any short-term obligation to which this section applies, for purposes of this title, there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such obligation.

"(b) SHORT-TERM OBLIGATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to any short-term obligation which—

"(A) is held by a taxpayer using an accrual method of accounting,

"(B) is held primarily for sale to customers in the ordinary course of the taxpayer's trade or business,

"(C) is held by a bank (as defined in section 581),

"(D) is held by a regulated investment company or a common trust fund, or

"(E) is identified by the taxpayer under section 1256(e)(2) as being part of a hedging transaction.

"(2) TREATMENT OF OBLIGATIONS HELD BY PASS-THRU ENTITIES.—

"(A) IN GENERAL.—This section shall apply also to—

"(i) any short-term obligation which is held by a pass-thru entity which is formed or availed of for purposes of avoiding the provisions of this section, and

"(ii) any short-term obligation which is acquired by a pass-thru entity (not described in clause (i)) during the required accrual period.

"(B) REQUIRED ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'required accrual period' means the period—

"(i) which begins with the first taxable year for which the ownership test of subparagraph (C) is met

with respect to the pass-thru entity (or a predecessor), and

"(ii) which ends with the first taxable year after the taxable year referred to in clause (i) for which the ownership test of subparagraph (C) is not met and with respect to which the Secretary consents to the termination of the required accrual period.

"(C) OWNERSHIP TEST.—The ownership test of this subparagraph is met for any taxable year if, on at least 90 days during the taxable year, 20 percent or more of the value of the interests in the pass-thru entity are held by persons described in paragraph (1) or by other pass-thru entities to which subparagraph (A) applies.

"(D) PASS-THRU ENTITY.—The term 'pass-thru entity' means any partnership, S corporation, trust, or other pass-thru entity.

"(c) CROSS REFERENCE.—

"For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1282. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED DISCOUNT. 26 USC 1282.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent that such expense exceeds the sum of the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation.

"(b) SECTION NOT TO APPLY TO OBLIGATIONS TO WHICH SECTION 1281 APPLIES.— *Ante*, p. 548.

"(1) IN GENERAL.—This section shall not apply to any short-term obligation to which section 1281 applies.

"(2) ELECTION TO HAVE SECTION 1281 APPLY TO ALL OBLIGATIONS.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have section 1281 apply to all short-term obligations acquired by the taxpayer on or after the 1st day of the 1st taxable year to which such election applies.

"(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(c) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (b) and (c) of section 1277 shall apply for purposes of this section. *Ante*, p. 545.

"(d) CROSS REFERENCE.—

"For special rules limiting the application of this section to original issue discount in the case of nongovernmental obligations, see section 1283(c).

"SEC. 1283. DEFINITIONS AND SPECIAL RULES. 26 USC 1283.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) SHORT-TERM OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'short-term obligation' means any bond, debenture, note, certificate, or other evidence of indebtedness which has a fixed maturity date not more than 1 year from the date of issue.

"(B) EXCEPTIONS FOR TAX-EXEMPT OBLIGATIONS.—The term 'short-term obligation' shall not include any tax-exempt obligation (as defined in section 1275(a)(3)).

Ante, p. 540.

"(2) ACQUISITION DISCOUNT.—The term 'acquisition discount' means the excess of—

"(A) the stated redemption price at maturity (as defined in section 1273), over

Ante, p. 536.

"(B) the taxpayer's basis for the obligation.

"(b) DAILY PORTION.—For purposes of this subpart—

"(1) RATABLE ACCRUAL.—Except as otherwise provided in this subsection, the daily portion of the acquisition discount is an amount equal to—

"(A) the amount of such discount, divided by

"(B) the number of days after the day on which the taxpayer acquired the obligation and up to (and including) the day of its maturity.

"(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE (IN LIEU OF RATABLE ACCRUAL).—

"(A) IN GENERAL.—At the election of the taxpayer with respect to any obligation, the daily portion of the acquisition discount for any day is the portion of the acquisition discount accruing on such day determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the taxpayer's yield to maturity based on the taxpayer's cost of acquiring the obligation, and

"(ii) compounding daily.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any obligation, shall be irrevocable.

"(c) SPECIAL RULES FOR NONGOVERNMENTAL OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any short-term obligation which is not a short-term Government obligation (as defined in section 1271(a)(3)(B))—

Ante, p. 532.

"(A) sections 1281 and 1282 shall be applied by taking into account original issue discount in lieu of acquisition discount, and

Ante, pp. 548, 549.

"(B) appropriate adjustments shall be made in the application of subsection (b) of this section.

"(2) ELECTION TO HAVE PARAGRAPH (1) NOT APPLY.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph to have paragraph (1) not apply to all obligations acquired by the taxpayer on or after the first day of the first taxable year to which such election applies.

"(B) PERIOD TO WHICH ELECTION APPLIES.—An election under this paragraph shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(d) OTHER SPECIAL RULES.—

"(1) BASIS ADJUSTMENTS.—The basis of any short-term obligation in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to section 1281.

"(2) DOUBLE INCLUSION IN INCOME NOT REQUIRED.—Section 1281 shall not require the inclusion of any amount previously includible in gross income.

Ante, p. 548.

"(3) COORDINATION WITH OTHER PROVISIONS.—Section 454(b) and section 1271(a)(3) shall not apply to any short-term obligation to which section 1281 applies.

Ante, p. 532.

"Subpart D—Miscellaneous Provisions

"Sec. 1286. Tax treatment of stripped bonds.
"Sec. 1287. Denial of capital gain treatment for gains on certain obligations not in registered form.
"Sec. 1288. Treatment of original issue discount on tax-exempt obligations.

"SEC. 1286. TAX TREATMENT OF STRIPPED BONDS.

26 USC 1286.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of this part as a bond originally issued on the purchase date and having an original issue discount equal to the excess (if any) of—

"(1) the stated redemption price at maturity (or, in the case of coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond while held by such person and before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

"(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1271(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1271(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

Ante, p. 532.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3))—

Ante, p. 540.

"(1) subsections (a) and (b)(1) shall not apply,

"(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

"(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by section 1273(a)(2).

Ante, p. 536.

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

"(6) PURCHASE.—The term 'purchase' has the meaning given such term by section 1272(d)(1).

Ante, p. 533.

"(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period.

26 USC 1287.

"SEC. 1287. DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.

"(a) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such

obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f).

"SEC. 1288. TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS. 26 USC 1288.

"(a) GENERAL RULE.—Original issue discount on any tax-exempt obligation shall be treated as accruing—

"(1) for purposes of section 163, in the manner provided by section 1272(a) (determined without regard to paragraph (6) thereof), and *Ante*, p. 533.

"(2) for purposes of determining the adjusted basis of the holder, in the manner provided by section 1272(a) (determined with regard to paragraph (6) thereof).

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ORIGINAL ISSUE DISCOUNT.—The term 'original issue discount' has the meaning given to such term by section 1273(a) without regard to paragraph (3) thereof. In applying section 483 or 1274, under regulations prescribed by the Secretary, appropriate adjustments shall be made to the applicable Federal rate to take into account the tax exemption for interest on the obligation. *Ante*, p. 536. *Infra*. *Ante*, p. 538.

"(2) TAX-EXEMPT OBLIGATION.—The term 'tax-exempt obligation' has the meaning given to such term by section 1275(a)(3). *Ante*, p. 540.

"(3) SHORT-TERM OBLIGATIONS.—In applying this section to obligations with maturity of 1 year or less, rules similar to the rules of section 1283(b) shall apply." *Ante*, p. 549.

(b) AMENDMENT OF SECTION 483.—Section 483 (relating to interest on certain deferred payments) is amended to read as follows: 26 USC 483.

"SEC. 483. INTEREST ON CERTAIN DEFERRED PAYMENTS.

"(a) AMOUNT CONSTITUTING INTEREST.—For purposes of this title, in the case of any payment—

"(1) under any contract for the sale or exchange of any property, and

"(2) to which this section applies,

there shall be treated as interest that portion of the total unstated interest under such contract which, as determined in a manner consistent with the method of computing interest under section 1272(a), is properly allocable to such payment.

"(b) TOTAL UNSTATED INTEREST.—For purposes of this section, the term 'total unstated interest' means, with respect to a contract for the sale or exchange of property, an amount equal to the excess of—

"(1) the sum of the payments to which this section applies which are due under the contract, over

"(2) the sum of the present values of such payments and the present values of any interest payments due under the contract.

For purposes of the preceding sentence, the present value of a payment shall be determined under the rules of section 1274(b)(2) *Ante*, p. 538.

using a discount rate equal to 120 percent of the applicable Federal rate determined under section 1274(d).

Ante, p. 538.

"(c) PAYMENTS TO WHICH SUBSECTION (a) APPLIES.—

"(1) IN GENERAL.—Except as provided in subsection (d), this section shall apply to any payment on account of the sale or exchange of property which constitutes part or all of the sales price and which is due more than 6 months after the date of such sale or exchange under a contract—

"(A) under which some or all of the payments are due more than 1 year after the date of such sale or exchange, and

"(B) under which, using a discount rate equal to 110 percent of the applicable Federal rate determined under section 1274(d), there is total unstated interest.

"(2) TREATMENT OF OTHER DEBT INSTRUMENTS.—For purposes of this section, a debt instrument of the purchaser which is given in consideration for the sale or exchange of property shall not be treated as a payment, and any payment due under such debt instrument shall be treated as due under the contract for the sale or exchange.

"(3) DEBT INSTRUMENT DEFINED.—For purposes of this subsection, the term 'debt instrument' has the meaning given such term by section 1275(a)(1).

Ante, p. 540.

"(d) EXCEPTIONS AND LIMITATIONS.—

"(1) COORDINATION WITH ORIGINAL ISSUE DISCOUNT RULES.—This section shall not apply to any debt instrument to which section 1272 applies.

Ante, p. 533.

"(2) SALES PRICES OF $3,000 OR LESS.—This section shall not apply to any payment on account of the sale or exchange of property if it can be determined at the time of such sale or exchange that the sales price cannot exceed $3,000.

"(3) CARRYING CHARGES.—In the case of the purchaser, the tax treatment of amounts paid on account of the sale or exchange of property shall be made without regard to this section if any such amounts are treated under section 163(b) as if they included interest.

"(4) CERTAIN SALES OF PATENTS.—In the case of any transfer described in section 1235(a) (relating to sale or exchange of patents), this section shall not apply to any amount contingent on the productivity, use, or disposition of the property transferred.

"(e) INTEREST RATES IN CASE OF SALES OF PRINCIPAL RESIDENCES OR FARM LANDS.—

"(1) IN GENERAL.—In the case of any debt instrument arising from a sale or exchange to which this subsection applies, subsections (b) and (c)(1)(B) shall be applied by using, in lieu of the discount rates determined under such subsections, discount rates determined under subsections (b) and (c)(1), respectively, of this section as it was in effect before the amendments made by the Tax Reform Act of 1984.

Ante, p. 494.

"(2) SALES OR EXCHANGES TO WHICH SUBSECTION APPLIES.—This subsection shall apply—

"(A) to any sale or exchange by an individual of his principal residence (within the meaning of section 1034), and

"(B) to any sale or exchange by a person of land used by such person as a farm (within the meaning of section 6420(c)(2)).

"(3) LIMITATION.—Paragraph (1) shall apply to any sale or exchange by an individual of his principal residence (within the meaning of section 1034), only to the extent the purchase price of such residence does not exceed $250,000. For purposes of the preceding sentence, the purchase price of a residence shall be determined without regard to this section.

"(f) MAXIMUM RATE OF INTEREST ON CERTAIN TRANSFERS OF LAND BETWEEN RELATED PARTIES.—

"(1) IN GENERAL.—In the case of any qualified sale, the discount rate used in determining the total unstated interest rate under subsection (b) shall not exceed 7 percent, compounded semiannually.

"(2) QUALIFIED SALE.—For purposes of this subsection, the term 'qualified sale' means any sale or exchange of land by an individual to a member of such individual's family (within the meaning of section 267(c)(4)).

"(3) $500,000 LIMITATION.—Paragraph (1) shall not apply to any qualified sale between individuals made during any calendar year to the extent that the sales price for such sale (when added to the aggregate sales price for prior qualified sales between such individuals during the calendar year) exceeds $500,000.

"(4) NONRESIDENT ALIEN INDIVIDUALS.—Paragraph (1) shall not apply to any sale or exchange if any party to such sale or exchange is a nonresident alien individual.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section including regulations providing for the application of this section in the case of—

"(1) any contract for the sale or exchange of property under which the liability for, or the amount or due date of, a payment cannot be determined at the time of the sale or exchange, or

"(2) any change in the liability for, or the amount or due date of, any payment (including interest) under a contract for the sale or exchange of property.

"(h) CROSS REFERENCE.—

"For special rules in the case of the borrower under certain loans for personal use, see section 1275(b)."

Ante, p. 540.

(c) PENALTY FOR FAILURE TO MEET INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6706. ORIGINAL ISSUE DISCOUNT INFORMATION REQUIREMENTS.

26 USC 6706.

"(a) FAILURE TO SHOW INFORMATION ON DEBT INSTRUMENT.—In the case of a failure to set forth on a debt instrument the information required to be set forth on such instrument under section 1275(c)(1), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the issuer shall pay a penalty of $50 for each instrument with respect to which such a failure exists.

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Ante, p. 540.

"(b) FAILURE TO FURNISH INFORMATION TO SECRETARY.—Any issuer who fails to furnish information required under section 1275(c)(2) with respect to any issue of debt instruments on the date prescribed therefor (determined with regard to any extension of

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time for filing) shall pay a penalty equal to 1 percent of the aggregate issue price of such issue, unless it is shown that such failure is due to reasonable cause and not willful neglect. The amount of the penalty imposed under the preceding sentence with respect to any issue of debt instruments shall not exceed $50,000 for such issue.

26 USC 6211.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6706. Original issue discount information requirements."

SEC. 42. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO ORIGINAL ISSUE DISCOUNT CHANGES.

(a) IN GENERAL.—

Repeals. 26 USC 1232, 1232A, 1232B.

(1) Sections 1232, 1232A, and 1232B are hereby repealed.

26 USC 103A.

(2) Clause (i) of section 103A(i)(2)(C) (defining yield on the issue) is amended by striking out "section 1232(b)(2)" and inserting in lieu thereof "sections 1273(b) and 1274".

26 USC 163. *Post*, p. 654.

(3) Subsection (e) of section 163 (relating to original issue discount) is amended to read as follows:

"(e) ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—In the case of any debt instrument issued after July 1, 1982, the portion of the original issue discount with respect to such debt instrument which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

Ante, p. 540.

"(A) DEBT INSTRUMENT.—The term 'debt instrument' has the meaning given such term by section 1275(a)(1).

Ante, p. 533. *Ante*, p. 536.

"(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall be determined under section 1272(a) (without regard to paragraph (6) thereof and without regard to section 1273(a)(3)).

"(3) EXCEPTIONS.—This subsection shall not apply to any debt instrument described in—

"(A) subparagraph (D) of section 1272(a)(2) (relating to obligations issued by natural persons before March 2, 1984), and

"(B) subparagraph (E) of section 1272(a)(2) (relating to loans between natural persons).

"(4) CROSS REFERENCES.—

Ante, p. 553.

"For provision relating to deduction of original issue discount on tax-exempt obligation, see section 1288.

Ante, p. 540.

"For special rules in the case of the borrower under certain loans for personal use, see section 1275(b)."

26 USC 165.

(4) Paragraph (3) of section 165(j) (relating to denial of deductions for losses on certain obligations not in registered form) is amended by striking out "subsection (d) of section 1232" and inserting in lieu thereof "section 1287".

(5) Paragraph (1) of section 249(b) (relating to limitation on deduction of bond premium on repurchase) is amended by striking out "section 1232(b)" and inserting in lieu thereof "sections 1273(b) and 1274". 26 USC 249.

(6) Paragraph (1) of section 405(d) (relating to taxability of beneficiary of qualified bond purchase plan) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)". 26 USC 405.

(7) Paragraph (1) of section 409(b) (relating to income tax treatment of bonds) is amended by striking out "section 1232 (relating to bonds and other evidences of indebtedness)" and inserting in lieu thereof "section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments)". 26 USC 409. *Post*, p. 852.

(8) Paragraph (3) of section 811(b) (relating to amortization of premium and accrual of discount), as amended by this Act, is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". *Post*, p. 740.

(9) Subparagraph (A) of section 871(a)(1) (relating to income other than capital gains) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". 26 USC 871.

(10) Paragraph (1) of section 881(a) (relating to imposition of tax) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". 26 USC 881.

(11) Subsection (b) of section 1037 (relating to application of section 1232) is amended— 26 USC 1037.

(A) by striking out "section 1232(a)(2)(B)" in paragraph (1) and inserting in lieu thereof "section 1271(c)(2)",

(B) by striking out "section 1232" in paragraphs (1) and (2) and inserting in lieu thereof "subpart A of part V of subchapter P", and

(C) by striking out "SECTION 1232" in the subsection heading and inserting in lieu thereof "ORIGINAL ISSUE DISCOUNT RULES".

(12) Subsection (h) of section 1351 (relating to special rule for evidences of indebtedness) is amended by striking out "section 1232(a)(2)" and inserting in lieu thereof "section 1273(a)". 26 USC 1351.

(13) Subsection (b) of section 1441 (relating to withholding of tax on nonresident alien) is amended by striking out "section 1232(b)" and inserting in lieu thereof "section 1273". 26 USC 1441.

(14) Paragraph (6) of section 6049(d) (relating to treatment of original issue discount) is amended— 26 USC 6049.

(A) by striking out "section 1232A" each place it appears in subparagraph (A) and inserting in lieu thereof "section 1272", and

(B) by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"PART V. Special rules for bonds and other debt instruments."

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the items relating to sections 1232, 1232A, and 1232B.

SEC. 43. TECHNICAL AND CONFORMING AMENDMENTS RELATED TO TREATMENT OF MARKET DISCOUNT AND ACQUISITION DISCOUNT.

(a) DEFINITION OF SUBSTITUTED BASIS PROPERTY; ETC.—

97 Stat. 379.
26 USC 7701.

(1) IN GENERAL.—Section 7701(a) (relating to definitions) is amended by adding at the end thereof the following new paragraphs:

"(42) SUBSTITUTED BASIS PROPERTY.—The term 'substituted basis property' means property which is—

"(A) transferred basis property, or

"(B) exchanged basis property.

"(43) TRANSFERRED BASIS PROPERTY.—The term 'transferred basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

"(44) EXCHANGED BASIS PROPERTY.—The term 'exchanged basis property' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

"(45) NONRECOGNITION TRANSACTION.—The term 'nonrecognition transaction' means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A."

26 USC 1016.

(2) TECHNICAL AMENDMENT.—Subsection (b) of section 1016 is amended by striking out the last sentence.

26 USC 7805.

(b) ELECTIONS MADE IN MANNER PRESCRIBED BY SECRETARY.—Section 7805 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(d) MANNER OF MAKING ELECTIONS PRESCRIBED BY SECRETARY.—Except to the extent otherwise provided by this title, any election under this title shall be made at such time and in such manner as the Secretary shall by regulations or forms prescribe."

(c) OTHER TECHNICAL AMENDMENTS.—

26 USC 341.

(1) Paragraph (12) of section 341(e) (related to nonapplication of section 1254(a)) is amended by striking out "and 1254(a)" and inserting in lieu thereof "1254(a), and 1276(a)".

26 USC 453B.

(2) Paragraph (2) of section 453B(d) (relating to liquidations to which section 337 applies) is amended by striking out "or 1254(a)" and inserting in lieu thereof "1254(a), or 1276(a)".

26 USC 751.

(3) Subsection (c) of section 751 (defining unrealized receivables) is amended by adding at the end thereof the following new sentence: "For purposes of this section and sections 731, 736, and 741, such term also includes any market discount bond (as defined in section 1278) and any short-term obligation (as defined in section 1283) but only to the extent of the amount which would be treated as ordinary income if (at the time of the transaction described in this section or section 731, 736, or 741, as the case may be) such property had been sold by the partnership."

Ante, p. 547.
Ante, p. 549.

SEC. 44. EFFECTIVE DATES. 26 USC 1271 note.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to taxable years ending after the date of the enactment of this Act.

(b) TREATMENT OF DEBT INSTRUMENTS RECEIVED IN EXCHANGE FOR PROPERTY.—

(1) IN GENERAL.—

(A) Except as otherwise provided in this subsection, section 1274 of the Internal Revenue Code of 1954 (as added by section 41) and the amendment made by section 41(b) (relating to amendment of section 483) shall apply to sales or exchanges after December 31, 1984. *Ante*, p. 538. *Ante*, p. 553.

(B) Section 1274 of such Code and the amendment made by section 41(b) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

(2) REVISION OF SECTION 482 REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall modify the safe harbor interest rates applicable under the regulations prescribed under section 482 of the Internal Revenue Code of 1954 so that such rates are consistent with the rates applicable under section 483 of such Code by reason of the amendments made by section 41. *Ante*, p. 531.

(3) CLARIFICATION OF INTEREST ACCRUAL; FAIR MARKET VALUE RULE IN CASE OF POTENTIALLY ABUSIVE SITUATIONS.—

(A) IN GENERAL.—

(i) CLARIFICATION OF INTEREST ACCRUAL.—In the case of any sale or exchange—

(I) after March 1, 1984, and before January 1, 1985, nothing in section 483 of the Internal Revenue Code of 1954 shall permit any interest to be deductible before the period to which such interest is properly allocable, or *Ante*, p. 553.

(II) after June 8, 1984, and before January 1, 1985, notwithstanding section 483 of the Internal Revenue Code of 1954 or any other provision of law, no interest shall be deductible before the period to which such interest is properly allocable.

(ii) FAIR MARKET RULE.—In the case of any sale or exchange after March 1, 1984, and before January 1, 1985, such section 483 shall be treated as including provisions similar to the provisions of section 1274(b)(3) of such Code (as added by section 41). *Ante*, p. 538.

(B) EXCEPTION FOR BINDING CONTRACTS.—Subparagraph (A) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

(C) INTEREST ACCRUAL RULE NOT TO APPLY WHERE SUBSTANTIALLY EQUAL ANNUAL PAYMENTS.—Clause (i) of subparagraph (A) shall not apply to any debt instrument with substantially equal annual payments.

(c) MARKET DISCOUNT RULES.—

(1) ORDINARY INCOME TREATMENT.—Section 1276 of the Internal Revenue Code of 1954 (as added by section 41) shall apply to *Ante*, p. 543.

obligations issued after the date of the enactment of this Act in taxable years ending after such date.

Ante, p. 545.

(2) INTEREST DEFERRAL RULES.—Section 1277 of such Code (as added by section 41) shall apply to obligations acquired after the date of the enactment of this Act in taxable years ending after such date.

(d) RULES RELATING TO DISCOUNT ON SHORT-TERM OBLIGATIONS.—

Ante, p. 548.

Subpart C of part V of subchapter P of chapter 1 of such Code (as added by section 41) shall apply to obligations acquired after the date of the enactment of this Act.

(e) 5-YEAR SPREAD OF ADJUSTMENTS REQUIRED BY REASON OF ACCRUAL OF DISCOUNT ON CERTAIN SHORT-TERM OBLIGATIONS.—

(1) ELECTION TO HAVE SECTION 1281 APPLY TO ALL OBLIGATIONS HELD DURING TAXABLE YEAR.—A taxpayer may elect for his first taxable year ending after the date of the enactment of this Act to have section 1281 of the Internal Revenue Code of 1954 apply to all short-term obligations described in subsection (b) of such section which were held by the taxpayer at any time during such first taxable year.

Ante, p. 548.

(2) 5-YEAR SPREAD.—

(A) IN GENERAL.—In the case of any taxpayer who makes an election under paragraph (1)—

(i) the provisions of section 1281 of the Internal Revenue Code of 1954 (as added by section 41) shall be treated as a change in the method of accounting of the taxpayer,

(ii) such change shall be treated as having been made with the consent of the Secretary, and

(iii) the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income (hereinafter in this paragraph referred to as the "net adjustments") shall be taken into account during the spread period with the amount taken into account in each taxable year in such period determined under subparagraph (B).

(B) AMOUNT TAKEN INTO ACCOUNT DURING EACH YEAR OF SPREAD PERIOD.—

(i) FIRST YEAR.—The amount taken into account for the first taxable year in the spread period shall be the sum of—

(I) one-fifth of the net adjustments, and

(II) the excess (if any) of—

(a) the cash basis income over the accrual basis income, over

(b) one-fifth of the net adjustments.

(ii) FOR SUBSEQUENT YEARS IN SPREAD PERIOD.—The amount taken into account in the second or any succeeding taxable year in the spread period shall be the sum of—

(I) the portion of the net adjustments not taken into account in the preceding taxable year of the spread period divided by the number of remaining taxable years in the spread period (including the year for which the determination is being made), and

(II) the excess (if any) of—

(a) the excess of the cash basis income over the accrual basis income, over

(b) one-fifth of the net adjustments, multiplied by 5 minus the number of years remaining in the spread period (not including the current year).

The excess described in subparagraph (B)(ii)(II)(a) shall be reduced by any amount taken into account under this subclause or clause (i)(II) in any prior year.

(C) SPREAD PERIOD.—For purposes of this paragraph, the term "spread period" means the period consisting of the 5 taxable years beginning with the year for which the election is made under paragraph (1).

(D) CASH BASIS INCOME.—For purposes of this paragraph, the term "cash basis income" means for any taxable year the aggregate amount which would be includible in the gross income of the taxpayer with respect to short-term obligations described in subsection (b) of section 1281 of such Code if the provisions of section 1281 of such Code did not apply to such taxable year and all prior taxable years within the spread period. *Ante*, p. 548.

(E) ACCRUAL BASIS INCOME.—For purposes of this paragraph, the term "accrual basis income" means for any taxable year the aggregate amount includible in gross income under section 1281(a) of such Code for such a taxable year and all prior taxable years within the spread period.

(f) TREATMENT OF ORIGINAL ISSUE DISCOUNT ON TAX-EXEMPT OBLIGATIONS.—Section 1288 of such Code (as added by section 41) shall apply to obligations issued after September 3, 1982, and acquired after March 1, 1984. *Ante*, p. 553.

(g) REPEAL OF CAPITAL ASSET REQUIREMENT.—Section 1272 of such Code (as added by section 41) shall not apply to any obligation issued before December 31, 1984, which is not a capital asset in the hands of the taxpayer. *Ante*, p. 533.

(h) REPORTING REQUIREMENTS.—Section 1275(c) of such Code (as added by section 41) and the amendments made by section 41(c) shall take effect on the day 30 days after the date of the enactment of this Act. *Ante*, p. 540. *Ante*, p. 531.

(i) OTHER MISCELLANEOUS CHANGES.—

(1) ACCRUAL PERIOD.—In the case of any obligation issued after July 1, 1982, and before January 1, 1985, the accrual period, for purposes of section 1272(a) of the Internal Revenue Code of 1954 (as amended by section 41(a)), shall be a 1-year period (or shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the obligation. *Ante*, p. 533.

(2) CHANGE IN REDUCTION FOR PURCHASE AFTER ORIGINAL ISSUE.—Section 1272(a)(6) of such Code (as so amended) shall not apply to any purchase on or before the date of the enactment of this Act, and the rules of section 1232A(a)(6) of such Code (as in effect on the day before the date of the enactment of this Act) shall continue to apply to such purchase.

(j) CLARIFICATION THAT PRIOR EFFECTIVE DATE RULES NOT AFFECTED.—Nothing in the amendment made by section 41(a) shall affect the application of any effective date provision (including any *Ante*, p. 531.

transitional rule) for any provision which was a predecessor to any provision contained in part V of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (as added by section 41).

Ante, p. 531.

Subtitle D—Corporate Provisions

PART I—LIMITATIONS ON DIVIDENDS RECEIVED DEDUCTION

SEC. 51. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

(a) GENERAL RULE.—Part VIII of subchapter B of chapter 1 (relating to special deductions for corporations) is amended by inserting after section 246 the following new section:

26 USC 246A.

"SEC. 246A. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE PORTFOLIO STOCK IS DEBT FINANCED.

"(a) GENERAL RULE.—In the case of any dividend on debt-financed portfolio stock, there shall be substituted for the percentage which (but for this subsection) would be used in determining the amount of the deduction allowable under section 243, 244, or 245 a percentage equal to the product of—

"(1) 85 percent, and

"(2) 100 percent minus the average indebtedness percentage.

"(b) SECTION NOT TO APPLY TO DIVIDENDS FOR WHICH 100 PERCENT DIVIDENDS RECEIVED DEDUCTION ALLOWABLE.—Subsection (a) shall not apply to—

"(1) qualifying dividends (as defined in section 243(b) without regard to section 243(c)(4)), and

"(2) dividends received by a small business investment company operating under the Small Business Investment Act of 1958.

15 USC 661 note.

"(c) DEBT FINANCED PORTFOLIO STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'debt financed portfolio stock' means any portfolio stock if at some time during the base period there is portfolio indebtedness with respect to such stock.

"(2) PORTFOLIO STOCK.—The term 'portfolio stock' means any stock of a corporation unless—

"(A) as of the beginning of the ex-dividend date, the taxpayer owns stock of such corporation—

"(i) possessing at least 50 percent of the total voting power of the stock of such corporation, and

"(ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

"(B) as of the beginning of the ex-dividend date—

"(i) the taxpayer owns stock of such corporation which would meet the requirements of subparagraph (A) if '20 percent' were substituted for '50 percent' each place it appears in such subparagraph, and

"(ii) stock meeting the requirements of subparagraph (A) is owned by 5 or fewer corporate shareholders.

"(3) SPECIAL RULE FOR STOCK IN A BANK OR BANK HOLDING COMPANY.—

"(A) IN GENERAL.—If, as of the beginning of the ex-dividend date, the taxpayer owns stock of any bank or bank

holding company having a value equal to at least 80 percent of the total value of the stock of such bank or bank holding company, for purposes of paragraph (2)(A)(i), the taxpayer shall be treated as owning any stock of such bank or bank holding company which the taxpayer has an option to acquire.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BANK.—The term 'bank' has the meaning given such term by section 581.

"(ii) BANK HOLDING COMPANY.—The term 'bank holding company' means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956). 12 USC 1841.

"(4) TREATMENT OF CERTAIN PREFERRED STOCK.—For purposes of determining whether the requirements of subparagraph (A) or (B) of paragraph (2) or of subparagraph (A) of paragraph (3) are met, stock described in section 1504(a)(4) shall not be taken into account. *Post*, p. 577.

"(d) AVERAGE INDEBTEDNESS PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'average indebtedness percentage' means the percentage obtained by dividing—

"(A) the average amount (determined under regulations prescribed by the Secretary) of the portfolio indebtedness with respect to the stock during the base period, by

"(B) the average amount (determined under regulations prescribed by the Secretary) of the adjusted basis of the stock during the base period.

"(2) SPECIAL RULE WHERE STOCK NOT HELD THROUGHOUT BASE PERIOD.—In the case of any stock which was not held by the taxpayer throughout the base period, paragraph (1) shall be applied as if the base period consisted only of that portion of the base period during which the stock was held by the taxpayer.

"(3) PORTFOLIO INDEBTEDNESS.—

"(A) IN GENERAL.—The term 'portfolio indebtedness' means any indebtedness directly attributable to investment in the portfolio stock.

"(B) CERTAIN AMOUNTS RECEIVED FROM SHORT SALE TREATED AS INDEBTEDNESS.—For purposes of subparagraph (A), any amount received from a short sale shall be treated as indebtedness for the period beginning on the day on which such amount is received and ending on the day the short sale is closed.

"(4) BASE PERIOD.—The term 'base period' means, with respect to any dividend, the shorter of—

"(A) the period beginning on the ex-dividend date for the most recent previous dividend on the stock and ending on the day before the ex-dividend date for the dividend involved, or

"(B) the 1-year period ending on the day before the ex-dividend date for the dividend involved.

"(e) REDUCTION IN DIVIDENDS RECEIVED DEDUCTION NOT TO EXCEED ALLOCABLE INTEREST.—Under regulations prescribed by the Secretary, any reduction under this section in the amount allowable as a deduction under section 243, 244, or 245 with respect to any dividend shall not exceed the amount of any interest deduction

(including any deductible short sale expense) allocable to such dividend.

"(f) REGULATIONS.—The regulations prescribed for purposes of this section under section 7701(f) shall include regulations providing for the disallowance of interest deductions or other appropriate treatment (in lieu of reducing the dividend received deduction) where the obligor of the indebtedness is a person other than the person receiving the dividend."

Post, p. 567.

(b) CLERICAL AMENDMENT.—The table of sections for part VIII of subchapter B of chapter 1 is amended by inserting after the item relating to section 246 the following new item:

"Sec. 246A. Dividends received deduction reduced where portfolio stock is debt financed."

26 USC 246A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to stock the holding period for which begins after the date of the enactment of this Act in taxable years ending after such date.

SEC. 52. TREATMENT OF DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.

26 USC 854.

(a) INCREASE IN REQUIRED AMOUNT OF DIVIDENDS.—Paragraph (1) of section 854(b) (relating to other dividends) is amended to read as follows:

"(1) AMOUNT TREATED AS DIVIDEND.—

"(A) DEDUCTION UNDER SECTION 243.—In any case in which—

"(i) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies), and

"(ii) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend,

then, in computing any deduction under section 243, there shall be taken into account only that portion of such dividend designated under this subparagraph by the regulated investment company.

"(B) EXCLUSION UNDER SECTION 116.—If the aggregate dividends received by a regulated investment company during any taxable year are less than 95 percent of its gross income, then, in computing the exclusion under section 116, rules similar to the rules of subparagraph (A) shall apply.

"(C) LIMITATION.—The aggregate amount which may be designated as dividends under subparagraph (A) or (B) shall not exceed the aggregate dividends received by the company for the taxable year."

(b) CERTAIN DIVIDENDS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF COMPUTING DEDUCTION UNDER SECTION 243.—Subsection (b) of section 854 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR COMPUTING DEDUCTION UNDER SECTION 243.—For purposes of subparagraph (A) of paragraph (1), an amount shall be treated as a dividend for the purpose of paragraph (1) only if a deduction would have been allowable under section 243 to the regulated investment company determined—

"(A) as if section 243 applied to dividends received by a regulated investment company,

"(B) after the application of section 246 (but without regard to subsection (b) thereof), and

"(C) after the application of section 246A."

Ante, p. 562.

(c) GROSS INCOME INCLUDES NET SHORT-TERM CAPITAL GAIN.—Paragraph (3)(A) of section 854(b) is amended to read as follows:

26 USC 854.

"(A) In the case of 1 or more sales or other dispositions of stock and securities, the term 'gross income' includes only the excess of—

"(i) the net short-term capital gain from such sales or dispositions, over

"(ii) the net long-term capital loss from such sales or dispositions."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

26 USC 854 note.

PART II—TREATMENT OF CERTAIN DISTRIBUTIONS

SEC. 53. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

(a) GENERAL RULE.—Part IV of subchapter O of chapter 1 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1059 as section 1060 and by inserting after section 1058 the following new section:

26 USC 1060.

"SEC. 1059. CORPORATE SHAREHOLDER'S BASIS IN STOCK REDUCED BY NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

26 USC 1059.

"(a) GENERAL RULE.—If any corporation—

"(1) receives an extraordinary dividend with respect to any share of stock, and

"(2) sells or otherwise disposes of such stock before such stock has been held for more than 1 year,

the basis of such corporation in such stock shall be reduced by the nontaxed portion of such dividend. If the nontaxed portion of such dividend exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock.

"(b) NONTAXED PORTION.—For purposes of this section—

"(1) IN GENERAL.—The nontaxed portion of any dividend is the excess (if any) of—

"(A) the amount of such dividend, over

"(B) the taxable portion of such dividend.

"(2) TAXABLE PORTION.—The taxable portion of any dividend is—

"(A) the portion of such dividend includible in gross income, reduced by

"(B) the amount of any deduction allowable with respect to such dividend under section 243, 244, or 245.

"(c) EXTRAORDINARY DIVIDEND DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'extraordinary dividend' means any dividend with respect to a share of stock if the amount of such dividend equals or exceeds the threshold percentage of the taxpayer's adjusted basis in such share of stock (determined without regard to this section).

"(2) THRESHOLD PERCENTAGE.—The term 'threshold percentage' means—

"(A) 5 percent in the case of stock which is preferred as to dividends, and

"(B) 10 percent in the case of any other stock.

"(3) AGGREGATION OF DIVIDENDS.—

"(A) AGGREGATION WITHIN 85-DAY PERIOD.—All dividends—

"(i) which are received by the taxpayer (or a person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates within the same period of 85 consecutive days,

shall be treated as 1 dividend.

"(B) AGGREGATION WITHIN 1 YEAR WHERE DIVIDENDS EXCEED 20 PERCENT OF ADJUSTED BASIS.—All dividends—

"(i) which are received by the taxpayer (or a person described in subparagraph (C)) with respect to any share of stock, and

"(ii) which have ex-dividend dates during the same period of 365 consecutive days,

shall be treated as extraordinary dividends if the aggregate of such dividends exceeds 20 percent of the taxpayer's adjusted basis in such stock (determined without regard to this section).

"(C) SUBSTITUTED BASIS TRANSACTIONS.—In the case of any stock, a person is described in this subparagraph if—

"(i) the basis of such stock in the hands of such person is determined in whole or in part by reference to the basis of such stock in the hands of the taxpayer, or

"(ii) the basis of such stock in the hands of the taxpayer is determined in whole or in part by reference to the basis of such stock in the hands of such person.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TIME FOR REDUCTION.—Any reduction in basis under subsection (a) by reason of any distribution which is an extraordinary dividend shall occur at the beginning of the ex-dividend date for such distribution.

"(2) DISTRIBUTIONS IN KIND.—To the extent any dividend consists of property other than cash, the amount of such dividend shall be treated as the fair market value of such property (as of the date of the distribution) reduced as provided in section 301(b)(2).

"(3) DETERMINATION OF HOLDING PERIOD.—For purposes of determining the holding period of stock under subsection (a)(2), rules similar to the rules of paragraphs (3) and (4) of section 246(c) shall apply; except that '1 year' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

"(4) EX-DIVIDEND DATE.—The term 'ex-dividend date' means the date on which the share of stock becomes ex-dividend.

"(5) EXTENSION TO CERTAIN PROPERTY DISTRIBUTIONS.—In the case of any distribution of property (other than cash) to which section 301 applies—

"(A) such distribution shall be treated as a dividend without regard to whether the corporation has earnings and profits, and

"(B) the amount so treated shall be reduced by the amount of any reduction in basis under section 301(c)(2) by reason of such distribution.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions."

(b) HOLDING PERIODS.—

(1) 45-DAY HOLDING PERIOD.—Subsection (c) of section 246 (relating to the exclusion of certain dividends) is amended by striking out "15" each place it appears and inserting in lieu thereof "45". 26 USC 246.

(2) RULES FOR COMPUTING HOLDING PERIODS.—Subsection (c) of section 246 (relating to the exclusion of certain dividends) is amended by adding at the end thereof the following new paragraph:

"(4) HOLDING PERIOD REDUCED FOR PERIODS WHERE RISK OF LOSS DIMINISHED.—The holding periods determined under paragraph (3) shall be appropriately reduced (in the manner provided in regulations prescribed by the Secretary) for any period (during such periods) in which—

"(A) the taxpayer has an option to sell, is under a contractual obligation to sell, or has made (and not closed) a short sale of, substantially identical stock or securities,

"(B) the taxpayer is the grantor of an option to buy substantially identical stock or securities, or

"(C) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar or related property.

The preceding sentence shall not apply in the case of any qualified covered call (as defined in section 1092(c)(4) but without regard to the requirement that gain or loss with respect to the option not be ordinary income or loss)." *Post*, p. 616.

(3) Subparagraph (B) of section 246(c)(1) is amended to read as follows:

"(B) to the extent that the taxpayer is under an obligation (whether pursuant to a short sale or otherwise) to make related payments with respect to positions in substantially similar or related property."

(4) Paragraph (3) of section 246(c) is amended by striking out the last sentence.

(c) APPLICATION OF RELATED PERSON RULES TO SECTION 246(c) AND CERTAIN OTHER PROVISIONS.—Section 7701 is amended by redesignating subsection (f) as (g) and by inserting after subsection (e) the following new subsection: *Ante*, p. 518.

"(f) USE OF RELATED PERSONS OR PASS-THRU ENTITIES.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of those provisions of this title which deal with— Regulations.

"(1) the linking of borrowing to investment, or

"(2) diminishing risks,

through the use of related persons, pass-thru entities, or other intermediaries."

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1059 and inserting in lieu thereof the following new items:

"Sec. 1059. Corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends.
"Sec. 1060. Cross references."

26 USC 246.

(2) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "and without regard" and inserting in lieu thereof "without regard to any adjustment under section 1059, and without regard".

26 USC 1016.

(3) Section 1016(a) (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

Ante, p. 565.

"(26) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends)."

26 USC 1059 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to distributions after March 1, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to stock acquired after the date of the enactment of this Act in taxable years ending after such date.

(3) RELATED PERSON PROVISIONS.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 54. DISTRIBUTIONS OF APPRECIATED PROPERTY BY CORPORATIONS.

(a) GAIN RECOGNIZED ON DISTRIBUTIONS OF APPRECIATED PROPERTY.—

26 USC 311.

(1) IN GENERAL.—Paragraph (1) of section 311(d) (relating to appreciated property used to redeem stock) is amended to read as follows:

"(1) IN GENERAL.—If—

"(A) a corporation distributes property (other than an obligation of such corporation) to a shareholder in a distribution to which subpart A applies, and

"(B) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. This subsection shall be applied after the application of subsections (b) and (c)."

(2) EXCEPTIONS.—

(A) Paragraph (2) of section 311(d) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) a distribution which is made with respect to qualified stock if—

"(i) section 302(b)(4) applies to such distribution, or

"(ii) such distribution is a qualified dividend;".

(B) Paragraph (2) of section 311(d) is amended by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

(C) Subsection (e) of section 311 is amended by adding at the end thereof the following new paragraph:

"(3) QUALIFIED DIVIDEND.—The term 'qualified dividend' means any distribution of property to a shareholder other than a corporation if—

"(A) such distribution is a dividend,

"(B) such property was used by the distributing corporation in the active conduct of a qualified business (as defined in paragraph (2)), and

"(C) such property is not property described in paragraph (1) or (4) of section 1221."

(3) CLERICAL AMENDMENT.—The subsection heading of subsection (d) of section 311 is amended to read as follows: 26 USC 311.

"(d) DISTRIBUTIONS OF APPRECIATED PROPERTY.—".

(b) HOLDING PERIOD OF CORPORATE DISTRIBUTEE OF APPRECIATED PROPERTY.—Section 301 (relating to distributions of property) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection: 26 USC 301.

"(e) SPECIAL RULE FOR HOLDING PERIOD OF APPRECIATED PROPERTY DISTRIBUTED TO CORPORATION.—For purposes of this subtitle—

"(1) WHERE GAIN RECOGNIZED UNDER SECTION 311(d).—If—

"(A) property is distributed to a corporation, and

"(B) gain is recognized on such distribution under paragraph (1) of section 311(d), *Ante*, p. 568.

then such corporation's holding period in the distributed property shall begin on the date of such distribution.

"(2) WHERE GAIN NOT RECOGNIZED UNDER SECTION 311(d).—If—

"(A) property is distributed to a corporation,

"(B) gain is not recognized on such distribution under paragraph (1) of section 311(d), and

"(C) the basis of such property in the hands of such corporation is determined under subsection (d)(2)(B),

then (except for purposes of section 1248) such corporation shall not be treated as holding the distributed property during any period before the date on which such corporation's holding period in the stock began."

(c) CROSS REFERENCE.—Paragraph (13) of section 1223 (relating to holding period of property) is amended to read as follows: *Post*, p. 890.

"(13) CROSS REFERENCES.—

"(A) For special holding period provision relating to certain partnership distributions, see section 735(b).

"(B) For special holding period provision relating to distributions of appreciated property to corporations, see section 301(e)." *Supra.*

(d) EFFECTIVE DATES.— 26 USC 311 note.

(1) SUBSECTION (a).—Except as otherwise provided in this subsection, the amendments made by subsection (a) shall apply to distributions declared on or after June 14, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act in taxable years ending after such date.

(3) EXCEPTION FOR DISTRIBUTIONS BEFORE JANUARY 1, 1985, TO 80-PERCENT CORPORATE SHAREHOLDERS.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply to any distribution before January 1, 1985, to an 80-percent corporate shareholder if the basis of

the property distributed is determined under section 301(d)(2) of the Internal Revenue Code of 1954.

(B) 80-PERCENT CORPORATE SHAREHOLDER.—The term "80-percent corporate shareholder" means, with respect to any distribution, any corporation which owns—

(i) stock in the corporation making the distribution possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and

(ii) at least 80 percent of the total number of shares of all other classes of stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends).

(C) SPECIAL RULE FOR AFFILIATED GROUP FILING CONSOLIDATED RETURN.—For purposes of this paragraph and paragraph (4), all members of the same affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954) which file a consolidated return for the taxable year which includes the date of the distribution shall be treated as 1 corporation.

(4) EXCEPTION FOR CERTAIN DISTRIBUTIONS WHERE TENDER OFFER COMMENCED ON MAY 23, 1984.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply to any distribution made before September 1, 1986, if—

(i) such distribution consists of qualified stock held (directly or indirectly) on June 15, 1984, by the distributing corporation,

(ii) control of the distributing corporation (as defined in section 368(c) of the Internal Revenue Code of 1954) is acquired other than in a tax-free transaction after January 1, 1984, but before January 1, 1985,

Post, p. 584.

(iii) a tender offer for the shares of the distributing corporation was commenced on May 23, 1984, and was amended on May 24, 1984, and

(iv) the distributing corporation and the distributee corporation are members of the same affiliated group (as defined in section 1504 of such Code) which filed a consolidated return for the taxable year which includes the date of the distribution.

If the common parent of any affiliated group filing a consolidated return meets the requirements of clauses (ii) and (iii), each other member of such group shall be treated as meeting such requirements.

(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term "qualified stock" means any stock in a corporation which on June 15, 1984, was a member of the same affiliated group as the distributing corporation and which filed a consolidated return with the distributing corporation for the taxable year which included June 15, 1984.

(5) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to distributions before February 1, 1986, if—

(i) the distribution consists of property held on March 7, 1984 (or property acquired thereafter in the ordinary course of a trade or business) by—

(I) the controlled corporation, or

(II) any subsidiary controlled corporation,

(ii) a group of 1 or more shareholders (acting in concert)—

(I) acquired, during the 1-year period ending on February 1, 1984, at least 10 percent of the outstanding stock of the controlled corporation,

(II) held at least 10 percent of the outstanding stock of the common parent on February 1, 1984, and

(III) submitted a proposal for distributions of interests in a royalty trust from the common parent or the controlled corporation, and

(iii) the common parent acquired control of the controlled corporation during the 1-year period ending on February 1, 1984.

(B) DEFINITIONS.—For purposes of this paragraph—

(i) The term "common parent" has the meaning given such term by section 1504(a) of the Internal Revenue Code of 1954.

Post, p. 577.

(ii) The term "controlled corporation" means a corporation with respect to which 50 percent or more of the outstanding stock of its common parent is tendered for pursuant to a tender offer outstanding on March 7, 1984.

(iii) The term "subsidiary controlled corporation" means any corporation with respect to which the controlled corporation has control (within the meaning of section 368(c) of such Code) on March 7, 1984.

(6) EXCEPTION FOR CERTAIN DISTRIBUTION OF PARTNERSHIP INTERESTS.—The amendments made by this section shall not apply to any distribution before February 1, 1986, of an interest in a partnership the interests of which were being traded on a national securities exchange on March 7, 1984, if—

(A) such interest was owned by the distributing corporation (or any member of an affiliated group within the meaning of section 1504(a) of such Code of which the distributing corporation was a member) on March 7, 1984,

(B) the distributing corporation (or any such affiliated member) owned more than 80 percent of the interests in such partnership on March 7, 1984, and

(C) more than 10 percent of the interests in such partnership was offered for sale to the public during the 1-year period ending on March 7, 1984.

SEC. 55. EXTENSION OF HOLDING PERIOD FOR LOSSES ATTRIBUTABLE TO CAPITAL GAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES OR REAL ESTATE INVESTMENT TRUSTS.

(a) REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subparagraph (A) of section 852(b)(4) (relating to loss attributable to capital gain dividend) is amended to read as follows:

26 USC 852.

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) subparagraph (B) or (D) of paragraph (3) provides that any amount with respect to any share is to be treated as long-term capital gain, and

"(ii) such share is held by the taxpayer for 6 months or less,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss."

(2) DETERMINATION OF HOLDING PERIODS.—Subparagraph (C) of section 852(b)(4) is amended to read as follows:

26 USC 852.

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer held any share of stock; except that for the number of days specified in subparagraph (B) of section 246(c)(3) there shall be substituted—

Ante, p. 567.

"(i) '6 months' for purposes of subparagraph (A), and

"(ii) '30 days' for purposes of subparagraph (B)."

(3) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(D) LOSSES INCURRED UNDER A PERIODIC LIQUIDATION PLAN.—To the extent provided in regulations, subparagraph (A) shall not apply to losses incurred on the sale or exchange of shares of stock in a regulated investment company pursuant to a plan which provides for the periodic liquidation of such shares."

(b) REAL ESTATE INVESTMENT TRUST.—Paragraph (7) of section 857(b) (relating to loss on sale or exchange of stock in real estate investment trust) is amended to read as follows:

26 USC 857.

"(7) LOSS ON SALE OR EXCHANGE OF STOCK HELD 6 MONTHS OR LESS.—

"(A) IN GENERAL.—If—

"(i) subparagraph (B) of paragraph (3) provides that any amount with respect to any share or beneficial interest is to be treated as a long-term capital gain, and

"(ii) the taxpayer has held such share or interest for 6 months or less,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) DETERMINATION OF HOLDING PERIOD.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock or beneficial interest; except that '6 months' shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

Ante, p. 567.

"(C) EXCEPTION FOR LOSSES INCURRED UNDER PERIODIC LIQUIDATION PLANS.—To the extent provided in regulations, subparagraph (A) shall not apply to any loss incurred on the sale or exchange of shares of stock of, or beneficial interest in, a real estate investment trust pursuant to a plan which provides for the periodic liquidation of such shares or interests."

26 USC 852 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses incurred with respect to shares of stock and beneficial interests with respect to which the taxpayer's holding period begins after the date of the enactment of this Act.

PART III—MISCELLANEOUS PROVISIONS

SEC. 56. DENIAL OF DEDUCTIONS FOR CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.

(a) SHORT SALE PAYMENTS ATTRIBUTABLE TO DIVIDENDS.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection: 26 USC 263.

"(h) PAYMENTS IN LIEU OF DIVIDENDS IN CONNECTION WITH SHORT SALES.—

"(1) IN GENERAL.—If—

"(A) a taxpayer makes any payment with respect to any stock used by such taxpayer in a short sale and such payment is in lieu of a dividend payment on such stock, and

"(B) the closing of such short sale occurs on or before the 45th day after the date of such short sale,

then no deduction shall be allowed for such payment. The basis of the stock used to close the short sale shall be increased by the amount not allowed as a deduction by reason of the preceding sentence.

"(2) LONGER PERIOD IN CASE OF EXTRAORDINARY DIVIDENDS.—If the payment described in paragraph (1)(A) is in respect of an extraordinary dividend, paragraph (1)(B) shall be applied by substituting 'the day 1 year after the date of such short sale' for 'the 45th day after the date of such short sale'.

"(3) EXTRAORDINARY DIVIDEND.—For purposes of this subsection, the term 'extraordinary dividend' has the meaning given to such term by section 1059(c); except that such section shall be applied by treating the amount realized by the taxpayer in the short sale as his adjusted basis in the stock. *Ante*, p. 565.

"(4) SPECIAL RULE WHERE RISK OF LOSS DIMINISHED.—The running of any period of time applicable under paragraph (1)(B) (as modified by paragraph (2)) shall be suspended during any period in which—

"(A) the taxpayer holds, has an option to buy, or is under a contractual obligation to buy, substantially identical stock or securities, or

"(B) under regulations prescribed by the Secretary, a taxpayer has diminished his risk of loss by holding 1 or more other positions with respect to substantially similar or related property.

"(5) DEDUCTION ALLOWABLE TO EXTENT OF ORDINARY INCOME FROM AMOUNTS PAID BY LENDING BROKER FOR USE OF COLLATERAL.—

"(A) IN GENERAL.—Paragraph (1) shall apply only to the extent that the payments or distributions with respect to any short sale exceed the amount which—

"(i) is treated as ordinary income by the taxpayer, and

"(ii) is received by the taxpayer as compensation for the use of any collateral with respect to any stock used in such short sale.

"(B) EXCEPTION NOT TO APPLY TO EXTRAORDINARY DIVIDENDS.—Subparagraph (A) shall not apply if one or more payments or distributions is in respect of an extraordinary dividend.

"(6) APPLICATION OF THIS SUBSECTION WITH SUBSECTION (g).—In the case of any short sale, this subsection shall be applied before subsection (g)."

26 USC 163.

(b) INVESTMENT INTEREST TO INCLUDE CERTAIN EXPENSES INVOLVING SHORT SALES.—Subparagraph (D) of section 163(d)(3) (defining investment interest) is amended to read as follows:

"(D) INVESTMENT INTEREST.—

"(i) IN GENERAL.—The term 'investment interest' means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

"(ii) CERTAIN EXPENSES INCURRED IN CONNECTION WITH SHORT SALES.—For purposes of clause (i), the term 'interest' includes any amount allowable as a deduction in connection with personal property used in a short sale."

26 USC 265.

(c) APPLICATION OF SECTION 265(2) TO SHORT SALES.—Section 265 (relating to denial of deduction of interest relating to tax-exempt income) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2) IN THE CASE OF SHORT SALES.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The term 'interest' includes any amount paid or incurred—

"(i) by any person making a short sale in connection with personal property used in such short sale, or

"(ii) by any other person for the use of any collateral with respect to such short sale.

"(B) EXCEPTION WHERE NO RETURN ON CASH COLLATERAL.—If—

"(i) the taxpayer provides cash as collateral for any short sale, and

"(ii) the taxpayer receives no material earnings on such cash during the period of the sale,

subparagraph (A)(i) shall not apply to such short sale."

26 USC 163 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to short sales after the date of the enactment of this Act in taxable years ending after such date.

SEC. 57. NONRECOGNITION OF GAIN OR LOSS BY CORPORATION ON OPTIONS WITH RESPECT TO ITS STOCK.

26 USC 1032.

(a) GENERAL RULE.—Subsection (a) of section 1032 (relating to exchange of stock of property) is amended by adding at the end thereof the following new sentence: "No gain or loss shall be recognized by a corporation with respect to any lapse or acquisition of an option to buy or sell its stock (including treasury stock)."

26 USC 1032 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options acquired or lapsed after the date of the enactment of this Act in taxable years ending after such date.

SEC. 58. AMENDMENTS TO ACCUMULATED EARNINGS TAX.

26 USC 532.

(a) CLARIFICATION THAT TAX APPLIES TO CORPORATIONS WHICH ARE NOT CLOSELY HELD.—Section 532 (relating to corporations subject to accumulated earnings tax) is amended by adding at the end thereof the following new subsection:

"(c) APPLICATION DETERMINED WITHOUT REGARD TO NUMBER OF SHAREHOLDERS.—The application of this part to a corporation shall

be determined without regard to the number of shareholders of such corporation."

(b) TREATMENT OF CAPITAL GAINS AND LOSSES.—Subsection (b) of section 535 (defining accumulated taxable income) is amended by striking out paragraphs (5), (6), and (7) and inserting in lieu thereof the following: 26 USC 535.

"(5) CAPITAL LOSSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), there shall be allowed as a deduction an amount equal to the net capital loss for the taxable year (determined without regard to paragraph (7)(A)).

"(B) RECAPTURE OF PREVIOUS DEDUCTIONS FOR CAPITAL GAINS.—The aggregate amount allowable as a deduction under subparagraph (A) for any taxable year shall be reduced by the lesser of—

"(i) the nonrecaptured capital gains deductions, or

"(ii) the amount of the accumulated earnings and profits of the corporation as of the close of the preceding taxable year.

"(C) NONRECAPTURED CAPITAL GAINS DEDUCTIONS.—For purposes of subparagraph (B), the term 'nonrecaptured capital gains deductions' means the excess of—

"(i) the aggregate amount allowable as a deduction under paragraph (6) for preceding taxable years beginning after the date of the enactment of the Tax Reform Act of 1984, over *Ante*, p. 494.

"(ii) the aggregate of the reductions under subparagraph (B) for preceding taxable years.

"(6) NET CAPITAL GAINS.—

"(A) IN GENERAL.—There shall be allowed as a deduction—

"(i) the net capital gain for the taxable year (determined with the application of paragraph (7)), reduced by

"(ii) the taxes attributable to such net capital gain.

"(B) ATTRIBUTABLE TAXES.—For purposes of subparagraph (A), the taxes attributable to the net capital gain shall be an amount equal to the difference between—

"(i) the taxes imposed by this subtitle (except the tax imposed by this part) for the taxable year, and

"(ii) such taxes computed for such year without including in taxable income the net capital gain for the taxable year (determined without the application of paragraph (7)).

"(7) CAPITAL LOSS CARRYOVERS.—

"(A) UNLIMITED CARRYFORWARD.—The net capital loss for any taxable year shall be treated as a short-term capital loss in the next taxable year.

"(B) SECTION 1212 INAPPLICABLE.—No allowance shall be made for the capital loss carryback or carryforward provided in section 1212.

"(8) SPECIAL RULES FOR MERE HOLDING OR INVESTMENT COMPANIES.—In the case of a mere holding or investment company—

"(A) CAPITAL LOSS DEDUCTION, ETC., NOT ALLOWED.—Paragraphs (5) and (7)(A) shall not apply.

"(B) DEDUCTION FOR CERTAIN OFFSETS.—There shall be allowed as a deduction the net short-term capital gain for

the taxable year to the extent such gain does not exceed the amount of any capital loss carryover to such taxable year under section 1212 (determined without regard to paragraph (7)(B)).

"(C) EARNINGS AND PROFITS.—For purposes of subchapter C, the accumulated earnings and profits at any time shall not be less than they would be if this subsection had applied to the computation of earnings and profits for all taxable years beginning after the date of the enactment of the Tax Reform Act of 1984."

Ante, p. 494.

26 USC 532 note.

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

SEC. 59. REPEAL OF STOCK FOR DEBT EXCEPTION FOR PURPOSES OF DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.

26 USC 108.

(a) GENERAL RULE.—Subsection (e) of section 108 (relating to income from discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(10) INDEBTEDNESS SATISFIED BY CORPORATION'S STOCK.—

"(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock.

"(B) EXCEPTION FOR TITLE 11 CASES AND INSOLVENT DEBTORS.—Subparagraph (A) shall not apply in the case of a debtor in a title 11 case or to the extent the debtor is insolvent."

11 USC 101 *et seq.*

(b) EXCEPTION FOR CERTAIN WORKOUTS.—

(1) IN GENERAL.—Paragraph (10) of section 108(e) (as added by subsection (a)) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR TRANSFERS IN CERTAIN WORKOUTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock in a qualified workout.

"(ii) QUALIFIED WORKOUT.—For purposes of clause (i), the term 'qualified workout' means any plan under which stock is transferred to creditors in satisfaction of indebtedness if—

"(I) because of cash flow and credit problems, the corporation making such transfer will have trouble in meeting liabilities coming due during the next 12 months to such an extent that there is a substantial threat of involuntary proceedings relating to insolvency or bankruptcy,

"(II) such corporation in any report to its shareholders for the period during which such transfer occurs includes a statement that such corporation believes it meets the requirement of subclause (I) and that it is availing itself of the workout provisions of this subparagraph,

"(III) the holders of more than 50 percent of the total indebtedness of the corporation approve such plan, and

"(IV) at least 25 percent of the total indebtedness of the corporation is extinguished by transfers pursuant to such plan."

26 USC 108 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if it had been included in the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976.

26 USC 368, 382, 383.

(b) EFFECTIVE DATE.—

26 USC 108 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(2) TRANSITIONAL RULE.—The amendment made by subsection (a) shall not apply to the transfer by a corporation of its stock in exchange for debt of the corporation after the date of the enactment of this Act if such transfer is—

(A) pursuant to a written contract requiring such transfer which was binding on the corporation at all times on June 7, 1984, and at all times after such date but only if the transfer takes place before January 1, 1985, and only if the transferee held the debt at all times on June 7, 1984, or

(B) pursuant to the exercise of an option to exchange debt for stock but only if such option was in effect at all times on June 7, 1984, and at all times after such date and only if at all times on June 7, 1984, the option and the debt were held by the same person.

(3) CERTAIN TRANSFERS TO CONTROLLING SHAREHOLDER.—The amendment made by subsection (a) shall not apply to any transfer before January 1, 1985, by a corporation of its stock in exchange for debt of such corporation if—

(A) such transfer is to another corporation which at all times on June 7, 1984, owned 75 percent or more of the total value of the stock of the corporation making such transfer, and

(B) immediately after such transfer, the transferee corporation owns 80 percent or more of the total value of the stock of the transferor corporation.

(4) CERTAIN TRANSFERS PURSUANT TO DEBT RESTRUCTURE AGREEMENT.—The amendment made by subsection (a) shall not apply to the transfer by a corporation of its stock in exchange for debt of the corporation after the date of the enactment of this Act and before January 1, 1985, if—

(A) such transfer is covered by a debt restructure agreement entered into by the corporation during November 1983, and

(B) such agreement was specified in a registration statement filed with the Securities and Exchange Commission by the corporation on March 7, 1984.

SEC. 60. AFFILIATED GROUP DEFINED.

(a) IN GENERAL.—Subsection (a) of section 1504 (defining affiliated group) is amended to read as follows:

26 USC 1504.

"(a) AFFILIATED GROUP DEFINED.—For purposes of this subtitle—

"(1) IN GENERAL.—The term 'affiliated group' means—

"(A) 1 or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if—

"(B)(i) the common parent owns directly stock meeting the requirements of paragraph (2) in at least 1 of the other includible corporations, and

"(ii) stock meeting the requirements of paragraph (2) in each of the includible corporations (except the common parent) is owned directly by 1 or more of the other includible corporations.

"(2) 80-PERCENT VOTING AND VALUE TEST.—The ownership of stock of any corporation meets the requirements of this paragraph if it—

"(A) possesses at least 80 percent of the total voting power of the stock of such corporation, and

"(B) has a value equal to at least 80 percent of the total value of the stock of such corporation.

"(3) 5 YEARS MUST ELAPSE BEFORE RECONSOLIDATION.—

"(A) IN GENERAL.—If—

"(i) a corporation is included (or required to be included) in a consolidated return filed by an affiliated group for a taxable year which includes any period after December 31, 1984, and

"(ii) such corporation ceases to be a member of such group in a taxable year beginning after December 31, 1984,

with respect to periods after such cessation, such corporation (and any successor of such corporation) may not be included in any consolidated return filed by the affiliated group (or by another affiliated group with the same common parent or a successor of such common parent) before the 61st month beginning after its first taxable year in which it ceased to be a member of such affiliated group.

"(B) SECRETARY MAY WAIVE APPLICATION OF SUBPARAGRAPH (A).—The Secretary may waive the application of subparagraph (A) to any corporation for any period subject to such conditions as the Secretary may prescribe.

"(4) STOCK NOT TO INCLUDE CERTAIN PREFERRED STOCK.—For purposes of this subsection, the term 'stock' does not include any stock which—

"(A) is not entitled to vote,

"(B) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent,

"(C) has redemption and liquidation rights which do not exceed the paid-in capital or par value represented by such stock (except for a reasonable redemption premium in excess of such paid-in capital or par value), and

"(D) is not convertible into another class of stock.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including (but not limited to) regulations—

"(A) which treat warrants, obligations convertible into stock, and other similar interests as stock, and stock as not stock,

"(B) which treat options to acquire or sell stock as having been exercised,

"(C) which provide that the requirements of paragraph (2)(B) shall be treated as met if the affiliated group, in

reliance on a good faith determination of value, treated such requirements as met,

"(D) which disregard an inadvertent ceasing to meet the requirements of paragraph (2)(B) by reason of changes in relative values of different classes of stock,

"(E) which provide that transfers of stock within the group shall not be taken into account in determining whether a corporation ceases to be a member of an affiliated group, and

"(F) which disregard changes in voting power to the extent such changes are disproportionate to related changes in value."

(b) EFFECTIVE DATE.— 26 USC 1504 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(2) SPECIAL RULE FOR CORPORATIONS AFFILIATED ON JUNE 22, 1984.—In the case of a corporation which on June 22, 1984, is a member of an affiliated group which files a consolidated return for such corporation's taxable year which includes June 22, 1984, for purposes of determining whether such corporation continues to be a member of such group for taxable years beginning before January 1, 1988, the amendment made by subsection (a) shall not apply.

(3) SPECIAL RULE NOT TO APPLY TO SELL-DOWNS AFTER JUNE 22, 1984.—If—

(A) the requirements of subsection (b)(2) are satisfied with respect to a corporation,

(B) more than a de minimis amount of the stock of such corporation is sold or exchanged (including in a redemption), or issued (other than in the ordinary course of business) after June 22, 1984, and

(C) the requirements of the amendment made by subsection (a) are not satisfied after such sale, exchange, or issuance, then the amendments made by subsection (a) shall apply for purposes of determining whether such corporation continues to be a member of such group.

(4) EXCEPTION FOR CERTAIN SELL-DOWNS.—Subsection (b)(2) (and not subsection (b)(3)) will apply to a corporation if such corporation issues or sells stock after June 22, 1984, pursuant to a registration statement filed with the Securities and Exchange Commission on or before June 22, 1984, but only if the requirements of the amendment made by subsection (a) (substituting "more than 50 percent" for "at least 80 percent" in paragraph (2)(B) of section 1504(a) of the Internal Revenue Code of 1954) are satisfied immediately after such issuance or sale and at all times thereafter until the first day of the first taxable year beginning after December 31, 1987. *Ante*, p. 577.

(5) NATIVE CORPORATIONS.—The amendments made by subsection (a) shall not apply to any Native Corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) during any taxable year beginning before 1992 or any part thereof in which such Corporation is subject to the provisions of section 7(h)(1) of such Act (43 U.S.C. 1606 (h)(1)).

SEC. 61. PROVISIONS RELATING TO EARNINGS AND PROFITS.

(a) ADJUSTMENTS TO EARNINGS AND PROFITS.—

26 USC 312.

(1) IN GENERAL.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

"(n) ADJUSTMENTS TO EARNINGS AND PROFITS TO MORE ACCURATELY REFLECT ECONOMIC GAIN AND LOSS.—For purposes of computing the earnings and profits of a corporation, the following adjustments shall be made:

"(1) CONSTRUCTION PERIOD CARRYING CHARGES.—

"(A) IN GENERAL.—In the case of any amount paid or incurred for construction period carrying charges—

"(i) no deduction shall be allowed with respect to such amount, and

"(ii) the basis of the property with respect to which such charges are allocable shall be increased by such amount.

"(B) CONSTRUCTION PERIOD CARRYING CHARGES DEFINED.—For purposes of this paragraph, the term 'construction period carrying charges' means all—

"(i) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry property,

"(ii) property taxes, and

"(iii) similar carrying charges,

to the extent such interest, taxes, or charges are attributable to the construction period for such property and would be allowable as a deduction in determining taxable income under this chapter for the taxable year in which paid or incurred (determined without regard to section 189).

"(C) CONSTRUCTION PERIOD.—The term 'construction period' has the meaning given such term by section 189(e)(2) (determined without regard to any real property limitation).

"(2) INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—

"(A) INTANGIBLE DRILLING COSTS.—Any amount allowable as a deduction under section 263(c) in determining taxable income (other than costs incurred in connection with a nonproductive well)—

"(i) shall be capitalized, and

"(ii) shall be allowed as a deduction ratably over the 60-month period beginning with the month in which the production from the well begins.

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—Any amount allowable as a deduction under section 616(a) or 617 in determining taxable income—

"(i) shall be capitalized, and

"(ii) shall be allowed as a deduction ratably over the 120-month period beginning with the later of—

"(I) the month in which production from the deposit begins, or

"(II) the month in which such amount was paid or incurred.

"(3) CERTAIN AMORTIZATION PROVISIONS NOT TO APPLY.—Sections 173, 177, and 248 shall not apply.

"(4) CERTAIN UNTAXED APPRECIATION OF DISTRIBUTED PROPERTY.—In the case of any distribution of property by a corporation described in section 311(d), earnings and profits shall be increased by the amount of any gain which would be includible

Ante, p. 568.

in gross income for any taxable year if section 311(d)(2) did not apply. *Ante*, p. 568.

"(5) LIFO INVENTORY ADJUSTMENTS.—Earnings and profits shall be increased or decreased by the amount of any increase or decrease in the LIFO recapture amount (determined under section 336(b)(3)) as of the close of each taxable year; except that any decrease below the LIFO recapture amount as of the close of the taxable year preceding the first taxable year to which this paragraph applies to the taxpayer shall be taken into account only to the extent provided in regulations prescribed by the Secretary.

"(6) INSTALLMENT SALES.—In the case of any installment sale, earnings and profits shall be computed as if the corporation did not use the installment method.

"(7) COMPLETED CONTRACT METHOD OF ACCOUNTING.—In the case of a taxpayer who uses the completed contract method of accounting, earnings and profits shall be computed as if such taxpayer used the percentage of completion method of accounting.

"(8) REDEMPTIONS.—If a corporation distributes amounts in a redemption to which section 302(a) or 303 applies, the part of such distribution which is properly chargeable to earnings and profits shall be an amount which is not in excess of the ratable share of the earnings and profits of such corporation accumulated after February 28, 1913, attributable to the stock so redeemed.

"(9) SPECIAL RULE FOR CERTAIN FOREIGN CORPORATIONS.—In the case of a foreign corporation described in subsection (k)(4), paragraphs (5), (6), and (7) shall apply only in the case of taxable years beginning after December 31, 1985."

(2) CONFORMING AMENDMENTS.—

(A) Section 312(j) (relating to earnings and profits of foreign investment companies) is amended by striking out paragraph (3). 26 USC 312.

(B) Subsection (e) of section 312 is hereby repealed.

(b) ADJUSTMENT TO EFFECT OF DEPRECIATION ON EARNINGS AND PROFITS.—The table contained in section 312(k)(3)(A) (relating to recovery property), as amended by this Act, is amended by striking out "35 years" in the item relating to 15-year real property and 20-year real property and inserting in lieu thereof "40 years".

(c) DISTRIBUTIONS OF OBLIGATIONS HAVING ORIGINAL ISSUE DISCOUNT.—

(1) EFFECT ON EARNINGS AND PROFITS.—

(A) Paragraph (2) of section 312(a) (relating to effect of earnings and profits) is amended to read as follows:

"(2) the principal amount of the obligations of such corporation (or, in the case of obligations having original issue discount, the aggregate issue price of such obligations), and".

(B) Section 312, as amended by subsection (a), is amended by adding at the end thereof the following new subsection: *Ante*, p. 580.

"(o) DEFINITION OF ORIGINAL ISSUE DISCOUNT AND ISSUE PRICE FOR PURPOSES OF SUBSECTION (a)(2).—For purposes of subsection (a)(2), the terms 'original issue discount' and 'issue price' have the same respective meanings as when used in subpart A of part V of subchapter P of this chapter." *Ante*, p. 531.

(2) TREATMENT UNDER ORIGINAL ISSUE DISCOUNT RULES.—Subsection (a) of section 1275 (relating to other definitions and *Ante*, p. 540.

special rules), as added by this Act, is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF OBLIGATIONS DISTRIBUTED TO CORPORATIONS.—Any debt obligation of a corporation distributed by such corporation with respect to its stock shall be treated as if it had been issued by such corporation for property."

(d) SPECIAL RULE IN CASE OF DISTRIBUTIONS RECEIVED BY 20 PERCENT CORPORATE SHAREHOLDER.—Section 301 (relating to distributions of property) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

Ante, p. 569.

"(f) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS RECEIVED BY 20 PERCENT CORPORATE SHAREHOLDER.—

"(1) IN GENERAL.—Except to the extent otherwise provided in regulations, solely for purposes of determining the taxable income of any 20 percent corporate shareholder (and its adjusted basis in the stock of the distributing corporation), section 312 shall be applied with respect to the distributing corporation as if it did not contain subsection (n) thereof.

Ante, p. 580.

"(2) 20 PERCENT CORPORATE SHAREHOLDER.—For purposes of this subsection, the term '20 percent corporate shareholder' means, with respect to any distribution, any corporation which owns (directly or through the application of section 318)—

"(A) stock in the corporation making the distribution possessing at least 20 percent of the total combined voting power of all classes of stock entitled to vote, or

"(B) at least 20 percent of the total value of all stock of the distributing corporation (except nonvoting stock which is limited and preferred as to dividends),

but only if, but for this subsection, the distributee corporation would be entitled to a deduction under section 243, 244, or 245 with respect to such distribution.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

26 USC 312 note.

(e) EFFECTIVE DATES.—

(1) ADJUSTMENTS TO EARNINGS AND PROFITS.—

(A) PARAGRAPHS (1), (2), AND (3) OF SECTION 312(n).—The provisions of paragraphs (1), (2), and (3) of section 312(n) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to amounts paid or incurred in taxable years beginning after September 30, 1984.

Ante, p. 580.

(B) PARAGRAPH (4) OF SECTION 312(n).—The provisions of paragraph (4) of section 312(n) of such Code (as so added) shall apply to distributions after September 30, 1984; except that such provisions shall not apply to any distribution to which the amendments made by section 54(a) of this Act do not apply.

Ante, p. 568.

(C) LIFO INVENTORY.—The provisions of paragraph (5) of section 312(n) of such Code (as so added) shall apply to taxable years beginning after September 30, 1984.

(D) INSTALLMENT SALES.—The provisions of paragraph (6) of section 312(n) of such Code (as so added) shall apply to sales after September 30, 1984, in taxable years ending after such date.

(E) COMPLETED CONTRACT METHOD.—The provisions of paragraph (7) of section 312(n) of such Code (as so added)

shall apply to contracts entered into after September 30, 1984, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to property placed in service in taxable years beginning after September 30, 1984.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply with respect to distributions declared after March 15, 1984, in taxable years ending after such date.

(4) SUBSECTION (d).—The amendment made by subsection (d) shall apply to distributions after the date of the enactment of this Act in taxable years ending after such date. 26 USC 301 note.

SEC. 62. 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

(a) IN GENERAL.—Subsection (g) of section 806 of the Tax Reform Act of 1976 (26 U.S.C. 382 note) (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) is amended— 26 USC 382, 383.

(1) by striking out "June 30, 1984" in paragraph (2) and inserting in lieu thereof "December 31, 1985";

(2) by striking out "January 1, 1984" in paragraph (2)(B) and inserting in lieu thereof "January 1, 1986"; and

(3) by striking out "January 1, 1984" in paragraph (3) and inserting in lieu thereof "January 1, 1986".

(b) TECHNICAL AMENDMENT.—

(1) Paragraph (1) of section 382(b) (as amended by the Tax Reform Act of 1976) is amended by striking out "section 368(a)(1) (A), (B), (C), (D) (but only if the requirements of section 354(b)(1) are met), or (F)" and inserting in lieu thereof "subparagraph (A), (B), (C), or (F) of section 368(a)(1) or subparagraph (D) or (G) of section 368(a)(1) (but only if the requirements of section 354(b)(1) are met)". 26 USC 382.

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 4 of the Bankruptcy Tax Act of 1980. 26 USC 382 note. 94 Stat. 3401.

SEC. 63. TARGET CORPORATION MUST DISTRIBUTE ASSETS AFTER REORGANIZATION DESCRIBED IN SECTION 368(a)(1)(C).

(a) IN GENERAL.—Paragraph (2) of section 368(a) (relating to special rules for paragraph (1)) is amended by adding at the end thereof the following new subparagraph: 26 USC 368.

"(G) DISTRIBUTION REQUIREMENT FOR PARAGRAPH (1)(C).—

"(i) IN GENERAL.—A transaction shall fail to meet the requirements of paragraph (1)(C) unless the acquired corporation distributes the stock, securities, and other properties it receives, as well as its other properties, in pursuance of the plan of reorganization.

"(ii) EXCEPTION.—The Secretary may waive the application of clause (i) to any transaction subject to any conditions the Secretary may prescribe."

(b) ALLOCATION IN CERTAIN CORPORATE SEPARATIONS AND REORGANIZATIONS.—Subsection (h) of section 312 (relating to allocation in certain corporate separations) is amended to read as follows: 26 USC 312.

"(h) ALLOCATION IN CERTAIN CORPORATE SEPARATIONS AND REORGANIZATIONS.—

"(1) SECTION 355.—In the case of a distribution or exchange to which section 355 (or so much of section 356 as relates to section 355) applies, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation (or corporations) shall be made under regulations prescribed by the Secretary.

"(2) SECTION 368(a)(1)(C) OR (D).—In the case of a reorganization described in subparagraph (C) or (D) of section 368(a)(1), proper allocation with respect to the earnings and profits of the acquired corporation shall, under regulations prescribed by the Secretary, be made between the acquiring corporation and the acquired corporation (or any corporation which had control of the acquired corporation before the reorganization)."

26 USC 312 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions pursuant to plans adopted after the date of the enactment of this Act.

SEC. 64. DEFINITION OF CONTROL FOR PURPOSES OF NONDIVISIVE REORGANIZATIONS UNDER SECTION 368(a)(1)(D).

26 USC 368.

(a) IN GENERAL.—Subsection (c) of section 368 (defining control) is amended to read as follows:

"(c) CONTROL DEFINED.—

26 USC 301.
26 USC 331, 351, 381.

"(1) IN GENERAL.—For purposes of part I (other than section 304), part II, this part, and part V, the term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

"(2) SPECIAL RULE FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE DESCRIBED IN SUBSECTION (a)(1)(D).—In the case of any transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, for purposes of determining whether such transaction is described in subparagraph (D) of subsection (a)(1), the term 'control' has the meaning given to such term by section 304(c)."

26 USC 368 note.

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

SEC. 65. COLLAPSIBLE CORPORATIONS.

26 USC 341.

(a) DEFINITION.—Subparagraph (A) of section 341(b)(1) (relating to collapsible corporations) is amended by striking out "a substantial part" and inserting in lieu thereof "⅔".

(b) LIMITATIONS.—Subsection (d) of section 341 (relating to limitations on application of section) is amended by adding at the end thereof the following sentence: "In determining whether property is described in subsection (b)(1) for purposes of applying paragraph (2), all property described in section 1221(1) shall, to the extent provided in regulations prescribed by the Secretary, be treated as one item of property."

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 341(d) is amended by striking out "so manufactured, constructed, produced, or purchased" and inserting in lieu thereof "described in subsection (b)(1)".

26 USC 341 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales, exchanges, and distributions made after the date of the enactment of this Act.

SEC. 66. PHASE-OUT OF GRADUATED RATES FOR LARGE CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 11 (relating to amount of tax imposed on corporations) is amended by adding at the end thereof the following new flush sentence: "In the case of a corporation with taxable income in excess of $1,000,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $20,250." 26 USC 11.

(b) CONFORMING AMENDMENT.—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain control corporations) is amended by adding at the end thereof the following new sentence: "Notwithstanding paragraph (1), in applying the last sentence of section 11(b) to such component members, the taxable income of all such component members shall be taken into account and any increase in tax under such last sentence shall be divided among such component members in the same manner as amounts under paragraph (1)." 26 USC 1561.

(c) EFFECTIVE DATE.— 26 USC 11 note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) AMENDMENTS NOT TREATED AS CHANGED IN RATE OF TAX.—The amendments made by this subsection shall not be treated as a change in a rate of tax for purposes of section 21 of the Internal Revenue Code of 1954. *Post*, p. 830.

SEC. 67. RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS.

(a) DENIAL OF DEDUCTION.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 280F the following new section:

"SEC. 280G. GOLDEN PARACHUTE PAYMENTS. 26 USC 280G.

"(a) GENERAL RULE.—No deduction shall be allowed under this chapter for any excess parachute payment.

"(b) EXCESS PARACHUTE PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess parachute payment' means an amount equal to the excess of any parachute payment over the portion of the base amount allocated to such payment.

"(2) PARACHUTE PAYMENT DEFINED.—

"(A) IN GENERAL.—The term 'parachute payment' means any payment in the nature of compensation to (or for the benefit of) a disqualified individual if—

"(i) such payment is contingent on a change—

"(I) in the ownership or effective control of the corporation, or

"(II) in the ownership of a substantial portion of the assets of the corporation, and

"(ii) the aggregate present value of the payments in the nature of compensation to (or for the benefit of) such individual which are contingent on such change equals or exceeds an amount equal to 3 times the base amount.

"(B) AGREEMENTS.—The term 'parachute payment' shall also include any payment in the nature of compensation to (or for the benefit of) a disqualified individual if such payment is pursuant to an agreement which violates any securities laws or regulations.

"(C) TREATMENT OF CERTAIN AGREEMENTS ENTERED INTO WITHIN 1 YEAR BEFORE CHANGE OF OWNERSHIP.—For purposes of subparagraph (A)(i), any payment pursuant to—

"(i) an agreement entered into within 1 year before the change described in subparagraph (A)(i), or

"(ii) an amendment made within such 1-year period of a previous agreement,

shall be presumed to be contingent on such change unless the contrary is established by clear and convincing evidence.

"(3) BASE AMOUNT.—

"(A) IN GENERAL.—The term 'base amount' means the individual's annualized includible compensation for the base period.

"(B) ALLOCATION.—The portion of the base amount allocated to any parachute payment shall be an amount which bears the same ratio to the base amount as—

"(i) the present value of such payment, bears to

"(ii) the aggregate present value of all such payments.

"(4) EXCESS PARACHUTE PAYMENTS REDUCED TO EXTENT TAXPAYER ESTABLISHES REASONABLE COMPENSATION.—In the case of any parachute payment described in paragraph (2)(A), the amount of any excess parachute payment shall be reduced by the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered. For purposes of the preceding sentence, reasonable compensation shall be first offset against the base amount.

"(c) DISQUALIFIED INDIVIDUALS.—For purposes of this section, the term 'disqualified individual' means any individual who is—

"(1) an employee, independent contractor, or other person specified in regulations by the Secretary who performs personal services for any corporation, and

"(2) is an officer, shareholder, or highly-compensated individual.

For purposes of this section, a personal service corporation (or similar entity) shall be treated as an individual.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ANNUALIZED INCLUDIBLE COMPENSATION FOR BASE PERIOD.—The term 'annualized includible compensation for the base period' means the average annual compensation which—

"(A) was payable by the corporation with respect to which the change in ownership or control described in paragraph (2)(A) of subsection (b) occurs, and

"(B) was includible in the gross income of the disqualified individual for taxable years in the base period.

"(2) BASE PERIOD.—The term 'base period' means the period consisting of the most recent 5 taxable years ending before the date on which the change in ownership or control described in paragraph (2)(A) of subsection (b) occurs (or such portion of such period during which the disqualified individual was an employee of the corporation).

"(3) PROPERTY TRANSFERS.—Any transfer of property—

"(A) shall be treated as a payment, and

"(B) shall be taken into account as its fair market value.

"(4) PRESENT VALUE.—Present value shall be determined in accordance with section 1274(b)(2). *Ante*, p. 538.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section (including regulations for the application of this section in the case of related corporations and in the case of personal service corporations)."

(b) EXCISE TAX ON AMOUNTS RECEIVED.—

(1) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 46—GOLDEN PARACHUTE PAYMENTS

"Sec. 4999. Golden parachute payments.

"SEC. 4999. GOLDEN PARACHUTE PAYMENTS. 26 USC 4999.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives an excess parachute payment a tax equal to 20 percent of the amount of such payment.

"(b) EXCESS PARACHUTE PAYMENT DEFINED.—For purposes of this section, the term 'excess parachute payment' has the meaning given to such term by section 280G(b). *Ante*, p. 585.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) WITHHOLDING.—In the case of any excess parachute payment which is wages (within the meaning of section 3401) the amount deducted and withheld under section 3402 shall be increased by the amount of the tax imposed by this section on such payment.

"(2) OTHER ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A." 26 USC 6001. 26 USC 1.

(2) DENIAL OF DEDUCTION.—Paragraph (6) of section 275(a) (relating to denial of deduction for certain taxes) is amended by striking out "and 44" and inserting in lieu thereof "44, and 46". 26 USC 275.

(c) FICA TAXES.—Subparagraph (A) of section 3121(v)(2) (relating to treatment of certain nonqualified deferred compensation plans) is amended by adding at the end thereof the following new sentence: 97 Stat 122. 26 USC 3121.

"The preceding sentence shall not apply to any excess parachute payment (as defined in section 280G(b))."

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for part IX of subchapter B of chapter 1 is amended by adding after the item relating to section 280F the following new item:

"Sec. 280G. Golden parachute payments."

(2) The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 46. Golden parachute payments."

(e) EFFECTIVE DATES.— 26 USC 280G note.

(1) IN GENERAL.—The amendments made by this section shall apply to payments under agreements entered into or renewed after June 14, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CONTRACT AMENDMENTS.—Any contract entered into before June 15, 1984, which is amended after June 14, 1984, in any significant relevant aspect shall be treated as a contract entered into after June 14, 1984.

SEC. 68. INCREASE IN REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS FROM 15 PERCENT TO 20 PERCENT.

26 USC 291.

(a) IN GENERAL.—Each subsection (other than subsection (a)(2)) of section 291 (relating to special rules for corporate preference items) is amended by striking out "15 percent" each place it appears and inserting in lieu thereof "20 percent".

(b) DEFERRED FSC INCOME.—Paragraph (4) of section 291(a) (relating to certain deferred DISC income) is amended to read as follows:

"(4) CERTAIN DEFERRED FSC INCOME.—If a corporation is a shareholder of the FSC, in the case of taxable years beginning after December 31, 1984, section 923(a) shall be applied with respect to such corporation by substituting—

Post, p. 986.

"(A) '30 percent' for '32 percent' in paragraph (2), and

"(B) '15/23' for '16/23' in paragraph (3).

26 USC 57.

(c) MINIMUM TAX.—

(1) IN GENERAL.—Paragraph (1) of section 57(b) is amended to read as follows:

"(1) IN GENERAL.—

"(A) POLLUTION CONTROL FACILITIES; BAD DEBT RESERVES.—In the case of any item of tax preference of a corporation described in paragraph (4) or (7) of subsection (a), only 59% percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

"(B) IRON ORE AND COAL.—In the case of any item of tax preference of a corporation described in paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.".

(2) CERTAIN CAPITAL GAINS.—Paragraph (2) of section 57(h) (relating to capital gains) is amended by striking out "71.6 percent" and inserting in lieu thereof "59% percent".

26 USC 995.

(d) DEFERRED DISC INCOME.—Section 995(b)(1)(F)(i) (relating to deemed distributions) is amended by striking out "one/half" and inserting in lieu thereof "one-seventeenth".

26 USC 291 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1984.

(2) 1250 GAIN.—The amendments made by this section to section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1984, in taxable years ending after such date.

(3) POLLUTION CONTROL FACILITIES.—The amendments made by this section to section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1984, in taxable years ending after such date.

(4) DRILLING AND MINING COSTS.—The amendments made by this section to section 291(b) of such Code shall apply to expenditures after December 31, 1984, in taxable years ending after such date.

Subtitle E—Partnership Provisions

SEC. 71. PARTNERSHIP ALLOCATIONS WITH RESPECT TO CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows: 26 USC 704.

"(c) CONTRIBUTED PROPERTY.—Under regulations prescribed by the Secretary, income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution. Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items."

(b) CONFORMING AMENDMENTS.—The fourth sentence of section 613A(c)(7)(D) and the third sentence of section 743(b) are each amended by striking out "an agreement described in section 704(c)(2) (relating to effect of partnership agreement on contributed property), such share shall be determined by taking such agreement into account" and inserting in lieu thereof "property contributed to the partnership by a partner, section 704(c) (relating to contributed property) shall apply in determining such share". 26 USC 613A, 743.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to property contributed to the partnership after March 31, 1984, in taxable years ending after such date. 26 USC 704 note.

SEC. 72. DETERMINATION OF DISTRIBUTIVE SHARES WHEN PARTNER'S INTEREST CHANGES.

(a) GENERAL RULE.—Section 706 (relating to taxable years of partner and partnership) is amended by adding at the end thereof the following new subsection: 26 USC 706.

"(d) DETERMINATION OF DISTRIBUTIVE SHARE WHEN PARTNER'S INTEREST CHANGES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if during any taxable year of the partnership there is a change in any partner's interest in the partnership, each partner's distributive share of any item of income, gain, loss, deduction, or credit of the partnership for such taxable year shall be determined by the use of any method prescribed by the Secretary by regulations which takes into account the varying interests of the partners in the partnership during such taxable year.

"(2) CERTAIN CASH BASIS ITEMS PRORATED OVER PERIOD TO WHICH ATTRIBUTABLE.—

"(A) IN GENERAL.—If during any taxable year of the partnership there is a change in any partner's interest in the partnership, then (except to the extent provided in regulations) each partner's distributive share of any allocable cash basis item shall be determined—

"(i) by assigning the appropriate portion of each such item to each day in the period to which it is attributable, and

"(ii) by allocating the portion assigned to any such day among the partners in proportion to their interests in the partnership at the close of such day.

"(B) ALLOCABLE CASH BASIS ITEM.—For purposes of this paragraph, the term 'allocable cash basis item' means any of the following items which are described in paragraph (1) and with respect to which the partnership uses the cash receipts and disbursements method of accounting:

"(i) Interest.

"(ii) Taxes.

"(iii) Payments for services or for the use of property.

"(iv) Any other item of a kind specified in regulations prescribed by the Secretary as being an item with respect to which the application of this paragraph is appropriate to avoid significant misstatements of the income of the partners.

"(C) ITEMS ATTRIBUTABLE TO PERIODS NOT WITHIN TAXABLE YEAR.—If any portion of any allocable cash basis item is attributable to—

"(i) any period before the beginning of the taxable year, such portion shall be assigned under subparagraph (A)(i) to the first day of such taxable year, or

"(ii) any period after the close of the taxable year, such portion shall be assigned under subparagraph (A)(i) to the last day of the taxable year.

"(D) TREATMENT OF DEDUCTIBLE ITEMS ATTRIBUTABLE TO PRIOR PERIODS.—If any portion of a deductible cash basis item is assigned under subparagraph (C)(i) to the first day of any taxable year—

"(i) such portion shall be allocated among persons who are partners in the partnership during the period to which such portion is attributable in accordance with their varying interests in the partnership during such period, and

"(ii) any amount allocated under clause (i) to a person who is not a partner in the partnership on such first day shall be capitalized by the partnership and treated in the manner provided for in section 755.

"(3) ITEMS ATTRIBUTABLE TO INTEREST IN LOWER TIER PARTNERSHIP PRORATED OVER ENTIRE TAXABLE YEAR.—If—

"(A) during any taxable year of the partnership there is a change in any partner's interest in the partnership (hereinafter in this paragraph referred to as the 'upper tier partnership'), and

"(B) such partnership is a partner in another partnership (hereinafter in this paragraph referred to as the 'lower tier partnership'),

then (except to the extent provided in regulations) each partner's distributive share of any item of the upper tier partnership attributable to the lower tier partnership shall be determined by assigning the appropriate portion (determined by applying principles similar to the principles of subparagraphs (C) and (D) of paragraph (2)) of each such item to the appropriate days during which the upper tier partnership is a partner in the lower tier partnership and by allocating the portion assigned to any such day among the partners in proportion to their interests in the upper tier partnership at the close of such day.

"(4) TAXABLE YEAR DETERMINED WITHOUT REGARD TO SUBSECTION (C)(2)(A).—For purposes of this subsection, the taxable

year of a partnership shall be determined without regard to subsection (c)(2)(A)."

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 706(c) is amended— 26 USC 706.

(1) by striking out the last sentence of subparagraph (A), and

(2) by striking out ", but such partner's distributive share of items described in section 702(a) shall be determined by taking into account his varying interests in the partnership during the taxable year" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply— 26 USC 706 note.

(1) in the case of items described in section 706(d)(2) of the Internal Revenue Code of 1954 (as added by subsection (a)), to amounts attributable to periods after March 31, 1984, and *Ante*, p. 589.

(2) in the case of items described in section 706(d)(3) of such Code (as added by subsection (a)), to amounts paid or accrued by the other partnership after March 31, 1984.

SEC. 73. PAYMENTS TO PARTNERS FOR PROPERTY OR CERTAIN SERVICES.

(a) GENERAL RULE.—Subsection (a) of section 707 (relating to transactions between partner and partnership) is amended to read as follows: 26 USC 707.

"(a) PARTNER NOT ACTING IN CAPACITY AS PARTNER.—

"(1) IN GENERAL.—If a partner engages in a transaction with a partnership other than in his capacity as a member of such partnership, the transaction shall, except as otherwise provided in this section, be considered as occurring between the partnership and one who is not a partner.

"(2) TREATMENT OF PAYMENTS TO PARTNERS FOR PROPERTY OR SERVICES.—Under regulations prescribed by the Secretary—

"(A) TREATMENT OF CERTAIN SERVICES AND TRANSFERS OF PROPERTY.—If —

"(i) a partner performs services for a partnership or transfers property to a partnership,

"(ii) there is a related direct or indirect allocation and distribution to such partner, and

"(iii) the performance of such services (or such transfer) and the allocation and distribution, when viewed together, are properly characterized as a transaction occurring between the partnership and a partner acting other than in his capacity as a member of the partnership,

such allocation and distribution shall be treated as a transaction described in paragraph (1).

"(B) TREATMENT OF CERTAIN PROPERTY TRANSFERS.—If—

"(i) there is a direct or indirect transfer of money or other property by a partner to a partnership,

"(ii) there is a related direct or indirect transfer of money or other property by the partnership to such partner (or another partner), and

"(iii) the transfers described in clauses (i) and (ii), when viewed together, are properly characterized as a sale of property,

such transfers shall be treated either as a transaction described in paragraph (1) or as a transaction between 2 or more partners acting other than in their capacity as members of the partnership."

26 USC 707 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply—

(A) in the case of arrangements described in section 707(a)(2)(A) of the Internal Revenue Code of 1954 (as amended by subsection (a)), to services performed or property transferred after February 29, 1984, and

Ante, p. 591.

(B) in the case of transfers described in section 707(a)(2)(B) of such Code (as so amended), to property transferred after March 31, 1984.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to a transfer of property described in section 707(a)(2)(B)(i) if such transfer is pursuant to a binding contract in effect on March 31, 1984, and at all times thereafter before the transfer.

(3) EXCEPTION FOR CERTAIN TRANSFERS.—The amendment made by subsection (a) shall not apply to a transfer of property described in section 707(a)(2)(B)(i) that is made before December 31, 1984, if—

(A) such transfer was proposed in a written private offering memorandum circulated before February 28, 1984;

(B) the out-of-pocket costs incurred with respect to such offering exceeded $250,000 as of February 28, 1984;

(C) the encumbrances placed on such property in anticipation of such transfer all constitute obligations for which neither the partnership nor any partner is liable; and

(D) the transferor of such property is the sole general partner of the partnership.

SEC. 74. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS, OR CAPITAL LOSS PROPERTY.

(a) GENERAL RULE.—Subpart A of part II of subchapter K of chapter 1 (relating to contributions to a partnership) is amended by adding at the end thereof the following new section:

26 USC 724.

"SEC. 724. CHARACTER OF GAIN OR LOSS ON CONTRIBUTED UNREALIZED RECEIVABLES, INVENTORY ITEMS, AND CAPITAL LOSS PROPERTY.

"(a) CONTRIBUTIONS OF UNREALIZED RECEIVABLES.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an unrealized receivable in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property shall be treated as ordinary income or ordinary loss, as the case may be.

"(b) CONTRIBUTIONS OF INVENTORY ITEMS.—In the case of any property which—

"(1) was contributed to the partnership by a partner, and

"(2) was an inventory item in the hands of such partner immediately before such contribution,

any gain or loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as ordinary income or ordinary loss, as the case may be.

"(c) CONTRIBUTIONS OF CAPITAL LOSS PROPERTY.—In the case of any property which—

"(1) was contributed by a partner to the partnership, and

"(2) was a capital asset in the hands of such partner immediately before such contribution,

any loss recognized by the partnership on the disposition of such property during the 5-year period beginning on the date of such contribution shall be treated as a loss from the sale of a capital asset to the extent that, immediately before such contribution, the adjusted basis of such property in the hands of the partner exceeded the fair market value of such property.

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

"(1) UNREALIZED RECEIVABLE.—The term 'unrealized receivable' has the meaning given such term by section 751(c) (determined by treating any reference to the partnership as referring to the partner).

"(2) INVENTORY ITEM.—The term 'inventory item' has the meaning given such term by section 751(d)(2) (determined by treating any reference to the partnership as referring to the partner and by applying section 1231 without regard to any holding period therein provided).

"(3) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a), (b), or (c) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of non-recognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351."

(b) AMENDMENT OF SECTION 735.—Section 735 (relating to character of gain or loss on disposition of distributed property) is amended by adding at the end thereof the following new subsection: 26 USC 735.

"(c) SPECIAL RULES.—

"(1) WAIVER OF HOLDING PERIODS CONTAINED IN SECTION 1231.—For purposes of this section, section 751(d)(2) (defining inventory item) shall be applied without regard to any holding period in section 1231(b).

"(2) SUBSTITUTED BASIS PROPERTY.—

"(A) IN GENERAL.—If any property described in subsection (a) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of nonrecognition transactions.

"(B) EXCEPTION FOR STOCK IN C CORPORATION.—Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 724. Character of gain or loss on contributed unrealized receivables, inventory items, and capital loss property."

(d) EFFECTIVE DATES.—

26 USC 724 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to property contributed to a partnership after March 31, 1984, in taxable years ending after such date.

26 USC 735 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to property distributed after March 31, 1984, in taxable years ending after such date.

SEC. 75. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

(a) GENERAL RULE.—Subchapter C of chapter 1 (relating to corporate distributions and adjustments) is amended by adding at the end thereof the following new part:

"PART VII—MISCELLANEOUS CORPORATE PROVISIONS

"Sec. 386. Transfers of partnership and trust interests by corporations.

26 USC 386.

"SEC. 386. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS BY CORPORATIONS.

"(a) CORPORATE DISTRIBUTIONS.—For purposes of determining the amount (and character) of gain recognized by a corporation on any distribution of an interest in a partnership, the distribution shall be treated in the same manner as if it included a property distribution consisting of the corporation's proportionate share of the recognition property of such partnership.

"(b) SALES OR EXCHANGE TO WHICH SECTION 337 APPLIES.—For purposes of determining the amount (and character) of gain recognized on a sale or exchange described in section 337, any sale or exchange by a corporation of an interest in a partnership shall be treated as a sale or exchange of the corporation's proportionate share of the recognition property of such partnership.

"(c) RECOGNITION PROPERTY.—For purposes of this section, the term 'recognition property' means any property with respect to which gain would be recognized to the corporation if such property—

"(1) were distributed by the corporation in a distribution described in section 311 or 336, or

"(2) were sold in a sale described in section 337,

whichever is appropriate. In determining whether property of a partnership is recognition property, such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner.

"(d) EXTENSION TO TRUSTS.—Under regulations, rules similar to the rules of this section shall also apply in the case of the distribution or sale or exchange by a corporation of an interest in a trust."

26 USC 761.

(b) DISTRIBUTIONS TREATED AS EXCHANGES FOR PURPOSES OF SUBCHAPTER K.—Section 761 (relating to definitions) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DISTRIBUTIONS TREATED AS EXCHANGES.—For purposes of—

"(1) section 708 (relating to continuation of partnership),

"(2) section 743 (relating to optional adjustment to basis of partnership property), and

"(3) any other provision of this subchapter specified in regulations prescribed by the Secretary,

any distribution (not otherwise treated as an exchange) shall be treated as an exchange."

(c) CLARIFICATION OF FAIR MARKET VALUE IN THE CASE OF NONRECOURSE INDEBTEDNESS.—Section 7701 (relating to definitions), as amended by this Act, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 26 USC 7701. *Ante*, p. 567.

"(g) CLARIFICATION OF FAIR MARKET VALUE IN THE CASE OF NONRECOURSE INDEBTEDNESS.—For purposes of subtitle A, in determining the amount of gain or loss (or deemed gain or loss) with respect to any property, the fair market value of such property shall be treated as being not less than the amount of any nonrecourse indebtedness to which such property is subject."

(d) CLERICAL AMENDMENT.—The table of parts for subchapter C of chapter 1 is amended by adding at the end thereof the following new item:

"Part VII. Miscellaneous corporate provisions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date. 26 USC 386 note.

SEC. 76. APPLICATION OF SECTION 751 IN THE CASE OF TIERED PARTNERSHIPS.

(a) GENERAL RULE.—Section 751 (relating to unrealized receivables and inventory items) is amended by adding at the end thereof the following new subsection: 26 USC 751.

"(f) SPECIAL RULES IN THE CASE OF TIERED PARTNERSHIPS, ETC.—In determining whether property of a partnership is—

"(1) an unrealized receivable, or

"(2) an inventory item,

such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner. Under regulations, rules similar to the rules of the preceding sentence shall also apply in the case of interests in trusts."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date. 26 USC 751 note.

SEC. 77. SECTION 1031 NOT APPLICABLE TO PARTNERSHIP INTERESTS; LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE.

(a) IN GENERAL.—Subsection (a) of section 1031 (relating to nonrecognition of gain or loss from exchanges solely in kind) is amended to read as follows: 26 USC 1031.

"(a) NONRECOGNITION OF GAIN OR LOSS FROM EXCHANGES SOLELY IN KIND.—

"(1) IN GENERAL.—No gain or loss shall be recognized on the exchange of property held for productive use in a trade or business or for investment if such property is exchanged solely for property of like kind which is to be held either for productive use in a trade or business or for investment.

"(2) EXCEPTION.—This subsection shall not apply to any exchange of—

"(A) stock in trade or other property held primarily for sale,

"(B) stocks, bonds, or notes,

"(C) other securities or evidences of indebtedness or interest,

"(D) interests in a partnership,

"(E) certificates of trust or beneficial interests, or

"(F) choses in action.

"(3) REQUIREMENT THAT PROPERTY BE IDENTIFIED AND THAT EXCHANGE BE COMPLETED NOT MORE THAN 180 DAYS AFTER TRANSFER OF EXCHANGED PROPERTY.—For purposes of this subsection, any property received by the taxpayer shall be treated as property which is not like-kind property if—

"(A) such property is not identified as property to be received in the exchange before the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

"(B) such property is received after the earlier of—

"(i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

"(ii) the due date (determined with regard to extension) for the transferor's return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs."

26 USC 1031 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to transfers made after the date of the enactment of this Act in taxable years ending after such date.

(2) BINDING CONTRACT EXCEPTION FOR TRANSFER OF PARTNERSHIP INTERESTS.—Paragraph (2)(D) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not apply in the case of any exchange pursuant to a binding contract in effect on March 1, 1984, and at all times thereafter before the exchange.

Ante, p. 595.

(3) REQUIREMENT THAT PROPERTY BE IDENTIFIED WITHIN 45 DAYS AND THAT EXCHANGE BE COMPLETED WITHIN 180 DAYS.—Paragraph (3) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall apply—

(A) to transfers after the date of the enactment of this Act, and

(B) to transfers on or before such date of enactment if the property to be received in the exchange is not received before January 1, 1987.

In the case of any transfer on or before the date of the enactment of this Act which the taxpayer treated as part of a like-kind exchange, the period for assessing any deficiency of tax attributable to the amendment made by subsection (a) shall not expire before January 1, 1988.

(4) SPECIAL RULE WHERE PROPERTY IDENTIFIED IN BINDING CONTRACT.—If the property to be received in the exchange is identified in a binding contract in effect on June 13, 1984, and at all times thereafter before the transfer, paragraph (3) shall be applied—

(A) by substituting "January 1, 1989" for "January 1, 1987", and

(B) by substituting "January 1, 1990" for "January 1, 1988".

(5) SPECIAL RULE FOR LIKE-KIND EXCHANGE OF PARTNERSHIP INTERESTS.—Paragraph (2)(D) of section 1031(a) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall not apply to any exchange of an interest as general partner pursu-

ant to a plan of reorganization of ownership interest under a contract which took effect on March 29, 1984, and which was executed on or before March 31, 1984, but only if all the exchanges contemplated by the reorganization plan are completed on or before December 31, 1984.

SEC. 78. ELIMINATION OF BASIS STRIPS UNDER SECTION 734(b).

(a) GENERAL RULE.—Subsection (b) of section 734 is amended by adding at the end thereof the following new sentence: "Paragraph (1)(B) shall not apply to any distributed property which is an interest in another partnership with respect to which the election provided in section 754 is not in effect." 26 USC 734.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions after March 1, 1984, in taxable years ending after such date. 26 USC 734 note.

SEC. 79. OVERRULING OF RAPHAN CASE.

(a) GENERAL RULE.—Section 752 of the Internal Revenue Code of 1954 (and the regulations prescribed thereunder) shall be applied without regard to the result reached in the case of Raphan vs the United States, 3 Cl. Ct. 457 (1983). 26 USC 752 note.

(b) REGULATIONS.—In amending the regulations prescribed under section 752 of such Code to reflect subsection (a), the Secretary of the Treasury or his delegate shall prescribe regulations relating to liabilities, including the treatment of guarantees, assumptions, indemnity agreements, and similar arrangements.

Subtitle F—Trust Provisions

SEC. 81. TREATMENT OF PROPERTY DISTRIBUTED IN KIND.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subchapters A, B, C, and D) is amended by adding at the end thereof the following new subsection: 26 USC 643. *Post*, p. 975.

"(d) TREATMENT OF PROPERTY DISTRIBUTED IN KIND.—

"(1) BASIS OF BENEFICIARY.—The basis of any property received by a beneficiary in a distribution from an estate or trust shall be—

"(A) the adjusted basis of such property in the hands of the estate or trust immediately before the distribution, adjusted for

"(B) any gain or loss recognized to the estate or trust on the distribution.

"(2) AMOUNT OF DISTRIBUTION.—In the case of any distribution of property (other than cash), the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the lesser of—

"(A) the basis of such property in the hands of the beneficiary (as determined under paragraph (1)), or

"(B) the fair market value of such property.

"(3) ELECTION TO RECOGNIZE GAIN.—

"(A) IN GENERAL.—In the case of any distribution of property (other than cash) to which an election under this paragraph applies—

"(i) paragraph (2) shall not apply,

"(ii) gain or loss shall be recognized by the estate or trust in the same manner as if such property had been sold to the distributee at its fair market value, and

"(iii) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the fair market value of such property.

"(B) ELECTION.—Any election under this paragraph shall be made by the estate or trust on its return for the taxable year for which the distribution was made.

Any such election, once made, may be revoked only with the consent of the Secretary.

"(4) EXCEPTION FOR DISTRIBUTIONS DESCRIBED IN SECTION 663(a).—This subsection shall not apply to any distribution described in section 663(a)."

26 USC 643 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to distributions after June 1, 1984, in taxable years ending after such date.

(2) TIME FOR MAKING ELECTION.—In the case of any distribution before the date of the enactment of this Act—

(A) the time for making an election under section 643(d)(3) of the Internal Revenue Code of 1954 (as added by this section) shall not expire before January 1, 1985, and

Ante, p. 597.

(B) the requirement that such election be made on the return of the estate or trust shall not apply.

SEC. 82. TREATMENT OF MULTIPLE TRUSTS.

26 USC 643.

(a) GENERAL RULE.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end thereof the following new subsection:

"(e) TREATMENT OF MULTIPLE TRUSTS.—For purposes of this subchapter, under regulations prescribed by the Secretary, 2 or more trusts shall be treated as 1 trust if—

"(1) such trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and

"(2) a principal purpose of such trusts is the avoidance of the tax imposed by this chapter.

For purposes of the preceding sentence, a husband and wife shall be treated as 1 person."

26 USC 643 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after March 1, 1984.

Subtitle G—Accounting Changes

SEC. 91. CERTAIN AMOUNTS NOT TREATED AS INCURRED BEFORE ECONOMIC PERFORMANCE.

26 USC 461.

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsections:

"(h) CERTAIN LIABILITIES NOT INCURRED BEFORE ECONOMIC PERFORMANCE.—

"(1) IN GENERAL.—For purposes of this title, in determining whether an amount has been incurred with respect to any item during any taxable year, the all events test shall not be treated as met any earlier than when economic performance with respect to such item occurs.

"(2) TIME WHEN ECONOMIC PERFORMANCE OCCURS.—Except as provided in regulations prescribed by the Secretary, the time

when economic performance occurs shall be determined under the following principles:

"(A) SERVICES AND PROPERTY PROVIDED TO THE TAXPAYER.—If the liability of the taxpayer arises out of—

"(i) the providing of services to the taxpayer by another person, economic performance occurs as such person provides such services,

"(ii) the providing of property to the taxpayer by another person, economic performance occurs as the person provides such property, or

"(iii) the use of property by the taxpayer, economic performance occurs as the taxpayer uses such property.

"(B) SERVICES AND PROPERTY PROVIDED BY THE TAXPAYER.—If the liability of the taxpayer requires the taxpayer to provide property or services, economic performance occurs as the taxpayer provides such property or services.

"(C) WORKERS COMPENSATION AND TORT LIABILITIES OF THE TAXPAYER.—If the liability of the taxpayer requires a payment to another person and—

"(i) arises under any workers compensation act, or

"(ii) arises out of any tort,

economic performance occurs as the payments to such person are made. Subparagraphs (A) and (B) shall not apply to any liability described in the preceding sentence.

"(D) OTHER ITEMS.—In the case of any other liability of the taxpayer, economic performance occurs at the time determined under regulations prescribed by the Secretary.

"(3) EXCEPTION FOR CERTAIN RECURRING ITEMS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1) an item shall be treated as incurred during any taxable year if—

"(i) the all events test with respect to such item is met during such taxable year (determined without regard to paragraph (1)),

"(ii) economic performance with respect to such item occurs within the shorter of—

"(I) a reasonable period after the close of such taxable year, or

"(II) 8½ months after the close of such taxable year,

"(iii) such item is recurring in nature and the taxpayer consistently treats items of such kind as incurred in the taxable year in which the requirements of clause (i) are met, and

"(iv) either—

"(I) such item is not a material item, or

"(II) the accrual of such item in the taxable year in which the requirements of clause (i) are met results in a more proper match against income than accruing such item in the taxable year in which economic performance occurs.

"(B) FINANCIAL STATEMENTS CONSIDERED UNDER SUBPARAGRAPH (A)(iv).—In making a determination under subparagraph (A)(iv), the treatment of such item on financial statements shall be taken into account.

"(C) PARAGRAPH NOT TO APPLY TO WORKERS COMPENSATION AND TORT LIABILITIES.—This paragraph shall not apply to any item described in subparagraph (C) of paragraph (2).

"(4) ALL EVENTS TEST.—For purposes of this subsection, the all events test is met with respect to any item if all events have occurred which determine the fact of liability and the amount of such liability can be determined with reasonable accuracy.

"(5) SUBSECTION NOT TO APPLY TO CERTAIN CASES TO WHICH OTHER PROVISIONS OF THIS TITLE SPECIFICALLY APPLY.—This subsection shall not apply to any item to which any of the following provisions apply:

"(A) Subsection (c) or (f) of section 166 (relating to reserves for bad debts).

"(B) Section 463 (relating to vacation pay).

"(C) Section 466 (relating to discount coupons).

"(D) Any other provisions of this title which specifically provides for a deduction for a reserve for estimated expenses.

"(i) TAX SHELTERS MAY NOT DEDUCT ITEMS EARLIER THAN WHEN ECONOMIC PERFORMANCE OCCURS.—

"(1) IN GENERAL.—In the case of a tax shelter computing taxable income under the cash receipts and disbursements method of accounting, such tax shelter shall not be allowed a deduction under this chapter with respect to any item any earlier than the time when such item would be treated as incurred under subsection (h) (determined without regard to paragraph (3) thereof).

"(2) EXCEPTION (TO EXTENT OF CASH BASIS) WHEN ECONOMIC PERFORMANCE OCCURS WITHIN 90 DAYS AFTER THE CLOSE OF THE TAXABLE YEAR.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any item if economic performance with respect to such item occurs within 90 days after the close of the taxable year.

"(B) DEDUCTION LIMITED TO CASH BASIS.—

"(i) TAX SHELTER PARTNERSHIPS.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term 'cash basis' shall be substituted for the term 'adjusted basis'.

"(ii) OTHER TAX SHELTERS.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

"(C) CASH BASIS DEFINED.—For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person

related to such person within the meaning of section 168(e)(4)), or

"(II) was secured by any assets of the partnership.

"(D) SPECIAL CASH BASIS RULE FOR SPUDDING OF OIL OR GAS WELLS.—Solely for purposes of applying subparagraph (A), economic performance with respect to the act of drilling of an oil or gas well shall be treated as occurring when the drilling of the well is commenced.

"(3) TAX SHELTER DEFINED.—For purposes of this subsection, the term 'tax shelter' means—

"(A) any enterprise (other than a C corporation) if at any time interests in such enterprise have been offered for sale in any offering required to be registered with any Federal or State agency having the authority to regulate the offering of securities for sale,

"(B) any syndicate (within the meaning of section 1256(e)(3)(B)), and

"(C) any tax shelter (within the meaning of section 6661(b)(2)(C)(ii)).

"(4) SPECIAL RULES FOR FARMING.—In the case of the trade or business of farming (as defined in section 464(e))—

"(A) section 464 shall be applied to any tax shelter described in paragraph (3)(C),

"(B) section 464 shall be applied before this subsection, and

"(C) in determining whether an entity is a tax shelter, the definition of farming syndicate in section 464(c) shall be substituted for subparagraphs (A) and (B) of paragraph (3).

"(5) ECONOMIC PERFORMANCE.—For purposes of this subsection, the term 'economic performance' has the meaning given such term by subsection (h)."

(b) SPECIAL RULES FOR MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS.—

(1) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken), as amended by section 92, is amended by adding at the end thereof the following new section:

"SEC. 468. SPECIAL RULES FOR MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS. 26 USC 468.

"(a) ESTABLISHMENT OF RESERVES FOR RECLAMATION AND CLOSING COSTS.—

"(1) ALLOWANCE OF DEDUCTION.—If a taxpayer elects the application of this subsection with respect to any mining or solid waste disposal property, the amount of any deduction for qualified reclamation or closing costs for any taxable year to which such election applies shall be equal to the current reclamation or closing costs allocable to—

"(A) in the case of qualified reclamation costs, the portion of the reserve property which was disturbed during such taxable year, and

"(B) in the case of qualified closing costs, the production from the reserve property during such taxable year.

"(2) OPENING BALANCE AND ADJUSTMENTS TO RESERVE.—

"(A) OPENING BALANCE.—The opening balance of any reserve for its first taxable year shall be zero.

"(B) INCREASE FOR INTEREST.—

"(i) IN GENERAL.—A reserve shall be increased each taxable year by an amount equal to the amount of interest which would be earned during such taxable year on the opening balance of such reserve for such taxable year if such interest were computed—

"(I) at the Federal short-term rate or rates (determined under section 1274) in effect, and

Ante, p. 538.

"(II) by compounding semiannually.

"(ii) PHASE-IN OF INTEREST RATE.—In the case of taxable years ending before 1987, the rate determined under clause (i)(I) shall be equal to the following percentage of such rate (determined without regard to this clause):

"In the case of taxable years ending in:	The percentage is:
1984 or 1985	70
1986	85.

"(C) RESERVE TO BE CHARGED FOR AMOUNTS PAID.— Any amount paid by the taxpayer during any taxable year for qualified reclamation or closing costs allocable to portions of the reserve property for which the election under paragraph (1) was in effect shall be charged to the appropriate reserve as of the close of the taxable year.

"(3) ALLOWANCE OF DEDUCTION FOR EXCESS AMOUNTS PAID.—There shall be allowed as a deduction for any taxable year the excess of—

"(A) the amounts described in paragraph (2)(C) paid during such taxable year, over

"(B) the closing balance of the reserve for such taxable year (determined without regard to paragraph (2)(C)).

"(4) LIMITATION ON BALANCE AS OF THE CLOSE OF ANY TAXABLE YEAR.—

"(A) RECLAMATION RESERVES.—In the case of any reserve for qualified reclamation costs, there shall be included in gross income for any taxable year an amount equal to the excess of—

"(i) the closing balance of the reserve for such taxable year, over

"(ii) the current reclamation costs of the taxpayer for all portions of the reserve property disturbed during any taxable year to which the election under paragraph (1) applies.

"(B) CLOSING COSTS RESERVES.—In the case of any reserve for qualified closing costs, there shall be included in gross income for any taxable year an amount equal to the excess of—

"(i) the closing balance of the reserve for such taxable year, over

"(ii) the current closing cost of the taxpayer with respect to the reserve property, determined as if all production with respect to the reserve property for any taxable year to which the election under paragraph (1) applies had occurred in such taxable year.

"(C) ORDER OF APPLICATION.—This paragraph shall be applied after all adjustments to the reserve have been made for the taxable year.

"(5) INCOME INCLUSIONS ON COMPLETION OR DISPOSITION.—Proper inclusion in income shall be made upon—

"(A) the revocation of an election under paragraph (1), or

"(B) completion of the closing, or disposition of any portion, of a reserve property.

"(b) ALLOCATION FOR PROPERTY WHERE ELECTION NOT IN EFFECT FOR ALL TAXABLE YEARS.—If the election under subsection (a)(1) is not in effect for 1 or more taxable years in which the reserved property is disturbed (or production occurs), items with respect to the reserve property shall be allocated to the reserve in such manner as the Secretary may prescribe by regulations.

"(c) REVOCATION OF ELECTION; SEPARATE RESERVES.—

"(1) REVOCATION OF ELECTION.—

"(A) IN GENERAL.—The taxpayer may revoke an election under subsection (a)(1) with respect to any property. Such revocation, once made, shall be irrevocable.

"(B) TIME AND MANNER OF REVOCATION.—Any revocation under subparagraph (A) shall be made at such time and in such manner as the Secretary may prescribe.

"(2) SEPARATE RESERVES REQUIRED.—If a taxpayer makes an election under subsection (a)(1), the taxpayer shall establish with respect to the property for which the election was made—

"(A) a separate reserve for qualified reclamation costs, and

"(B) a separate reserve for qualified closing costs.

"(d) DEFINITIONS AND SPECIAL RULES RELATING TO RECLAMATION AND CLOSING COSTS.—For purposes of this section—

"(1) CURRENT RECLAMATION AND CLOSING COSTS.—

"(A) CURRENT RECLAMATION COSTS.—The term 'current reclamation costs' means the amount which the taxpayer would be required to pay for qualified reclamation costs if the reclamation activities were performed currently.

"(B) CURRENT CLOSING COSTS.—

"(i) IN GENERAL.—The term 'current closing costs' means the amount which the taxpayer would be required to pay for qualified closing costs if the closing activities were performed currently.

"(ii) COSTS COMPUTED ON UNIT-OF-PRODUCTION OR CAPACITY METHOD.—Estimated closing costs shall—

"(I) in the case of the closing of any mine site, be computed on the unit-of-production method of accounting, and

"(II) in the case of the closing of any solid waste disposal site, be computed on the unit-of-capacity method.

"(2) QUALIFIED RECLAMATION OR CLOSING COSTS.—The term 'qualified reclamation or closing costs' means any of the following expenses:

"(A) MINING RECLAMATION AND CLOSING COSTS.—Any expenses incurred for any land reclamation or closing activity which is conducted in accordance with a reclamation plan (including an amendment or modification thereof)—

"(i) which—

"(I) is submitted pursuant to the provisions of section 511 or 528 of the Surface Mining Control and Reclamation Act of 1977 (as in effect on January 1, 1984), and

30 USC 1261, 1278.

"(II) is part of a surface mining and reclamation permit granted under the provisions of title V of such Act (as so in effect), or

30 USC 1251.

"(ii) which is submitted pursuant to any other Federal or State law which imposes surface mining reclamation and permit requirements substantially similar to the requirements imposed by title V of such Act (as so in effect).

"(B) SOLID WASTE DISPOSAL AND CLOSING COSTS.—

"(i) IN GENERAL.—Any expenses incurred for any land reclamation or closing activity in connection with any solid waste disposal site which is conducted in accordance with any permit issued pursuant to—

"(I) any provision of the Solid Waste Disposal Act (as in effect on January 1, 1984) requiring such activity, or

42 USC 6901 note.

"(II) any other Federal, State, or local law which imposes requirements substantially similar to the requirements imposed by the Solid Waste Disposal Act (as so in effect).

"(ii) EXCEPTION FOR CERTAIN HAZARDOUS WASTE SITES.—Clause (i) shall not apply to that portion of any property which is disturbed after the property is listed in the national contingency plan established under section 105 of the Comprehensive Environmental, Compensation, and Liability Act of 1980.

42 USC 9605.

"(3) PROPERTY.—The term 'property' has the meaning given such term by section 614.

"(4) RESERVE PROPERTY.—The term 'reserve property' means any property with respect to which a reserve is established under subsection (a)(1)."

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 468. Special rules for mining and solid waste reclamation and closing costs."

(c) SPECIAL RULE FOR LIABILITIES IN CONNECTION WITH THE DECOMMISSIONING OF A NUCLEAR POWERPLANT.—

(1) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken), as amended by subsection (b), is amended by adding at the end thereof the following new section:

26 USC 468A.

"SEC. 468A. SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

"(a) IN GENERAL.—If the taxpayer elects the application of this subsection, there shall be allowed as a deduction for any taxable year the amount of payments made by the taxpayer to a Nuclear Decommissioning Reserve Fund (hereinafter referred to as the 'Fund') during such taxable year.

"(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the lesser of—

"(1) the amount of nuclear decommissioning costs allocable to the Fund which is included in the taxpayer's cost of service for ratemaking purposes for such taxable year, or

"(2) the ruling amount applicable to such taxable year.

"(c) INCOME AND DEDUCTIONS OF THE TAXPAYER.—

"(1) INCLUSION OF AMOUNTS DISTRIBUTED.—There shall be includible in the gross income of the taxpayer for any taxable year—

"(A) any amount distributed from the Fund during such taxable year, other than any amount distributed to pay costs described in subsection (e)(2)(B), and

"(B) except to the extent provided in regulations, amounts properly includible in gross income in the case of any deemed distribution under subsection (e)(6), any termination under subsection (e)(7), or the disposition of any interest in the nuclear powerplant.

"(2) DEDUCTION WHEN ECONOMIC PERFORMANCE OCCURS.—In addition to any deduction under subsection (a), there shall be allowable as a deduction for any taxable year the amount of the nuclear decommissioning costs with respect to which economic performance (within the meaning of section 461(h)(2)) occurs during such taxable year.

Ante, p. 598.

"(d) RULING AMOUNT.—For purposes of this subsection—

"(1) REQUEST REQUIRED.—No deduction shall be allowed for any payment to the Fund unless the taxpayer requests, and receives, from the Secretary a schedule of ruling amounts.

"(2) RULING AMOUNT.—The term 'ruling amount' means, with respect to any taxable year, the amount which the Secretary determines under paragraph (1) to be necessary to—

"(A) fund that portion of the nuclear decommissioning costs of the taxpayer with respect to the nuclear powerplant which bears the same ratio to the total nuclear decommissioning costs with respect to such nuclear powerplant as the period for which the Fund is in effect bears to the estimated useful life of such nuclear powerplant, and

"(B) prevent any excessive funding of such costs or the funding of such costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate.

"(3) REVIEW OF AMOUNT.—The Secretary shall at least once during the useful life of the nuclear powerplant (or, more frequently, upon the request of the taxpayer) review, and revise if necessary, the schedule of ruling amounts determined under paragraph (1).

"(e) NUCLEAR DECOMMISSIONING TRUST FUND.—

"(1) IN GENERAL.—Each taxpayer who elects the application of this subsection shall establish a Nuclear Decommissioning Trust Fund with respect to each nuclear powerplant to which such election applies.

"(2) TAXATION OF FUND.—There is imposed on the gross income of the Fund for any taxable year a tax at a rate equal to the maximum rate in effect under section 11(b), except that—

"(A) there shall not be included in the gross income of the Fund any payment to the Fund with respect to which a deduction is allowable under subsection (a), and

"(B) there shall be allowed as a deduction any amount paid by the Fund described in paragraph (4)(B) (other than to the taxpayer).

"(3) CONTRIBUTIONS TO FUND.—The Fund shall not accept any payments (or other amounts) other than payments with respect to which a deduction is allowable under subsection (a).

"(4) USE OF FUND.—The Fund shall be used exclusively for—

"(A) satisfying, in whole or in part, any liability of any person contributing to the Fund for the decommissioning of a nuclear powerplant (or unit thereof), and

"(B) to pay administrative costs (including taxes) and other incidental expenses of the Fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the Fund.

"(5) PROHIBITIONS AGAINST SELF-DEALING.—Under regulations prescribed by the Secretary, for purposes of section 4951 (and so much of this title as relates to such section), the Fund shall be treated in the same manner as a trust described in section 501(c)(21).

"(6) DISQUALIFICATION OF FUND.—In any case in which the Fund violates any provision of this subsection or section 4951, the Secretary may disqualify such Fund from the application of this subsection. In any case to which this subparagraph applies, the Fund shall be treated as having distributed all of its funds on the date such determination takes effect.

"(7) TERMINATION UPON COMPLETION.—Upon substantial completion of the nuclear decommissioning of the nuclear powerplant with respect to which a Fund relates, the taxpayer shall terminate such Fund.

"(f) NUCLEAR POWERPLANT.—The term 'nuclear powerplant' includes any unit thereof."

(2) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 468A. Special rules for nuclear decommissioning costs."

(d) 10-YEAR NET OPERATING LOSS CARRYBACK PERIOD FOR DEFERRED STATUTORY OR TORT LIABILITY DEDUCTIONS.—

26 USC 172.

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(K) SPECIAL RULE FOR DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—In the case of a taxpayer which has a deferred statutory or tort liability loss (as defined in subsection (k)) for any taxable year beginning after December 31, 1983, the deferred statutory or tort liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss."

26 USC 172.

(2) DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) DEFINITIONS AND SPECIAL RULES RELATING TO DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—For purposes of this section—

"(1) DEFERRED STATUTORY OR TORT LIABILITY LOSS.—The term 'deferred statutory or tort liability loss' means, for any taxable year, the lesser of—

"(A) the net operating loss for such taxable year, reduced by any portion thereof attributable to—

"(i) a foreign expropriation loss, or

"(ii) a product liability loss, or

"(B) the sum of the amounts allowable as a deduction under this chapter (other than any deduction described in subsection (j)(1)(B)) which—

"(i) is taken into account in computing the net operating loss for such taxable year, and

"(ii) is for an amount incurred with respect to a liability which arises under a Federal or State law or out of any tort of the taxpayer and—

"(I) in the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of such taxable year, or

"(II) in the case of a liability arising out of a tort, such liability arises out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurs at least 3 years before the beginning of such taxable year.

A liability shall not be taken into account under the preceding sentence unless the taxpayer used an accrual method of accounting throughout the period or periods during which the acts or failures to act giving rise to such liability occurred.

"(2) SPECIAL RULE FOR NUCLEAR POWERPLANTS.—Except as provided in regulations prescribed by the Secretary, that portion of a deferred statutory or tort liability loss which is attributable to amounts incurred in the decommissioning of a nuclear powerplant (or any unit thereof) may, for purposes of subsection (b)(1)(K), be carried back to each of the taxable years during the period—

"(A) beginning with the taxable year in which such plant (or unit thereof) was placed in service, and

"(B) ending with the taxable year preceding the loss year.

"(3) COORDINATION WITH SUBSECTION (b)(2).—In applying paragraph (2) of subsection (b), a deferred statutory or tort liability loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(4) NO CARRYBACK TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—No deferred statutory or tort liability loss may be carried back to a taxable year beginning before January 1, 1984, unless such loss may be carried back to such year without regard to subsection (b)(1)(K)."

(3) CONFORMING AMENDMENTS.—

(A) Clause (i) of section 172(b)(1)(A) is amended by striking out "and (J)" and inserting in lieu thereof "(J), and (K)". 26 USC 172.

(B) Subsections (h) and (j) of section 172 are each amended by striking out "subsection (b)" in the matter preceding paragraph (1) and inserting in lieu thereof "this section".

(e) CONFORMING AMENDMENT.—Paragraph (4) of section 461(f) (relating to contested liabilities) is amended by inserting "determined after application of subsection (h)" after "taxable year)". 26 USC 461.

(f) INCLUSION IN INCOME OF NUCLEAR DECOMMISSIONING COSTS INCLUDED IN THE TAXPAYER'S RATE BASE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

26 USC 88.

"SEC. 88. CERTAIN AMOUNTS WITH RESPECT TO NUCLEAR DECOMMISSIONING COSTS.

"In the case of any taxpayer who is required to include the amount of any nuclear decommissioning costs in the taxpayer's cost of service of ratemaking purposes, there shall be includible in the gross income of such taxpayer the amount so included for any taxable year."

(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 88. Certain amounts with respect to nuclear decommissioning costs."

26 USC 461 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection and subsections (h) and (i), the amendments made by this section shall apply to amounts with respect to which a deduction would be allowable under chapter 1 of the Internal Revenue Code of 1954 (determined without regard to such amendments) after—

26 USC 1 *et seq.*

(A) in the case of amounts to which section 461(h) of such Code (as added by such amendments) applies, the date of the enactment of this Act, and

Ante, p. 598.

(B) in the case of amounts to which section 461(i) of such Code (as so added) applies, after March 31, 1984.

Ante, p. 598.

(2) TAXPAYER MAY ELECT EARLIER APPLICATION.—

(A) IN GENERAL.—In the case of amounts described in paragraph (1)(A), a taxpayer may elect to have the amendments made by this section apply to amounts which—

(i) are incurred before the date of the enactment of this Act (determined without regard to such amendments), and

(ii) are incurred on or after the date of the enactment of this Act (determined with regard to such amendments).

(B) ELECTION TREATED AS CHANGE IN THE METHOD OF ACCOUNTING.—For purposes of section 481 of the Internal Revenue Code of 1954, if an election is made under subparagraph (A) with respect to any amount, the application of the amendments made by this section shall be treated as a change in method of accounting—

(i) initiated by the taxpayer,

(ii) made with the consent of the Secretary of the Treasury, and

(iii) with respect to which section 481 of such Code shall be applied by substituting a 3-year adjustment period for a 10-year adjustment period.

(3) SECTION 461(h) TO APPLY IN CERTAIN CASES.—Notwithstanding paragraph (1), section 461(h) of the Internal Revenue Code of 1954 (as added by this section) shall be treated as being in effect to the extent necessary to carry out any amendments made by this section which take effect before section 461(h).

Ante, p. 598.

26 USC 461 note.

(h) EXCEPTION FOR CERTAIN EXISTING ACTIVITIES AND CONTRACTS.—If—

(1) EXISTING ACCOUNTING PRACTICES.—If, on March 1, 1984, any taxpayer was regularly computing his deduction for mining reclamation activities under a current cost method of accounting (as determined by the Secretary of the Treasury or his delegate), the liability for reclamation activities—

(A) for land disturbed before the date of the enactment of this Act, or

(B) to which paragraph (2) applies,

shall be treated as having been incurred when the land was disturbed.

(2) FIXED PRICE SUPPLY CONTRACT.—

(A) IN GENERAL.—In the case of any fixed price supply contract entered into before March 1, 1984, the amendments made by subsection (b) shall not apply to any minerals extracted from such property which are sold pursuant to such contract.

(B) NO EXTENSION OR RENEGOTIATION.—Subparagraph (A) shall not apply—

(i) to any extension of any contract beyond the period such contract was in effect on March 1, 1984, or

(ii) to any renegotiation of, or other change in, the terms and conditions of such contract in effect on March 1, 1984.

(i) TRANSITIONAL RULE FOR ACCRUED VACATION PAY.— 26 USC 461 note.

(1) IN GENERAL.—In the case of any taxpayer—

(A) with respect to whom a deduction was allowable (other than under section 463 of the Internal Revenue Code of 1954) for vested accrued vacation pay for the last taxable year ending before the date of the enactment of this Act, and

(B) who elects the application of section 463 of such Code for the first taxable year ending after the date of the enactment of this Act,

then, for purposes of section 463(b) of such Code, the opening balance of the taxpayer with respect to any vested accrued vacation pay shall be determined under section 463(b)(1) of such Code.

(2) VESTED ACCRUED VACATION PAY.—For purposes of this subsection, the term "vested accrued vacation pay" means any amount allowable under section 162(a) of such Code with respect to vacation pay of employees of the taxpayer (determined without regard to section 463 of such Code).

SEC. 92. TREATMENT OF CERTAIN DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction is taken) is amended by adding at the end thereof the following new section:

"SEC. 467. CERTAIN PAYMENTS FOR THE USE OF PROPERTY OR SERVICES. 26 USC 467.

"(a) ACCRUAL METHOD ON PRESENT VALUE BASIS.—In the case of the lessor or lessee under any section 467 rental agreement, there shall be taken into account for purposes of this title for any taxable year the sum of—

"(1) the amount of the rent which accrues during such taxable year as determined under subsection (b), and

"(2) interest for the year on the amounts which were taken into account under this subsection for prior taxable years and which are unpaid.

"(b) ACCRUAL OF RENTAL PAYMENTS.—

"(1) ALLOCATION FOLLOWS AGREEMENT.—Except as provided in paragraph (2), the determination of the amount of the rent under any section 467 rental agreement which accrues during any taxable year shall be made—

"(A) by allocating rents in accordance with the agreement, and

"(B) by taking into account any rent to be paid after the close of the period in an amount determined under regulations which shall be based on present value concepts.

"(2) CONSTANT RENTAL ACCRUAL IN CASE OF CERTAIN TAX AVOIDANCE TRANSACTIONS, ETC.—In the case of any section 467 rental agreement to which this paragraph applies, the portion of the rent which accrues during any taxable year shall be that portion of the constant rental amount with respect to such agreement which is allocable to such taxable year.

"(3) AGREEMENTS TO WHICH PARAGRAPH (2) APPLIES.—Paragraph (2) applies to any rental payment agreement if—

"(A) such agreement is a disqualified leaseback or long-term agreement, or

"(B) such agreement does not provide for the allocation referred to in paragraph (1)(A).

"(4) DISQUALIFIED LEASEBACK OR LONG-TERM AGREEMENT.—For purposes of this subsection, the term 'disqualified leaseback or long-term agreement' means any section 467 rental agreement if—

"(A) such agreement is part of a leaseback transaction or such agreement is for a term in excess of 75 percent of the statutory recover period for the property, and

"(B) a principal purpose for providing increasing rents under the agreement is the avoidance of tax imposed by this subtitle.

Regulations.

"(5) EXCEPTIONS TO DISQUALIFICATION IN CERTAIN CASES.—The Secretary shall prescribe regulations setting forth circumstances under which agreements will not be treated as disqualified leaseback or long-term agreements, including circumstances relating to—

"(A) changes in amounts paid determined by reference to price indices,

"(B) rents based on a fixed percentage of lessee receipts or similar amounts,

"(C) reasonable rent holidays, or

"(D) changes in amounts paid to unrelated 3rd parties.

"(c) RECAPTURE OF PRIOR UNDERSTATED INCLUSIONS UNDER LEASEBACK OR LONG-TERM AGREEMENTS.—

"(1) IN GENERAL.—If—

"(A) the lessor under any section 467 rental agreement disposes of any property subject to such agreement during the term of such agreement, and

"(B) such agreement is a leaseback or long-term agreement to which paragraph (2) of subsection (b) did not apply, the recapture amount shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) RECAPTURE AMOUNT.—For purposes of paragraph (1), the term 'recapture amount' means the lesser of—

"(A) the prior understated inclusions, or

"(B) the excess of the amount realized (or in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of the property) over the adjusted basis of such property.

The amount determined under subparagraph (B) shall be reduced by the amount of any gain treated as ordinary income on the disposition under any other provision of this subtitle.

"(3) PRIOR UNDERSTATED INCLUSIONS.—For purposes of this subsection, the term 'prior understated inclusion' means the excess (if any) of—

"(A) the amount which would have been taken into account by the lessor under subsection (a) for periods before the disposition if subsection (b)(2) had applied to the agreement, over

"(B) the amount taken into account under subsection (a) by the lessor for periods before the disposition.

"(4) LEASEBACK OR LONG-TERM AGREEMENT.—For purposes of this subsection, the term 'leaseback or long-term agreement' means any agreement described in subsection (b)(3)(A).

"(5) SPECIAL RULES.—Under regulations prescribed by the Secretary—

"(A) exceptions similar to the exceptions applicable under section 1245 or 1250 (whichever is appropriate) shall apply for purposes of this subsection,

"(B) any transferee in a disposition excepted by reason of subparagraph (A) who has a transferred basis in the property shall be treated in the same manner as the transferor, and

"(C) for purposes of sections 163(d), 170(e), 341(e)(12), 453B(d)(2), and 751(c), amounts treated as ordinary income under this section shall be treated in the same manner as amounts treated as ordinary income under section 1245 or 1250.

"(d) SECTION 467 RENTAL AGREEMENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'section 467 rental agreements' means any rental agreement for the use of tangible property under which—

"(A) there is at least one amount allocable to the use of property during a calendar year which is to be paid after the close of the calendar year following the calendar year in which such use occurs, or

"(B) there are increases in the amount to be paid as rent under the agreement.

"(2) SECTION NOT TO APPLY TO AGREEMENTS INVOLVING PAYMENTS OF $250,000 OR LESS.—This section shall not apply to any amount to be paid for the use of property if the sum of the following amounts does not exceed $250,000—

"(A) the aggregate amount of payments received as consideration for such use of property, and

"(B) the aggregate value of any other consideration to be received for such use of property.

For purposes of the preceding sentence, rules similar to the rules of clauses (ii) and (iii) of section 1274(c)(2)(C) shall apply. *Ante*, p. 538.

"(e) DEFINITIONS.—For purposes of this section—

"(1) CONSTANT RENTAL AMOUNT.—The term 'constant rental amount' means, with respect to any section 467 rental agreement, the amount which, if paid as of the close of each lease period under the agreement, would result in an aggregate present value equal to the present value of the aggregate payments required under the agreement.

"(2) LEASEBACK TRANSACTION.—A transaction is a leaseback transaction if it involves a leaseback to any person who had an interest in such property at any time within 2 years before such leaseback (or to a related person).

"(3) STATUTORY RECOVERY PERIOD.—

"(A) IN GENERAL.—

"In the case of property which is:	The statutory recovery period is:
3-year property	3 years
5-year property	5 years
10-year property	10 years
Low-income housing	15 years
15-year public utility property	15 years
18-year real property	18 years

"(B) SPECIAL RULE FOR PROPERTY WHICH IS NOT RECOVERY PROPERTY.—In the case of any property which is not recovery property, subparagraph (A) shall be applied as if such property were recovery property.

"(4) DISCOUNT AND INTEREST RATE.—For purposes of computing present value and interest under subsection (a)(2), the rate used shall be equal to 110 percent of the applicable Federal rate determined under section 1274(d) (compounded semiannually) which is in effect at the time the agreement is entered into with respect to debt instruments having a maturity equal to the term of the agreement.

Ante, p. 538.

"(5) RELATED PERSON.—The term 'related person' has the meaning given to such term by section 168(d)(4)(D).

"(6) CERTAIN OPTIONS OF LESSEE TO RENEW NOT TAKEN INTO ACCOUNT.—Except as provided in regulations prescribed by the Secretary, there shall not be taken into account in computing the term of any agreement for purposes of this section any extension which is solely at the option of the lessee.

"(f) COMPARABLE RULES WHERE AGREEMENT FOR DECREASING PAYMENTS.—Under regulations prescribed by the Secretary, rules comparable to the rules of this section shall also apply in the case of any agreement where the amount paid under the agreement for the use of property decreases during the term of the agreement.

"(g) COMPARABLE RULES FOR SERVICES.—Under regulations prescribed by the Secretary, rules comparable to the rules of subsection (a)(2) shall also apply in the case of payments for services which meet requirements comparable to the requirements of subsection (d).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations providing for the application of this section in the case of contingent payments."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 467. Certain payments for use of property or services."

26 USC 467 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to agreements entered into after June 8, 1984.

(2) EXCEPTIONS.—The amendments made by this section shall not apply—

(A) to any agreement entered into pursuant to a written agreement which was binding on June 8, 1984, and at all times thereafter,

(B) subject to the provisions of paragraph (3), to any agreement to lease property if—

(i) there was in effect a firm plan, evidenced by a board of directors' resolution, memorandum of agreement, or letter of intent on March 15, 1984, to enter into such an agreement, and

(ii) construction of the property was commenced (but such property was not placed in service) on or before March 15, 1984, and

(C) to any agreement to lease property if—

(i) the lessee of such property adopted a firm plan to lease the property, evidenced by a resolution of the Finance Committee of the Board of Directors of such lessee, on February 10, 1984,

(ii) the sum of the present values of the rents payable by the lessee under the lease at the inception thereof equals at least $91,223,034, assuming for purposes of this clause—

(I) the annual discount rate is 12.6 percent,

(II) the initial payment of rent occurs 12 months after the commencement of the lease, and

(III) subsequent payments of rents occur on the anniversary date of the initial payment, and

(iii) during—

(I) the first 5 years of the lease, at least 9 percent of the rents payable by the lessee under the agreement are paid, and

(II) the second 5 years of the lease, at least 16.25 percent of the rents payable by the lessee under the agreement are paid.

Paragraph (3)(B)(ii)(II) shall apply for purposes of clauses (ii) and (iii) of subparagraph (C), as if, as of the beginning of the last stage, the separate agreements were treated as 1 single agreement relating to all property covered by the agreements, including any property placed in service before the property to which the agreement for the last stage relates. If the lessor under the agreement described in subparagraph (C) leases the property from another person, this exception shall also apply to any agreement between the lessor and such person which is integrally related to, and entered into at the same time as, such agreement, and which calls for comparable payments of rent over the primary term of the agreement.

(3) SCHEDULE OF DEEMED RENTAL PAYMENTS.—

(A) IN GENERAL.—In any case to which paragraph (2)(B) applies, for purposes of the Internal Revenue Code of 1954, the lessor shall be treated as having received or accrued

26 USC 1 *et seq.*

(and the lessee shall be treated as having paid or incurred) rents equal to the greater of—

(i) the amount of rents actually paid under the agreement during the taxable year, or

(ii) the amount of rents determined in accordance with the schedule under subparagraph (B) for such taxable year.

(B) SCHEDULE.—

(i) IN GENERAL.—The schedule under this subparagraph is as follows:

Portion of lease term:	Cumulative percentage of total rent deemed paid:
1st ⅕	10
2nd ⅕	25
3rd ⅕	45
4th ⅕	70
Last ⅕	100.

(ii) OPERATING RULES.—For purposes of this schedule—

(I) the rent allocable to each taxable year within any portion of a lease term described in such schedule shall be a level pro rata amount properly allocable to such taxable year, and

(II) any agreement relating to property which is to be placed in service in 2 or more stages shall be treated as 2 or more separate agreements.

(C) PARAGRAPH NOT TO APPLY.—This paragraph shall not apply to any agreement if the sum of the present values of all payments under the agreement is greater than the sum of the present value of all the payments deemed to be paid or received under the schedule under subparagraph (B). For purposes of computing any present value under this subparagraph, the annual discount rate shall be equal to 12 percent, compounded semiannually.

SEC. 93. AMORTIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES FOR RESIDENTIAL REAL PROPERTY HELD BY CORPORATIONS.

26 USC 189.

(a) IN GENERAL.—Subsection (d) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(1) by striking out paragraph (2), and

(2) by redesignating paragraph (3) as paragraph (2).

26 USC 189 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984, with respect to construction beginning after March 15, 1984.

SEC. 94. CAPITALIZATION OF START-UP EXPENDITURES.

26 USC 195.

(a) IN GENERAL.—Section 195 (relating to start-up expenditures) is amended to read as follows:

"SEC. 195. START-UP EXPENDITURES.

"(a) CAPITALIZATION OF EXPENDITURES.—Except as otherwise provided in this section, no deduction shall be allowed for start-up expenditures.

"(b) ELECTION TO AMORTIZE.—

"(1) IN GENERAL.—Start-up expenditures may, at the election of the taxpayer, be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction prorated equally over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the active trade or business begins).

"(2) DISPOSITIONS BEFORE CLOSE OF AMORTIZATION PERIOD.—In any case in which a trade or business is completely disposed of by the taxpayer before the end of the period to which paragraph (1) applies, any deferred expenses attributable to such trade or business which were not allowed as a deduction by reason of this section may be deducted to the extent allowable under section 165.

"(c) DEFINITIONS.—For purposes of this section—

"(1) START-UP EXPENDITURES.—The term 'start-up expenditure' means any amount—

"(A) paid or incurred in connection with—

"(i) investigating the creation or acquisition of an active trade or business, or

"(ii) creating an active trade or business, or

"(iii) any activity engaged in for profit and for the production of income before the day on which the active trade or business begins, in anticipation of such activity becoming an active trade or business, and

"(B) which, if paid or incurred in connection with the operation of an existing active trade or business (in the same field as the trade or business referred to in subparagraph (A)), would be allowable as a deduction for the taxable year in which paid or incurred.

The term 'start-up expenditure' does not include any amount with respect to which a deduction is allowable under section 163(a), 164, or 174.

"(2) BEGINNING OF TRADE OR BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of when an active trade or business begins shall be made in accordance with such regulations as the Secretary may prescribe.

"(B) ACQUIRED TRADE OR BUSINESS.—An acquired active trade or business shall be treated as beginning when the taxpayer acquires it.

"(d) ELECTION.—

"(1) TIME FOR MAKING ELECTION.—An election under subsection (b) shall be made not later than the time prescribed by law for filing the return for the taxable year in which the trade or business begins (including extensions thereof).

"(2) SCOPE OF ELECTION.—The period selected under subsection (b) shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years."

(b) CONFORMING AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 195 and inserting in lieu thereof the following:

"Sec. 195. Start-up expenditures."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1984. 26 USC 195 note.

SEC. 95. LIFO CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.

26 USC 472.

(a) GENERAL RULE.—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end thereof the following new subsection:

"(g) CONFORMITY RULES APPLIED ON CONTROLLED GROUP BASIS.—

"(1) IN GENERAL.—Except as otherwise provided in regulations, all members of the same group of financially related corporations shall be treated as 1 taxpayer for purposes of subsections (c) and (e)(2).

"(2) GROUP OF FINANCIALLY RELATED CORPORATIONS.—For purposes of paragraph (1), the term 'group of financially related corporations' means—

"(A) any affiliated group as defined in section 1504 determined by substituting '50 percent' for '80 percent' each place it appears in section 1504(a) and without regard to section 1504(b), and

Ante, p. 577.

"(B) any other group of corporations which consolidate or combine for purposes of financial statements."

26 USC 472 note.

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

Subtitle H—Provisions Relating to Tax Straddles

SEC. 101. REPEAL OF EXCEPTION FROM STRADDLE RULES FOR STOCK OPTIONS AND CERTAIN STOCK.

(a) REPEAL OF EXCEPTION FOR STOCK OPTIONS.—

26 USC 1092.

(1) IN GENERAL.—Paragraph (2) of section 1092(d) (defining position) is amended to read as follows:

"(2) POSITION.—The term 'position' means an interest (including a futures or forward contract or option) in personal property."

(2) SECTIONS 1092 AND 263(g) NOT TO APPLY TO STRADDLES CONSISTING OF QUALIFIED COVERED CALL OPTIONS AND THE OPTIONED STOCK.—Subsection (c) of section 1092 (defining straddle) is amended by adding at the end thereof the following new paragraph:

"(4) EXCEPTION FOR CERTAIN STRADDLES CONSISTING OF QUALIFIED COVERED CALL OPTIONS AND THE OPTIONED STOCK.—

"(A) IN GENERAL.—If—

"(i) all the offsetting positions making up any straddle consist of 1 or more qualified covered call options and the stock to be purchased from the taxpayer under such options, and

"(ii) such straddle is not part of a larger straddle, such straddle shall not be treated as a straddle for purposes of this section and section 263(g).

"(B) QUALIFIED COVERED CALL OPTION DEFINED.—For purposes of subparagraph (A), the term 'qualified covered call option' means any option granted by the taxpayer to purchase stock held by the taxpayer (or stock acquired by the taxpayer in connection with the granting of the option) but only if—

"(i) such option is traded on a national securities exchange which is registered with the Securities and Exchange Commission or other market which the Secretary determines has rules adequate to carry out the purposes of this paragraph,

"(ii) such option is granted more than 30 days before the day on which the option expires,

"(iii) such option is not a deep-in-the-money option,

"(iv) such option is not granted by an options dealer (within the meaning of section 1256(g)(8)) in connection with his activity of dealing in options, and

Post, p. 620.

"(v) gain or loss with respect to such option is not ordinary income or loss.

"(C) DEEP-IN-THE-MONEY OPTION.—For purposes of subparagraph (B), the term 'deep-in-the-money option' means an option having a strike price lower than the lowest qualified bench mark.

"(D) LOWEST QUALIFIED BENCH MARK.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, for purposes of subparagraph (C), the term 'lowest qualified bench mark' means the highest available strike price which is less than the applicable stock price.

"(ii) SPECIAL RULE WHERE OPTION IS FOR PERIOD MORE THAN 90 DAYS AND STRIKE PRICE EXCEEDS $50.—In the case of an option—

"(I) which is granted more than 90 days before the date on which such option expires, and

"(II) with respect to which the strike price is more than $50,

the lowest qualified bench mark is the second highest available strike price which is less than the applicable stock price.

"(iii) 85 PERCENT RULE WHERE APPLICABLE STOCK PRICE $25 OR LESS.—If—

"(I) the applicable stock price is $25 or less, and

"(II) but for this clause, the lowest qualified bench mark would be less than 85 percent of the applicable stock price,

the lowest qualified bench mark shall be treated as equal to 85 percent of the applicable stock price.

"(iv) LIMITATION WHERE APPLICABLE STOCK PRICE $150 OR LESS.—If—

"(I) the applicable stock price is $150 or less, and

"(II) but for this clause, the lowest qualified bench mark would be less than the applicable stock price reduced by $10,

the lowest qualified bench mark shall be treated as equal to the applicable stock price reduced by $10.

"(E) SPECIAL YEAR-END RULE.—Subparagraph (A) shall not apply to any straddle for purposes of section 1092(a) if—

"(i) the qualified covered call options referred to in such subparagraph are closed during any taxable year,

"(ii) gain on disposition of the stock to be purchased from the taxpayer under such options is includible in gross income for a later taxable year, and

"(iii) such stock was not held by the taxpayer for 30 days or more after the closing of such options.

For purposes of the preceding sentence, the rules of paragraphs (3) (other than subparagraph (B) thereof) and (4) of section 246(c) shall apply in determining the period for which the taxpayer holds the stock.

Ante, p. 567.

"(F) STRIKE PRICE.—For purposes of this paragraph, the term 'strike price' means the price at which the option is exercisable.

"(G) APPLICABLE STOCK PRICE.—For purposes of subparagraph (D), the term 'applicable stock price' means, with respect to any stock for which an option has been granted—

"(i) the closing price of such stock on the most recent day on which such stock was traded before the date on which such option was granted, or

"(ii) the opening price of such stock on the day on which such option was granted, but only if such price is greater than 110 percent of the price determined under clause (i).

"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Such regulations may include modifications to the provisions of this paragraph which are appropriate to take account of changes in the practices of option exchanges or to prevent the use of options for tax avoidance purposes."

(b) REPEAL OF EXCEPTION FOR STOCK.—

26 USC 1092.

(1) IN GENERAL.—Paragraph (1) of section 1092(d) (defining personal property) is amended by striking out "(other than stock)".

(2) EXCEPTION WHERE STRADDLE CONSISTS OF HOLDING STOCK.—Subsection (d) of section 1092 is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR STOCK.—For purposes of paragraph (1)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'personal property' does not include stock.

"(B) EXCEPTIONS.—The term 'personal property' includes—

"(i) any stock which is part of a straddle at least 1 of the offsetting positions of which is—

"(I) an option with respect to such stock or substantially identical stock or securities, or

"(II) under regulations, a position with respect to substantially similar or related property (other than stock), and

"(ii) any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder.

"(C) SPECIAL RULES.—

"(i) For purposes of subparagraph (B), subsection (c) and paragraph (4) shall be applied as if stock described in clause (i) or (ii) of subparagraph (B) were personal property.

"(ii) For purposes of determining whether subsection (e) applies to any transaction with respect to stock described in clause (ii) of subparagraph (B), all includible corporations of an affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer."

Ante, p. 577.

(c) TREATMENT OF GAIN OR LOSS AND SUSPENSION OF HOLDING PERIOD WHERE TAXPAYER GRANTOR OF OPTION TO BUY STOCK.—Section 1092 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

26 USC 1092.

"(f) TREATMENT OF GAIN OR LOSS AND SUSPENSION OF HOLDING PERIOD WHERE TAXPAYER GRANTOR OF QUALIFIED COVERED CALL OPTION.—If a taxpayer holds any stock and grants a qualified covered call option to purchase such stock with a strike price less than the applicable stock price—

"(1) TREATMENT OF LOSS.—Any loss with respect to such option shall be treated as long-term capital loss if, at the time such loss is realized, gain on the sale or exchange of such stock would be treated as long-term capital gain.

"(2) SUSPENSION OF HOLDING PERIOD.—Except for purposes of section 851(b)(3), the holding period of such stock shall not include any period during which the taxpayer is the grantor of such option."

(d) TREATMENT OF IDENTIFIED STRADDLES INVOLVING SECTION 1256 CONTRACTS.—Paragraph (4) of subsection (d) of section 1092 is amended to read as follows:

Ante, p. 618.

"(4) SPECIAL RULE FOR SECTION 1256 CONTRACTS.—

"(A) GENERAL RULE.—In the case of a straddle at least 1 (but not all) of the positions of which are section 1256 contracts, the provisions of this section shall apply to any section 1256 contract and any other position making up such straddle.

"(B) SPECIAL RULE FOR IDENTIFIED STRADDLES.—For purposes of subsection (a)(2) (relating to identified straddles), subparagraph (A) and section 1256(a)(4) shall not apply to a straddle all of the offsetting positions of which consist of section 1256 contracts."

(e) EFFECTIVE DATES.—

26 USC 1092 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to positions established after December 31, 1983, in taxable years ending after such date.

(2) SPECIAL RULE FOR OFFSETTING POSITION STOCK.—In the case of any stock of a corporation formed or availed of to take positions in personal property which offset positions taken by any shareholder, the amendments made by this section shall apply to positions established on or after May 23, 1983, in taxable years ending on or after such date.

(3) SUBSECTION (c).—The amendment made by subsection (c) shall apply to positions established after June 30, 1984, in taxable years ending after such date.

(4) SUBSECTION (d).—The amendment made by subsection (d) shall apply to positions established after the date of the enactment of this Act in taxable years ending after such date.

SEC. 102. SECTION 1256 EXTENDED TO CERTAIN OPTIONS.

(a) GENERAL RULE.—

26 USC 1256.

(1) Section 1256 (relating to regulated futures contracts marked to market) is amended—

(A) by striking out "regulated futures contract" each place it appears and inserting in lieu thereof "section 1256 contract", and

(B) by striking out "regulated futures contracts" each place it appears and inserting in lieu thereof "section 1256 contracts".

(2) Subsection (b) of section 1256 is amended to read as follows:

"(b) SECTION 1256 CONTRACT DEFINED.—For purposes of this section, the term 'section 1256 contract' means—

"(1) any regulated futures contract,

"(2) any foreign currency contract,

"(3) any nonequity option, and

"(4) any dealer equity option."

(3) Subsection (g) of section 1256 is amended to read as follows:

"(g) DEFINITIONS.—For purposes of this section—

"(1) REGULATED FUTURES CONTRACTS DEFINED.—The term 'regulated futures contract' means a contract—

"(A) with respect to which the amount required to be deposited and the amount which may be withdrawn depends on a system of marking to market, and

"(B) which is traded on or subject to the rules of a qualified board or exchange.

"(2) FOREIGN CURRENCY CONTRACT DEFINED.—

"(A) FOREIGN CURRENCY CONTRACT.—The term 'foreign currency contract' means a contract—

"(i) which requires delivery of, or the settlement of which depends on the value of, a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

"(ii) which is traded in the interbank market, and

"(iii) which is entered into at arm's length at a price determined by reference to the price in the interbank market.

"(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subparagraph (A), including regulations excluding from the application of subparagraph (A) any contract (or type of contract) if its application thereto would be inconsistent with such purposes.

"(3) NONEQUITY OPTION.—The term 'nonequity option' means any listed option which is not an equity option.

"(4) DEALER EQUITY OPTION.—The term 'dealer equity option' means, with respect to an options dealer, any listed option which—

"(A) is an equity option,

"(B) is purchased or granted by such options dealer in the normal course of his activity of dealing in options, and

"(C) is listed on the qualified board or exchange on which such options dealer is registered.

"(5) LISTED OPTION.—The term 'listed option' means any option (other than a right to acquire stock from the issuer)

which is traded on (or subject to the rules of) a qualified board or exchange.

"(6) EQUITY OPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'equity option' means any option—

"(i) to buy or sell stock, or

"(ii) the value of which is determined directly or indirectly by reference to any stock (or group of stocks) or stock index.

"(B) EXCEPTION FOR CERTAIN OPTIONS REGULATED BY COMMODITIES FUTURES TRADING COMMISSION.—The term 'equity option' does not include any option with respect to any group of stocks or stock index if—

"(i) there is in effect a designation by the Commodities Futures Trading Commission of a contract market for a contract based on such group of stocks or index, or

"(ii) the Secretary determines that such option meets the requirements of law for such a designation.

"(7) QUALIFIED BOARD OR EXCHANGE.—The term 'qualified board or exchange' means—

"(A) a national securities exchange which is registered with the Securities and Exchange Commission,

"(B) a domestic board of trade designated as a contract market by the Commodity Futures Trading Commission, or

"(C) any other exchange, board of trade, or other market which the Secretary determines has rules adequate to carry out the purposes of this section.

"(8) OPTIONS DEALER.—

"(A) IN GENERAL.—The term 'options dealer' means any person registered with an appropriate national securities exchange as a market maker or specialist in listed options.

"(B) PERSONS TRADING IN OTHER MARKETS.—In any case in which the Secretary makes a determination under subparagraph (C) of paragraph (7), the term 'options dealer' also includes any person whom the Secretary determines performs functions similar to the persons described in subparagraph (A). Such determinations shall be made to the extent appropriate to carry out the purposes of this section."

(b) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—Subsection (f) of section 1256 (relating to special rules) is amended by adding at the end thereof the following new paragraphs: 26 USC 1256.

"(3) CAPITAL GAIN TREATMENT FOR TRADERS IN SECTION 1256 CONTRACTS.—

"(A) IN GENERAL.—For purposes of this title, gain or loss from trading of section 1256 contracts shall be treated as gain or loss from the sale or exchange of a capital asset.

"(B) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—Subparagraph (A) shall not apply to any section 1256 contract to the extent such contract is held for purposes of hedging property if any loss with respect to such property in the hands of the taxpayer would be ordinary loss.

"(C) TREATMENT OF UNDERLYING PROPERTY.—For purposes of determining whether gain or loss with respect to any property is ordinary income or loss, the fact that the taxpayer is actively engaged in dealing in or trading section

1256 contracts related to such property shall not be taken into account.

"(4) SPECIAL RULE FOR DEALER EQUITY OPTIONS OF LIMITED PARTNERS OR LIMITED ENTREPRENEURS.—In the case of any gain or loss with respect to dealer equity options which are allocable to limited partners or limited entrepreneurs (within the meaning of subsection (e)(3))—

"(A) paragraph (3) of subsection (a) shall not apply to any such gain or loss, and

"(B) all such gains or losses shall be treated as short-term capital gains or losses, as the case may be."

(c) APPLICATION OF SELF-EMPLOYMENT INCOME TAX TO OPTIONS AND COMMODITIES DEALERS.—

(1) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1954.—Section 1402 (relating to definitions for tax on self-employment income) is amended by adding at the end thereof the following new subsection:

26 USC 1402.

"(i) SPECIAL RULES FOR OPTIONS AND COMMODITIES DEALERS.—

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply.

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

"(A) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

Ante, p. 620.

"(B) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(C) SECTION 1256 CONTRACTS.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b)."

Ante, p. 620.

(2) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 211 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 411.

"(h)(1) In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

26 USC 1256.

"(B) the deduction provided by section 1202 of the Internal Revenue Code of 1954 shall not apply.

26 USC 1202.

"(2) For purposes of this subsection—

"(A) The term 'options dealer' has the meaning given such term by section 1256(g)(8) of such Code.

Ante, p. 620.

"(B) The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(C) The term 'section 1256 contracts' has the meaning given to such term by section 1256(b) of such Code." *Ante*, p. 620.

(d) TREATMENT UNDER SUBCHAPTER S OF OPTIONS AND COMMODITIES DEALERS.—

(1) TAX IMPOSED ON CERTAIN CAPITAL GAINS NOT TO APPLY.—Subsection (c) of section 1374 (relating to tax imposed on certain capital gains) is amended by adding at the end thereof the following new paragraph: 26 USC 1374.

"(4) TREATMENT OF CERTAIN GAINS OF OPTIONS AND COMMODITIES DEALERS.—

"(A) EXCLUSION OF CERTAIN CAPITAL GAINS.—For purposes of this section, the net capital gain of any options dealer or commodities dealer shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) OPTIONS DEALER.—The term 'options dealer' has the meaning given to such term by section 1256(g)(8). *Ante*, p. 620.

"(ii) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(iii) SECTION 1256 CONTRACTS.—The term 'section 1256 contracts' has the meaning given to such term by section 1256(b)." *Ante*, p. 620.

(2) CERTAIN GAINS NOT TREATED AS PASSIVE INVESTMENT INCOME.—Subparagraph (D) of section 1362(d)(3) (defining passive investment income) is amended by adding at the end thereof the following new clause: 26 USC 1362.

"(v) SPECIAL RULE FOR OPTIONS AND COMMODITIES DEALERS.—In the case of any options or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss described in section 1374(c)(4)(A)." *Supra*.

(3) SUBCHAPTER S ELECTION.—If a commodities dealer or an options dealer— 26 USC 1362 note.

(A) becomes a small business corporation (as defined in section 1361(b) of the Internal Revenue Code of 1954) at any time before the close of the 75th day after the date of the enactment of this Act, and

(B) makes the election under section 1362(a) of such Code before the close of such 75th day,

then such dealer shall be treated as having received approval for and adopted a taxable year beginning on the first day during 1984 on which it was a small business corporation (as so defined) and ending on the date determined under section 1378 of such Code and such election shall be effective for such taxable year.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1256 (relating to terminations, etc.) is amended—

(A) by striking out "by taking or making delivery," in paragraph (1) and inserting in lieu thereof "by taking or

making delivery, by exercise or being exercised, by assignment or being assigned, by lapse,",

(B) by striking out "takes delivery under" in paragraph (2) and inserting in lieu thereof "takes delivery under or exercises", and

(C) by striking out "TAKES DELIVERY ON" in the heading of paragraph (2) and inserting in lieu thereof "TAKES DELIVERY ON OR EXERCISES".

26 USC 1092.

(2) Paragraph (5) of section 1092(d) is amended to read as follows:

"(5) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given such term by section 1256(b)."

Ante, p. 620.

26 USC 1212.

(3) Subsection (c) of section 1212 (relating to carryback of losses from regulated futures contracts to offset prior gains from such contracts) is amended—

(A) by striking out "net commodity futures loss" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contracts loss",

(B) by striking out "regulated futures contracts" each place it appears (including in any headings) and inserting in lieu thereof "section 1256 contracts",

(C) by striking out "regulated futures contract" each place it appears in paragraph (7)(A) (including the heading) and inserting in lieu thereof "section 1256 contract", and

(D) by striking out "net commodity futures gain" each place it appears (including in any headings) and inserting in lieu thereof "net section 1256 contract gain".

26 USC 1234A.

(4) Paragraph (2) of section 1234A (relating to gains or losses from certain terminations) is amended by striking out "a regulated futures contract" and inserting in lieu thereof "a section 1256 contract".

26 USC 1256.

(5) The section heading for section 1256 is amended by striking out "REGULATED FUTURES CONTRACTS" and inserting in lieu thereof "SECTION 1256 CONTRACTS".

(6) The table of sections for part IV of subchapter P of chapter 1 is amended by striking out "Regulated futures contracts" in the item relating to section 1256 and inserting in lieu thereof "Section 1256 contracts".

26 USC 263.

(7) Paragraph (2) of section 263(g) (defining interest and carrying charges) is amended to read as follows:

"(2) INTEREST AND CARRYING CHARGES DEFINED.—For purposes of paragraph (1), the term 'interest and carrying charges' means the excess of—

"(A) the sum of—

"(i) interest on indebtedness incurred or continued to purchase or carry the personal property, and

"(ii) all other amounts (including charges to insure, store, or transport the personal property) paid or incurred to carry the personal property, over

"(B) the sum of—

"(i) the amount of interest (including original issue discount) includible in gross income for the taxable year with respect to the property described in subparagraph (A),

"(ii) any amount treated as ordinary income under section 1271(a)(3)(A), 1278, or 1281(a) with respect to such property for the taxable year, and

Ante, pp. 532, 547, 548.

"(iii) the excess of any dividends includible in gross income with respect to such property for the taxable year over the amount of any deduction allowable with respect to such dividends under section 243, 244, or 245.

For purposes of subparagraph (A), the term 'interest' includes any amount paid or incurred in connection with personal property used in a short sale."

(8) Subsection (g) of section 263 (relating to certain interest and carrying charges in the case of straddles) is amended by adding at the end thereof the following new paragraph: 26 USC 263.

"(4) APPLICATION WITH OTHER PROVISIONS.—

"(A) SUBSECTION (c).—In the case of any short sale, this subsection shall be applied after subsection (h).

"(B) SECTION 1277 OR 1282.—In the case of any obligation to which section 1277 or 1282 applies, this subsection shall be applied after section 1277 or 1282." *Ante*, pp. 545, 549.

(9) Section 1234A (relating to gains or losses from certain terminations) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to the retirement of any debt instrument (whether or not through a trust or other participation arrangement)." 26 USC 1234A.

(f) EFFECTIVE DATES.— 26 USC 1256 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection or subsection (g), the amendments made by this section shall apply to positions established after the date of the enactment of this Act, in taxable years ending after such date.

(2) SPECIAL RULE FOR OPTIONS ON REGULATED FUTURES CONTRACTS.—In the case of any option with respect to a regulated futures contract (within the meaning of section 1256 of the Internal Revenue Code of 1954), the amendments made by this section shall apply to positions established after October 31, 1983, in taxable years ending after such date.

(3) SPECIAL RULE FOR SELF-EMPLOYMENT TAX.—Except as provided in subsection (g)(2), the amendments made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

(4) GAINS OR LOSSES FROM CERTAIN TERMINATIONS.—The amendment made by subsection (d)(9) shall apply as if included in the amendment made by section 505(a) of the Economic Recovery Tax Act of 1981, as amended by section 105(e) of the Technical Corrections Act of 1982. 20 USC 237 note, 238.

(g) ELECTIONS WITH RESPECT TO PROPERTY HELD ON OR BEFORE THE DATE OF THE ENACTMENT OF THIS ACT.—At the election of the taxpayer— 26 USC 1234A. 26 USC 1256 note.

(1) the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer on the date of the enactment of this Act, effective for periods after such date in taxable years ending after such date, or

(2) in lieu of an election under paragraph (1), the amendments made by this section shall apply to all section 1256 contracts held by the taxpayer at any time during the taxable year of the taxpayer which includes the date of the enactment of this Act.

(h) ELECTIONS FOR INSTALLMENT PAYMENT OF TAX ATTRIBUTABLE TO STOCK OPTIONS.— 26 USC 1256 note.

(1) IN GENERAL.—If the taxpayer makes an election under subsection (g)(2) and under this subsection—

(A) the taxpayer may pay part or all the tax for the taxable year referred to in subsection (g)(2) in 2 or more (but not exceeding 5) equal installments, and

(B) the maximum amount of tax which may be paid in installments under this subsection shall be the excess of—

(i) the tax for such taxable year determined by taking into account subsection (g)(2), over

(ii) the tax for such taxable year determined by taking into account subsection (g)(2) and by treating—

(I) all section 1256 contracts which are stock options, and

(II) any stock which was a part of a straddle including any such stock options,

as having been acquired for a purchase price equal to their fair market value on the last business day of the preceding taxable year. Stock options and stock shall be taken into account under subparagraph (B)(ii) only if such options or stock were held on the last day of the preceding taxable year and only if income on such options or stock would have been ordinary income if such options or stock were sold at a gain on such last day.

(2) DATE FOR PAYMENT OF INSTALLMENT.—

(A) If an election is made under this subsection, the first installment under paragraph (1) shall be paid on or before the due date for filing the return for the taxable year described in paragraph (1), and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed for payment of the preceding installment.

(B) If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(3) INTEREST IMPOSED.—For purposes of section 6601 of the Internal Revenue Code of 1954, the time for payment of any tax with respect to which an election is made under this subsection shall be determined without regard to this subsection.

(4) FORM OF ELECTION.—An election under this subsection shall be made not later than the time for filing the return for the taxable year described in paragraph (1) and shall be made in the manner and form required by regulations prescribed by Secretary of the Treasury or his delegate. The election shall set forth—

(A) the amount determined under paragraph (1)(B) and the number of installments elected by the taxpayer,

(B) the property described in paragraph (1)(B)(ii), and the date on which such property was acquired,

(C) the fair market value of the property described in paragraph (1)(B)(ii) on the last business day of the taxable year preceding the taxable year described in paragraph (1), and

(D) such other information for purposes of carrying out the provisions of this subsection as may be required by such regulations.

(5) DELAY OF IDENTIFICATION REQUIREMENT.—Section 1256(e)(2)(C) of the Internal Revenue Code of 1954 shall not

apply to any stock option or stock acquired on or before the 60th day after the date of the enactment of this Act.

(i) DEFINITIONS.—For purposes of subsections (g) and (h)— 26 USC 1256 note.

(1) SECTION 1256 CONTRACT.—The term "section 1256 contract" has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954 (as amended by this section). *Ante*, p. 620.

(2) STOCK OPTION.—The term "stock option" means any option to buy or sell stock.

SEC. 103. REGULATIONS UNDER SECTION 1092(b).

(a) GENERAL RULE.—Subsection (b) of section 1092 (relating to character of gain or loss; wash sales) is amended to read as follows: 26 USC 1092.

"(b) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations with respect to gain or loss on positions which are a part of a straddle as may be appropriate to carry out the purposes of this section and section 263(g). To the extent consistent with such purposes, such regulations shall include rules applying the principles of subsections (a) and (d) of section 1091 and of subsections (b) and (d) of section 1233.

"(2) REGULATIONS RELATING TO MIXED STRADDLES.—

"(A) ELECTIVE PROVISIONS IN LIEU OF SECTION 1233(d) PRINCIPLES.—The regulations prescribed under paragraph (1) shall provide that—

"(i) the taxpayer may offset gains and losses from positions which are part of mixed straddles—

"(I) by straddle-by-straddle identification, or

"(II) by the establishment (with respect to any class of activities) of a mixed straddle account for which gains and losses would be recognized (and offset) on a periodic basis,

"(ii) such offsetting will occur before the application of section 1256, and section 1256(a)(3) will only apply to net gain or net loss attributable to section 1256 contracts, and

"(iii) the principles of section 1233(d) shall not apply with respect to any straddle identified under clause (i)(I) or part of an account established under clause (i)(II).

"(B) LIMITATION ON NET GAIN OR NET LOSS FROM MIXED STRADDLE ACCOUNT.—In the case of any mixed straddle account referred to in subparagraph (A)(i)(II)—

"(i) NOT MORE THAN 50 PERCENT OF NET GAIN MAY BE TREATED AS LONG-TERM CAPITAL GAIN.—In no event shall more than 50 percent of the net gain from such account for any taxable year be treated as long-term capital gain.

"(ii) NOT MORE THAN 40 PERCENT OF NET LOSS MAY BE TREATED AS SHORT-TERM CAPITAL LOSS.—In no event shall more than 40 percent of the net loss from such account for any taxable year be treated as short-term capital loss.

"(C) AUTHORITY TO TREAT CERTAIN POSITIONS AS MIXED STRADDLES.—The regulations prescribed under paragraph (1) may treat as a mixed straddle positions not described in section 1256(d)(4)."

26 USC 1092 note.

(b) REQUIREMENT THAT REGULATIONS BE ISSUED WITHIN 6 MONTHS AFTER THE DATE OF ENACTMENT.—The Secretary of the Treasury or his delegate shall prescribe initial regulations under section 1092(b) of the Internal Revenue Code of 1954 (including regulations relating to mixed straddles) not later than the date 6 months after the date of the enactment of this Act.

Ante, p. 627.

26 USC 1092 note.

(c) EFFECTIVE DATE OF REGULATIONS WITH RESPECT TO MIXED STRADDLES.—The regulations described in subsection (b) with respect to the application of section 1233 of the Internal Revenue Code of 1954 to mixed straddles shall not apply to mixed straddles all of the positions of which were established before January 1, 1984.

SEC. 104. LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.

26 USC 1256.

(a) GENERAL RULE.—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION ON LOSSES FROM HEDGING TRANSACTIONS.—

"(A) IN GENERAL.—

"(i) LIMITATION.—Any hedging loss for a taxable year which is allocable to any limited partner or limited entrepreneur (within the meaning of paragraph (3)) shall be allowed only to the extent of the taxable income of such limited partner or entrepreneur for such taxable year attributable to the trade or business in which the hedging transactions were entered into. For purposes of the preceding sentence, taxable income shall be determined by not taking into account items attributable to hedging transactions.

"(ii) CARRYOVER OF DISALLOWED LOSS.—Any hedging loss disallowed under clause (i) shall be treated as a deduction attributable to a hedging transaction allowable in the first succeeding taxable year.

"(B) EXCEPTION WHERE ECONOMIC LOSS.—Subparagraph (A)(i) shall not apply to any hedging loss to the extent that such loss exceeds the aggregate unrecognized gains from hedging transactions as of the close of the taxable year attributable to the trade or business in which the hedging transactions were entered into.

"(C) EXCEPTION FOR CERTAIN HEDGING TRANSACTIONS.—In the case of any hedging transaction relating to property other than stock or securities, this paragraph shall apply only in the case of a taxpayer described in section 465(a)(1).

"(D) HEDGING LOSS.—The term 'hedging loss' means the excess of—

"(i) the deductions allowable under this chapter for the taxable year attributable to hedging transactions (determined without regard to subparagraph (A)(i)), over

"(ii) income received or accrued by the taxpayer during such taxable year from such transactions.

"(E) UNRECOGNIZED GAIN.—The term 'unrecognized gain' has the meaning given to such term by section 1092(a)(3)."

26 USC 1256 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 105. CLARIFICATION THAT SECTION 1234 APPLIES TO OPTIONS ON REGULATED FUTURES CONTRACTS AND CASH SETTLEMENT OPTIONS.

(a) GENERAL RULE.—Section 1234 (relating to options to buy or sell) is amended by adding at the end thereof the following new subsection: 26 USC 1234.

"(c) TREATMENT OF OPTIONS ON SECTION 1256 CONTRACTS AND CASH SETTLEMENT OPTIONS.—

"(1) SECTION 1256 CONTRACTS.—Gain or loss shall be recognized on the exercise of an option on a section 1256 contract (within the meaning of section 1256(b)). *Ante*, p. 620.

"(2) TREATMENT OF CASH SETTLEMENT OPTIONS.—

"(A) IN GENERAL.—For purposes of subsections (a) and (b), a cash settlement option shall be treated as an option to buy or sell property.

"(B) CASH SETTLEMENT OPTION.—For purposes of subparagraph (A), the term 'cash settlement option' means any option which on exercise settles in (or could be settled in) cash or property other than the underlying property."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to options purchased or granted after October 31, 1983, in taxable years ending after such date. 26 USC 1234 note.

SEC. 106. WASH SALE RULES TO APPLY TO LOSSES ON CERTAIN SHORT SALES.

(a) IN GENERAL.—Section 1091 (relating to losses from wash sales of stock or securities) is amended by adding at the end thereof the following new subsection: 26 USC 1091.

"(e) CERTAIN SHORT SALES OF STOCK OR SECURITIES.—Rules similar to the rules of subsection (a) shall apply to any loss realized on the closing of a short sale of stock or securities if, within a period beginning 30 days before the date of such closing and ending 30 days after such date—

"(1) substantially identical stock or securities were sold, or

"(2) another short sale of substantially identical stock or securities was entered into."

(b) LOSSES FROM WASH SALES ONLY IN CASE OF DEALER LOSSES.—Section 1091(a) (relating to disallowance of loss deduction for wash sales) is amended by striking out all that follows "then" and inserting in lieu thereof "no deduction shall be allowed under section 165 unless the taxpayer is a dealer in stock or securities and the loss is sustained in a transaction made in the ordinary course of such business."

(c) EFFECTIVE DATE.— 26 USC 1091 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to short sales of stock or securities after the date of the enactment of this Act in taxable years ending after such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to sales after December 31, 1984, in taxable years ending after such date.

SEC. 107. TIME FOR IDENTIFICATION BY TAXPAYER OF CERTAIN TRANSACTIONS.

(a) IDENTIFIED STRADDLES.—Clause (i) of section 1092(a)(2)(B) (defining identified straddles) is amended to read as follows: 26 USC 1092.

"(i) which is clearly identified on the taxpayer's records as an identified straddle before the earlier of—

"(I) the close of the day on which the straddle is acquired, or

"(II) such time as the Secretary may prescribe by regulations."

(b) DEALERS IN SECURITIES.—

26 USC 1236.

(1) Paragraph (1) of section 1236(a) (relating to capital gain of dealers in securities) is amended to read as follows:

"(1) the security was, before the close of the day on which it was acquired (or such earlier time as the Secretary may prescribe by regulations), clearly identified in the dealer's records as a security held for investment; and".

(2) Paragraph (2) of section 1236(a) is amended by inserting "(or such earlier time)" after "such day".

26 USC 1256.

(c) MIXED STRADDLES.—Subparagraph (B) of section 1256(d)(4) (defining mixed straddles) is amended by inserting "(or such earlier time as the Secretary may prescribe by regulations)" after "acquired".

(d) HEDGING TRANSACTIONS.—Subparagraph (C) of section 1256(e)(2) (defining hedging transactions) is amended by inserting "(or such earlier time as the Secretary may prescribe by regulations)" after "entered into".

26 USC 1092 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to positions entered into after the date of the enactment of this Act, in taxable years ending after such date.

26 USC 1092 note.

SEC. 108. TREATMENT OF CERTAIN LOSSES ON STRADDLES ENTERED INTO BEFORE EFFECTIVE DATE OF ECONOMIC RECOVERY TAX ACT OF 1981.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1954, in the case of any disposition of 1 or more positions—

26 USC 1 *et seq.*

(1) which were entered into before 1982 and form part of a straddle, and

(2) to which the amendments made by title V of the Economic Recovery Tax Act of 1981 do not apply,

95 Stat. 323.

any loss from such disposition shall be allowed for the taxable year of the disposition if such position is part of a transaction entered into for profit.

(b) PRESUMPTION THAT TRANSACTION ENTERED INTO FOR PROFIT.—For purposes of subsection (a), any position held by a commodities dealer or any person regularly engaged in investing in regulated futures contracts shall be rebuttably presumed to be part of a transaction entered into for profit.

(c) NET LOSS ALLOWED WHETHER OR NOT TRANSACTION ENTERED INTO FOR PROFIT.—If any loss with respect to a position described in paragraphs (1) and (2) of subsection (a) is not allowable as a deduction (after applying subsections (a) and (b)), such loss shall be allowed in determining the gain or loss from dispositions of other positions in the straddle to the extent required to accurately reflect the taxpayer's net gain or loss from all positions in such straddle.

(d) OTHER RULES.—Except as otherwise provided in subsections (a) and (c) and in sections 1233 and 1234 of such Code, the determination of whether there is recognized gain or loss with respect to a position, and the amount and timing of such gain or loss, and the treatment of such gain or loss as long-term or short-term shall be

made without regard to whether such position constitutes part of a straddle.

(e) STRADDLE.—For purposes of this section, the term "straddle" has the meaning given to such term by section 1092(c) of the Internal Revenue Code of 1954 as in effect on the day after the date of the enactment of the Economic Recovery Tax Act of 1981, and shall include a straddle all the positions of which are regulated futures contracts. 26 USC 1 note.

(f) COMMODITIES DEALER.—For purposes of this section, the term "commodities dealer" has the meaning given to such term by section 1402(i)(2)(B) of the Internal Revenue Code of 1954 (as added by this subtitle). *Ante*, p. 622.

(g) REGULATED FUTURES CONTRACTS.—For purposes of this section, the term "regulated futures contracts" has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1954 (as in effect before the date of enactment of this Act). *Ante*, p. 620.

(h) SYNDICATES.—Subsection (b) shall not apply to any syndicate (as defined in section 1256(e)(3)(B) of the Internal Revenue Code of 1954). 26 USC 1256.

Subtitle I—Depreciation

SEC. 111. RECOVERY PERIOD FOR CERTAIN REAL PROPERTY EXTENDED TO 18 YEARS.

(a) IN GENERAL.—Paragraph (2) of section 168(b) (relating to 15-year real property) is amended— 26 USC 168.

(1) by striking out "15-year real property" each place it appears in the text and heading thereof and inserting in lieu thereof "18-year real property",

(2) by striking out "15-year recovery period" in subparagraph (A)(i) and inserting in lieu thereof "18-year recovery period", and

(3) by striking out "(200 percent declining balance method in the case of low-income housing)".

(b) LOW-INCOME HOUSING.—

(1) DETERMINATION OF RECOVERY PERCENTAGE.—Subsection (b) of section 168 (relating to the amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) LOW-INCOME HOUSING.—

"(A) IN GENERAL.—In the case of low-income housing, the applicable percentage shall be determined in accordance with the table prescribed in paragraph (2) (without regard to the mid-month convention), except that in prescribing such table, the Secretary shall—

"(i) assign to the property a 15-year recovery period, and

"(ii) assign percentages generally determined in accordance with use of the 200 percent declining balance method, switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a).

"(B) SPECIAL RULE FOR YEAR OF DISPOSITION.—In the case of a disposition of low-income housing, the deduction allowable under subsection (a) for the taxable year in which the disposition occurs shall reflect only the months during such year the property was placed in service."

26 USC 168.

(2) LOW-INCOME HOUSING DEFINED.—Paragraph (2) of section 168(c) (defining recovery property) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

"(F) LOW-INCOME HOUSING.—The term 'low-income housing' means property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B)."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 168(b)(2) is amended by striking out the last sentence thereof.

(B) Subparagraph (D) of section 168(c)(2) is amended to read as follows:

"(D) 18-YEAR REAL PROPERTY.—The term '18-year real property' means section 1250 class property which—

"(i) does not have a present class life of 12.5 years or less, and

"(ii) is not low-income housing."

(c) TRANSITIONAL RULE FOR COMPONENTS.—Subparagraph (B) of section 168(f)(1) is amended to read as follows:

"(B) TRANSITIONAL RULES.—

"(i) BUILDINGS PLACED IN SERVICE BEFORE 1981.—In the case of any building placed in service by the taxpayer before January 1, 1981, for purposes of applying subparagraph (A) to components of such buildings placed in service after December 31, 1980, and before March 16, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after December 31, 1980.

"(ii) BUILDINGS PLACED IN SERVICE BEFORE MARCH 16, 1984.—In the case of any building placed in service by the taxpayer before March 16, 1984, for purposes of applying subparagraph (A) to components of such buildings placed in service after March 15, 1984, the deduction allowable under subsection (a) with respect to such components shall be computed in the same manner as the deduction allowable with respect to the first such component placed in service after March 15, 1984.

"(iii) FIRST COMPONENT TREATED AS SEPARATE BUILDING.—For purposes of clause (i) or (ii), the method of computing the deduction allowable with respect to the first component described in such clause shall be determined as if it were a separate building."

(d) USE OF MID-MONTH CONVENTION.—Subparagraphs (A) and (B) of section 168(b)(2) are each amended by inserting "(using a mid-month convention)" after "months".

(e) CONFORMING AMENDMENTS.—

(1) Subsections (b)(3)(B)(iii), (f)(2)(B), (f)(2)(C)(ii)(II), (f)(2)(E), and (f)(5) of section 168 are each amended by striking out "15-year real property" each place it appears and inserting in lieu thereof "18-year real property or low-income housing".

(2) Clause (ii) of section 168(b)(3)(B) is amended by striking out "15-year real property" and inserting in lieu thereof "18-year real property or low-income housing,".

(3) Subparagraph (B) of section 168(d)(2) is amended by striking out "15-year real property" and inserting in lieu thereof "18-year real property or low-income housing". 26 USC 168.

(4) Clause (i) of section 168(f)(2)(C) (relating to recovery period for property used outside United States) is amended by striking out the item relating to 15-year real property in the table and inserting in lieu thereof the following new item:

"18-year real property or low-income housing ..... 35 or 45 years.".

(5) Sections 57(a)(12)(A) and 312(k)(3)(A) and subparagraphs (A), (B), and (C) of section 1245(A)(5) are each amended by striking out "15-year real property" each place it appears in the text and headings and inserting in lieu thereof "18-year real property and low-income housing". 26 USC 57, 312, 1245.

(6) Subparagraph (B) of section 57(a)(12) (relating to items of tax preference) is amended to read as follows: 26 USC 57.

"(B) 18-YEAR REAL PROPERTY AND LOW-INCOME HOUSING.—With respect to each recovery property which is 18-year real property or low-income housing, the amount (if any) by which the deduction allowed under section 168(a) for the taxable year exceeds the deduction which would have been allowable for a taxable year had the property been depreciated using the straight-line method (without regard to salvage value) over a recovery period of—

"(i) 18 years in the case of 18-year real property, and

"(ii) 15 years in the case of low-income housing property."

(7) Subparagraph (E) of section 57(a)(12) is amended by striking out "'15-year real property'," and inserting in lieu thereof "'18-year real property', 'low-income housing',".

(8) Paragraph (2) of section 48(g) (relating to qualified rehabilitation expenditure) is amended— 26 USC 48.

(A) by striking out "property" each place it appears in subparagraph (A)(i) and inserting in lieu thereof "real property",

(B) by striking out "15" in subparagraph (A)(i) and inserting in lieu thereof "18 (15 years in the case of low-income housing),

(C) by striking out "15 years" in subparagraph (B)(v) and inserting in lieu thereof "18 years (15 years in the case of low-income housing)", and

(D) by adding at the end thereof the following new subparagraph:

"(D) LOW-INCOME HOUSING.—For purposes of subparagraph (B), the term 'low-income housing' has the meaning given such term by section 168(c)(2)(F)." *Ante*, p. 632.

(9) Subparagraph (A) of section 168(b)(3) (relating to election of different recovery percentage) is amended— 26 USC 168.

(A) by striking out "under paragraphs (1) and (2)" and inserting in lieu thereof "under paragraph (1), (2), or (4)", and

(B) by striking out the item in the table relating to 15-year real property and inserting in lieu thereof the following new item:

"18-year real property and low-income housing ..... 18, 35, or 45."

(10) Section 1245(a)(5)(D) is amended to read as follows: 26 USC 1245.

"(D) low-income housing (within the meaning of section 168(c)(2)(F))."

Ante, p. 632.
26 USC 168 note.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service by the taxpayer after March 15, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1987, if—

(A) the taxpayer or a qualified person entered into a binding contract to purchase or construct such property before March 16, 1984, or

(B) construction of such property was commenced by or for the taxpayer or a qualified person before March 16, 1984.

For purposes of this paragraph the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer, but only if such property is not placed in service by such person before such rights are transferred to the taxpayer.

(3) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2).—

(A) CERTAIN INVENTORY.—In the case of any property which—

(i) is held by a person as property described in section 1221(1), and

(ii) is disposed of by such person before January 1, 1985,

such person shall not, for purposes of paragraph (2), be treated as having placed such property in service before such property is disposed of merely because such person rented such property or held such property for rental. No deduction for depreciation or amortization shall be allowed to such person with respect to such property,

(B) CERTAIN PROPERTY FINANCED BY BONDS.—In the case of any property with respect to which—

(i) bonds were issued to finance such property before 1984, and

(ii) an architectural contract was entered into before March 16, 1984,

paragraph (2) shall be applied by substituting "May 2" for "March 16".

(4) SPECIAL RULE FOR COMPONENTS.—For purposes of applying section 168(f)(1)(B) of the Internal Revenue Code of 1954 (as amended by this section) to components placed in service after December 31, 1986, property to which paragraph (2) applies shall be treated as placed in service by the taxpayer before March 16, 1984.

Ante, p. 632.

(5) SPECIAL RULE FOR MID-MONTH CONVENTION.—In the case of the amendment made by subsection (d)—

(A) paragraph (1) shall be applied by substituting "June 22, 1984" for "March 15, 1984", and

(B) paragraph (2) shall be applied by substituting "June 23, 1984" for "March 15, 1984" each place it appears.

SEC. 112. RECAPTURE IN CASE OF INSTALLMENT SALES.

(a) GENERAL RULE.—Subsection (i) of section 453 (relating to installment method) is amended to read as follows: 26 USC 453.

"(i) RECOGNITION OF RECAPTURE INCOME IN YEAR OF DISPOSITION.—

"(1) IN GENERAL.—In the case of any installment sale of property to which subsection (a) applies—

"(A) notwithstanding subsection (a), any recapture income shall be recognized in the year of the disposition, and

"(B) any gain in excess of the recapture income shall be taken into account under the installment method.

"(2) RECAPTURE INCOME.—For purposes of paragraph (1), the term 'recapture income' means, with respect to any installment sale, the aggregate amount which would be treated as ordinary income under section 1245 or 1250 for the taxable year of the disposition if all payments to be received were received in the taxable year of disposition."

(b) EFFECTIVE DATE.— 26 USC 453 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to dispositions made after June 6, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply with respect to any disposition conducted pursuant to a contract which was binding on March 22, 1984, and at all times thereafter.

(3) SPECIAL RULE FOR CERTAIN DISPOSITIONS BEFORE OCTOBER 1, 1984.—The amendments made by this section shall not apply to any disposition before October 1, 1984, of all or substantially all of the personal property of a cable television business pursuant to a written offer delivered by the seller on June 20, 1984, but only if the last payment under the installment contract is due no later than October 1, 1989.

SEC. 113. PROVISIONS RELATING TO SOUND RECORDINGS AND FILMS.

(a) SOUND RECORDINGS.—

(1) IN GENERAL.—Section 48 (defining section 38 property) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection: 26 USC 48.

"(r) SPECIAL RULES RELATING TO SOUND RECORDINGS.—

"(1) IN GENERAL.—For purposes of this title, in the case of any sound recording, the original use of which commences with the taxpayer, the taxpayer may elect to treat such recording as recovery property which is 3-year property to the extent that the taxpayer has an ownership interest in such recording.

"(2) FAILURE TO MAKE ELECTION.—If a taxpayer does not make an election under paragraph (1) with respect to any sound recording—

"(A) no credit shall be allowed under section 38 with respect to such recording, and *Post*, p. 827.

"(B) such recording shall not be treated as recovery property.

"(3) PREDOMINANT USE TEST AND AT RISK RULES NOT TO APPLY; QUALIFIED INVESTMENT.—In the case of any sound recording—

"(A) sections 46(c)(8), 46(c)(9), and 48(a)(2) shall not apply, and *Post*, p. 807.

"(B) in determining the qualified investment under section 46(c)(1), there shall be used (in lieu of the basis of the

property) an amount equal to the production costs which are allocable to the United States (as determined under rules similar to the rules of section 48(k)(5)(D)).

"(4) OWNERSHIP INTEREST.—For purposes of determining the credit allowable under section 38, the ownership interest of any person in a sound recording shall be determined on the basis of his proportionate share of any loss which may be incurred with respect to the production costs of such sound recording.

Post, p. 827.

"(5) SOUND RECORDING.—For purposes of this subsection, the term 'sound recording' means any sound recording described in section 280(c)(2).

"(6) PRODUCTION COSTS—

"(A) IN GENERAL.—For purposes of this subsection, the term 'production costs' includes—

"(i) a reasonable allocation of general overhead costs,

"(ii) compensation for services performed by song writers, artists, production personnel, directors, producers, and similar personnel,

"(iii) costs of 'first' distribution of records or tapes, and

"(iv) the cost of the material being recorded.

"(B) CERTAIN COSTS NOT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C), the term 'production costs' shall not include—

"(i) 'residuals' payable under contracts with labor organizations, or

"(ii) participations or royalties payable as compensation to song writers, artists, production personnel, directors, producers, and similar personnel, or

"(iii) any other contingent amounts.

"(C) CERTAIN CONTINGENT AMOUNTS TAKEN INTO ACCOUNT.—In the case of any amount which is described in subparagraph (B) and which is incurred in the taxable year in which the sound recording is placed in service or the next taxable year—

"(i) subparagraph (B) shall not apply, and

"(ii) for purposes of sections 38 and 168, the taxpayer shall be treated as having placed in service in each such taxable year 3-year recovery property with a basis equal to the amount so incurred in such taxable year.

"(7) ELECTION MADE SEPARATELY.—An election under paragraph (1) shall be made separately with respect to each sound recording and must be made by all persons having an ownership interest in such recording.

"(8) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the possessions of the United States."

26 USC 168.

(2) CONFORMING AMENDMENTS.—Section 168(f) (relating to special rules), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(14) SPECIAL RULES FOR SOUND RECORDINGS.—In the case of a sound recording (within the meaning of section 48(r)), the unadjusted basis of such property shall be equal to the production costs (within the meaning of section 48(r)(6))."

Ante, p. 635.

(b) FILMS AND OTHER PROPERTY.—

26 USC 168.

(1) FILMS AND VIDEO TAPES NOT TREATED AS RECOVERY PROPERTY.—Section 168(e) (relating to property excluded from appli-

cation of this section) is amended by adding at the end thereof the following new paragraph:

"(5) FILMS AND VIDEO TAPES NOT RECOVERY PROPERTY.—The term 'recovery property' shall not include any motion picture film or video tape."

(2) APPLICATION OF RECOVERY PROPERTY EXCEPTIONS.—

(A) Section 168(e) is amended by striking out "section" and inserting in lieu thereof "title" in the matter preceding paragraph (1). 26 USC 168.

(B) Subparagraph (A) of section 46(c)(7) is amended by inserting "recovery" before "property" the first place it appears. 26 USC 46.

(3) FILMS NOT SUBJECT TO INVESTMENT CREDIT AT-RISK RULES.—Paragraph (4) of section 48(k) is amended— 26 USC 48.

(A) by inserting ", section 46(c)(8), or section 46(c)(9)" after "section 48(a)(2)" in subparagraph (A),

(B) by inserting "or at-risk rules" after "test" in the heading thereof, and

(C) by striking out "issued" and inserting in lieu thereof "used".

(4) BASIS ADJUSTMENT FOR FILMS.—Section 48(q) (relating to basis adjustment) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED FILMS.—If a credit is allowed under section 38 with respect to any qualified film (within the meaning of subsection (k)(1)(B)) then, in lieu of any reduction under paragraph (1)— *Post*, p. 827.

"(A) to the extent that the credit is determined with respect to any amount described in clause (v) or (vi) of subsection (k)(5)(B), any deduction allowable under this chapter with respect to such amount shall be reduced by 50 percent of the amount of the credit so determined, and

"(B) the basis of the taxpayer's ownership interest (within the meaning of subsection (k)(1)(C)) shall be reduced by the excess of—

"(i) 50 percent of the amount of the credit determined under subsection (k), over

"(ii) the amount of the reduction under subparagraph (A)."

(c) EFFECTIVE DATES.—

(1) SOUND RECORDINGS.—The amendments made by subsection (a) shall apply to property placed in service after March 15, 1984, in taxable years ending after such date. 26 USC 48 note.

(2) FILMS AND OTHER PROPERTY.— 26 USC 168 note.

(A) The amendments made by paragraphs (1) of subsection (b) shall apply to any motion picture film or video tape placed in service before, on, or after the date of the enactment of this Act, except that such amendment shall not apply to—

(i) any qualified film placed in service by the taxpayer before March 15, 1984, if the taxpayer treated such film as recovery property for purposes of section 168 of the Internal Revenue Code of 1954 on a return of tax under chapter 1 of such Code filed before March 16, 1984, or 26 USC 1 *et seq.*

(ii) any qualified film placed in service by the taxpayer before January 1, 1985, if—

(I) 20 percent or more of the production costs of such film were incurred before March 16, 1984, and

(II) the taxpayer treats such film as recovery property for purposes of section 168 of such Code.

Post, p. 827.

No credit shall be allowable under section 38 of such Code with respect to any qualified film described in clause (ii), except to the extent provided in section 48(k) of such Code.

(B) The amendment made by paragraph (2) and (3) of subsection (b) shall apply as if included in the amendments made by section 201(a), 211(a)(1), and 211(f)(1) of the Economic Recovery Tax Act of 1981.

26 USC 168, 46.

(C) The amendment made by paragraph (4) of subsection (b) shall take effect as if included in the amendments made by section 205(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

26 USC 48.

(D) For purposes of this paragraph, the terms "qualified film" and "production costs" have the same respective meanings as when used in section 48(k) of the Internal Revenue Code of 1954.

SEC. 114. DEFINITION OF SECTION 38 PROPERTY IN SALE-LEASEBACK TRANSACTIONS.

26 USC 48.

(a) IN GENERAL.—Subsection (b) of section 48 (defining new section 38 property) is amended to read as follows:

"(b) NEW SECTION 38 PROPERTY.—For purposes of this subpart—

Post, p. 827.

"(1) IN GENERAL.—The term 'new section 38 property' means section 38 property the original use of which commences with the taxpayer.

"(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of paragraph (1), in the case of any section 38 property which—

"(A) is originally placed in service by a person, and

"(B) is sold and leased back by such person, or is leased to such person, within 3 months of the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the lease.

"(3) SPECIAL RULE FOR ENERGY PROPERTY.—The principles of paragraph (2) shall be applicable in determining whether the original use of property commences with the taxpayer for purposes of section 48(l)(2)(B)(ii)."

26 USC 48 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property originally placed in service after April 11, 1984 (determined without regard to such amendment).

Subtitle J—Foreign Provisions

PART I—CHANGES IN SOURCE AND CHARACTER RULES

SEC. 121. CERTAIN AMOUNTS TREATED AS DERIVED FROM UNITED STATES SOURCES FOR PURPOSES OF LIMITATION ON FOREIGN TAX CREDIT.

26 USC 904.
Post, p. 843.

(a) GENERAL RULE.—Section 904 (relating to limitation on foreign tax credit) is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) SOURCE RULES IN CASE OF UNITED STATES-OWNED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—The following amounts which are derived from a United States-owned foreign corporation and which would be treated as derived from sources outside the United States without regard to this subsection shall, for purposes of this section, be treated as derived from sources within the United States to the extent provided in this subsection:

"(A) Any amount included in gross income under—

"(i) section 951(a) (relating to amounts included in gross income of United States shareholders), or

"(ii) section 551 (relating to foreign personal holding company income taxed to United States shareholders).

"(B) Interest.

"(C) Dividends.

"(2) SUBPART F AND FOREIGN PERSONAL HOLDING COMPANY INCLUSIONS.—Any amount described in subparagraph (A) of paragraph (1) shall be treated as derived from sources within the United States to the extent such amount is attributable to income of the United States-owned foreign corporation from sources within the United States.

"(3) CERTAIN INTEREST ALLOCABLE TO UNITED STATES SOURCE INCOME.—Any interest which—

"(A) is paid or accrued by a United States-owned foreign corporation during any taxable year,

"(B) is paid or accrued to a United States shareholder (as defined in section 951(b)) or a related person (within the meaning of section 267(b)) to such a shareholder, and

"(C) is properly allocable (under regulations prescribed by the Secretary) to income of such foreign corporation for the taxable year from sources within the United States,

shall be treated as derived from sources within the United States.

"(4) DIVIDENDS.—

"(A) IN GENERAL.—The United States source ratio of any dividend paid or accrued by a United States-owned foreign corporation shall be treated as derived from sources within the United States.

"(B) UNITED STATES SOURCE RATIO.—For purposes of subparagraph (A), the term 'United States source ratio' means, with respect to any dividend paid out of the earnings and profits for any taxable year, a fraction—

"(i) the numerator of which is the portion of the earnings and profits for such taxable year from sources within the United States, and

"(ii) the denominator of which is the total amount of earnings and profits for such taxable year.

"(5) EXCEPTION WHERE UNITED STATES-OWNED FOREIGN CORPORATION HAS SMALL AMOUNT OF UNITED STATES SOURCE INCOME.—Paragraph (3) shall not apply to interest paid or accrued during any taxable year (and paragraph (4) shall not apply to any dividends paid out of the earnings and profits for such taxable year) if—

"(A) the United States-owned foreign corporation has earnings and profits for such taxable year, and

"(B) less than 10 percent of such earnings and profits is attributable to sources within the United States.

For purposes of the preceding sentence, earnings and profits shall be determined without any reduction for interest described in paragraph (3) (determined without regard to subparagraph (C) thereof).

"(6) UNITED STATES-OWNED FOREIGN CORPORATION.—For purposes of this subsection, the term 'United States-owned foreign corporation' means any foreign corporation if 50 percent or more of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of the stock of such corporation, is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).

"(7) DIVIDEND.—For purposes of this subsection, the term 'dividend' includes any gain treated as ordinary income under section 1246 or as a dividend under section 1248.

"(8) COORDINATION WITH SUBSECTION (f).—This subsection shall be applied before subsection (f).

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate for purposes of this subsection, including—

"(A) regulations for the application of this subsection in the case of interest or dividend payments through 1 or more entities, and

"(B) regulations providing that this subsection shall apply to interest paid or accrued to any person (whether or not a United States shareholder)."

26 USC 904 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall take effect on the date of the enactment of this Act. In the case of any taxable year of any United States-owned foreign corporation ending after the date of the enactment of this Act—

(A) only income received or accrued by such foreign corporation after such date of enactment shall be taken into account under section 904(g) of the Internal Revenue Code of 1954 (as added by subsection (a)); except that

Ante, p. 638.

(B) paragraph (5) of such section 904(g) (relating to exception where small amount of United States source income) shall be applied by taking into account all income received or accrued by such foreign corporation during such taxable year.

(2) SPECIAL RULE FOR APPLICABLE CFC.—

(A) IN GENERAL.—In the case of qualified interest received or accrued by an applicable CFC before January 1, 1992—

(i) such interest shall not be taken into account under section 904(g) of the Internal Revenue Code of 1954 (as added by subsection (a)), except that

(ii) such interest shall be taken into account for purposes of applying paragraph (5) of such section 904(g) (relating to exception where small amount of United States source income).

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the term "qualified interest" means—

(i) the aggregate amount of interest received or accrued during any taxable year by an applicable CFC on

United States affiliate obligations held by such applicable CFC, multiplied by,

(ii) a fraction (not in excess of 1)—

(I) the numerator of which is the sum of the aggregate principal amount of United States affiliate obligations held by the applicable CFC on March 31, 1984, but not in excess of the applicable limit, and

(II) the denominator of which is the average daily principal amount of United States affiliate obligations held by such applicable CFC during the taxable year.

Proper adjustments shall be made to the numerator described in clause (ii)(I) for original issue discount accruing after March 31, 1984, on CFC obligations and United States affiliate obligations.

(C) ADJUSTMENT FOR RETIREMENT OF CFC OBLIGATIONS.—The amount described in subparagraph (B)(ii)(I) for any taxable year shall be reduced by the sum of—

(i) the excess of (I) the aggregate principal amount of CFC obligations which are outstanding on March 31, 1984, but only with respect to obligations issued before March 8, 1984, or issued after March 7, 1984, by the applicable CFC pursuant to a binding commitment in effect on March 7, 1984, over (II) the average daily outstanding principal amount during the taxable year of the CFC obligations described in subclause (I), and

(ii) the portion of the equity of such applicable CFC allocable to the excess described in clause (i) (determined on the basis of the debt-equity ratio of such applicable CFC on March 31, 1984).

(D) APPLICABLE CFC.—For purposes of this paragraph, the term "applicable CFC" means any controlled foreign corporation (within the meaning of section 957)—

(i) which was in existence on March 31, 1984, and

(ii) the principal purpose of which on such date consisted of the issuing of CFC obligations or the holding of short-term obligations and lending the proceeds of such obligations to affiliates.

(E) AFFILIATES; UNITED STATES AFFILIATES.—For purposes of this paragraph—

(i) AFFILIATE.—The term "affiliate" means any person who is a related person (within the meaning of section 482 of the Internal Revenue Code of 1954) to the applicable CFC.

(ii) UNITED STATES AFFILIATE.—The term "United States affiliate" means any United States person which is an affiliate of the applicable CFC.

(F) UNITED STATES AFFILIATE OBLIGATIONS.—For purposes of this paragraph, the term "United States affiliate obligations" means any obligation of (and payable by) a United States affiliate.

(G) CFC OBLIGATION.—For purposes of this paragraph, the term "CFC obligation" means any obligation of (and issued by) a CFC if—

(i) the requirements of clause (i) of section 163(f)(2)(B) of the Internal Revenue Code of 1954 are met with respect to such obligation, and

(ii) in the case of an obligation issued after December 31, 1982, the requirements of clause (ii) of such section 163(f)(2)(B) are met with respect to such obligation.

(H) TREATMENT OF OBLIGATIONS WITH ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, in the case of any obligation with original issue discount, the principal amount of such obligation as of any day shall be treated as equal to the revised issue price as of such day (as defined in section 1278(a)(4) of the Internal Revenue Code of 1954).

Ante, p. 547.

(I) APPLICABLE LIMIT.—For purposes of subparagraph (B)(ii)(I), the term "applicable limit" means the sum of—

(i) the equity of the applicable CFC on March 31, 1984, and

(ii) the aggregate principal amount of CFC obligations outstanding on March 31, 1984, which were issued by an applicable CFC—

(I) before March 8, 1984, or

(II) after March 7, 1984, pursuant to a binding commitment in effect on March 7, 1984.

(3) EXCEPTION FOR CERTAIN TERM OBLIGATIONS.—The amendments made by subsection (a) shall not apply to interest on any term obligations held by a foreign corporation on March 7, 1984. The preceding sentence shall not apply to any United States affiliate obligation (as defined in paragraph (2)(F)) held by an applicable CFC (as defined in paragraph (2)(D)).

(4) DEFINITIONS.—Any term used in this subsection which is also used in section 904(g) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall have the meaning given such term by such section 904(g).

Ante, p. 638.

(5) SEPARATE APPLICATION OF SECTION 904 IN CASE OF INCOME COVERED BY TRANSITIONAL RULES.—Subsections (a), (b), and (c) of section 904 of the Internal Revenue Code of 1954 shall be applied separately to any amount not treated as income derived from sources within the United States but which (but for the provisions of paragraph (2) or (3) of this subsection) would be so treated under the amendments made by subsection (a). Any such separate application shall be made before any separate application required under section 904(d) of such Code.

(6) APPLICATION OF PARAGRAPH (5) DELAYED IN CERTAIN CASES.—In the case of a foreign corporation—

(A) which is a subsidiary of a domestic corporation which has been engaged in manufacturing for more than 50 years, and

(B) which issued certificates with respect to obligations on—

(i) September 24, 1979, denominated in French francs,

(ii) September 10, 1981, denominated in Swiss francs,

(iii) July 14, 1982, denominated in Swiss francs, and

(iv) December 1, 1982, denominated in United States dollars,

with a total principal amount of less than 200,000,000 United States dollars.

then paragraph (5) shall not apply to the proceeds from relending such obligations or related capital before January 1, 1986.

SEC. 122. CERTAIN AMOUNTS TREATED AS INTEREST FOR PURPOSES OF THE LIMITATION ON THE FOREIGN TAX CREDIT.

(a) GENERAL RULE.—Subsection (d) of section 904 (relating to limitation on foreign tax credit) is amended by adding at the end thereof the following new paragraph: 26 USC 904.

"(3) CERTAIN AMOUNTS ATTRIBUTABLE TO UNITED STATES-OWNED FOREIGN CORPORATIONS, ETC., TREATED AS INTEREST.—

"(A) IN GENERAL.—For purposes of this subsection, dividends and interest—

"(i) paid or accrued by a designated payor corporation, and

"(ii) attributable to any taxable year of such corporation,

shall be treated as interest income described in paragraph (2) to the extent that the aggregate amount of such dividends and interest does not exceed the separate limitation interest of the designated payor corporation for such taxable year.

"(B) SEPARATE LIMITATION INTEREST.—For purposes of this subsection, the term 'separate limitation interest' means, with respect to any taxable year—

"(i) the aggregate amount of the interest income described in paragraph (2) (including amounts treated as so described by reason of this paragraph) which is received or accrued by the designated payor corporation during the taxable year, reduced by

"(ii) the deductions properly allocable (under regulations prescribed by the Secretary) to such income.

"(C) EXCEPTION WHERE DESIGNATED CORPORATION HAS SMALL AMOUNT OF SEPARATE LIMITATION INTEREST.—Subparagraph (A) shall not apply to any amount attributable to the taxable year of a designated payor corporation, if—

"(i) such corporation has earnings and profits for such taxable year, and

"(ii) less than 10 percent of such earnings and profits is attributable to separate limitation interest.

"(D) TREATMENT OF CERTAIN INTEREST.—For purposes of this paragraph, the amount of the separate limitation interest and the earnings and profits of any designated payor corporation shall be determined without any reduction for interest paid or accrued to a United States shareholder (as defined in section 951(b)) or a related person (within the meaning of section 267(b)) to such a shareholder.

"(E) DESIGNATED PAYOR CORPORATION.—For purposes of this paragraph, the term 'designated payor corporation' means—

"(i) any United States-owned foreign corporation (within the meaning of subsection (g)(6)),

"(ii) any other foreign corporation in which a United States person is a United States shareholder (as defined in section 951(b)) at any time during the taxable year of such foreign corporation, and

"(iii) any regulated investment company.

"(F) DETERMINATION OF YEAR TO WHICH AMOUNT IS ATTRIBUTABLE.—For purposes of determining whether an amount is attributable to a taxable year of a designated payor corporation—

"(i) any amount includible in gross income under section 551 or 951 in respect of such taxable year,

"(ii) any interest paid or accrued by such corporation during such taxable year, and

"(iii) any dividend paid out of the earnings and profits of such corporation for such taxable year,

shall be treated as attributable to such taxable year.

"(G) ORDERING RULES.—Subparagraph (A) shall be applied to amounts described therein in the order in which such amounts are described in subparagraph (F).

"(H) DIVIDEND.—For purposes of this paragraph, the term 'dividend' includes—

"(i) any amount includible in gross income under section 551 or 951, and

"(ii) any gain treated as ordinary income under section 1246 or as a dividend under section 1248.

"(I) DISTRIBUTIONS THROUGH OTHER ENTITIES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph in the case of distributions or payments through 1 or more entities.

"(J) INTEREST FROM MEMBERS OF SAME AFFILIATED GROUP.—For purposes of this paragraph, interest received or accrued by the designated payor corporation from another member of the same affiliated group (determined under section 1504 without regard to subsection (b)(3) thereof) shall not be treated as separate limitation interest, unless such interest is attributable directly or indirectly to separate limitation interest of such other member."

26 USC 904 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) SPECIAL RULES FOR INTEREST INCOME.—

(A) IN GENERAL.—Interest income received or accrued by a designated payor corporation shall be taken into account for purposes of the amendment made by subsection (a) only in taxable years beginning after the date of the enactment of this Act.

(B) EXCEPTION FOR INVESTMENT AFTER JUNE 22, 1984.—Notwithstanding subparagraph (A), the amendment made by subsection (a) shall apply to interest income received or accrued by a designated payor corporation after the date of enactment of this Act if it is attributable to investment in the designated payor corporation after June 22, 1984.

(3) TERM OBLIGATIONS OF DESIGNATED PAYOR CORPORATION WHICH IS NOT APPLICABLE CFC.—In the case of any designated payor corporation which is not an applicable CFC (as defined in section 121(b)(2)(D)), any interest received or accrued by such corporation on a term obligation held by such corporation on March 7, 1984, shall not be taken into account.

Ante, p. 638.

SEC. 123. TREATMENT OF RELATED PERSON FACTORING INCOME.

26 USC 864.

(a) GENERAL RULE.—Section 864 (relating to source definitions) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF RELATED PERSON FACTORING INCOME.—

"(1) IN GENERAL.—For purposes of the provisions set forth in paragraph (2), if any person acquires (directly or indirectly) a trade or service receivable from a related person, any income of such person from the trade or service receivable so acquired shall be treated as if it were interest on a loan to the obligor under the receivable.

"(2) PROVISIONS TO WHICH PARAGRAPH (1) APPLIES.—The provisions set forth in this paragraph are as follows:

"(A) Part III of subchapter G of this chapter (relating to foreign personal holding companies). 26 USC 551.

"(B) Section 904 (relating to limitation on foreign tax credit).

"(C) Subpart F of part III of this subchapter (relating to controlled foreign corporations). 26 USC 951.

"(3) TRADE OR SERVICE RECEIVABLE.—For purposes of this subsection, the term 'trade or service receivable' means any account receivable or evidence of indebtedness arising out of—

"(A) the disposition by a related person of property described in section 1221(1), or

"(B) the performance of services by a related person.

"(4) RELATED PERSON.—For purposes of this subsection, the term 'related person' means—

"(A) any person who is a related person (within the meaning of section 267(b)), and

"(B) any United States shareholder (as defined in section 951(b)) and any person who is a related person (within the meaning of section 267(b)) to such a shareholder.

"(5) CERTAIN PROVISIONS NOT TO APPLY.—

"(A) CERTAIN EXCEPTIONS.—The following provisions shall not apply to any amount treated as interest under paragraph (1) or (6):

"(i) Subparagraphs (A), (B), (C), and (D) of section 904(d)(2) (relating to interest income to which separate limitation applies).

"(ii) Subparagraph (A) of section 954(b)(3) (relating to exception where foreign base company income is less than 10 percent).

"(iii) Subparagraph (B) of section 954(c)(3) (relating to certain income derived in active conduct of trade or business).

"(iv) Subparagraphs (A) and (B) of section 954(c)(4) (relating to exception for certain income received from related persons).

"(B) SPECIAL RULES FOR POSSESSIONS.—

"(i) PUERTO RICO AND POSSESSIONS TAX CREDIT.—Any amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1)).

"(ii) VIRGIN ISLANDS CORPORATIONS.—Subsection (b) of section 934 shall not apply to any amount treated as interest under paragraph (1) unless such amount is from sources within the Virgin Islands (determined after the application of paragraph (1)).

"(6) SPECIAL RULE FOR CERTAIN INCOME FROM LOANS OF A CONTROLLED FOREIGN CORPORATION.—Any income of a controlled foreign corporation (within the meaning of section 957(a)) from a loan to a person for the purpose of financing—

"(A) the purchase of property described in section 1221(1) of a related person, or

"(B) the payment for the performance of services by a related person,

shall be treated as interest described in paragraph (1).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the provisions of this subsection or section 956(b)(3)."

Infra.

(b) TREATMENT AS UNITED STATES PROPERTY.—Subsection (b) of section 956 (defining United States property) is amended by adding at the end thereof the following new paragraph:

26 USC 956.

"(3) CERTAIN TRADE OR SERVICE RECEIVABLES ACQUIRED FROM RELATED UNITED STATES PERSONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the term 'United States property' includes any trade or service receivable if—

"(i) such trade or service receivable is acquired (directly or indirectly) from a related person who is a United States person, and

"(ii) the obligor under such receivable is a United States person.

"(B) DEFINITIONS.—For purposes of this paragraph, the term 'trade or service receivable' and 'related person' have the respective meanings given to such terms by section 864(d)."

Ante, p. 644.

(c) EFFECTIVE DATE.—

26 USC 864 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to accounts receivable and evidences of indebtedness transferred after March 1, 1984, in taxable years ending after such date.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to accounts receivable and evidences of indebtedness acquired after March 1, 1984, and before March 1, 1994, by a Belgian corporation in existence on March 1, 1984, in any taxable year ending after such date, but only to the extent that the amount includible in gross income by reason of section 956 of the Internal Revenue Code of 1954 with respect to such corporation for all such taxable years is not reduced by reason of this paragraph by more than the lesser of—

(A) $15,000,000 or

(B) the amount of the Belgian corporation's adjusted basis on March 1, 1984, in stock of a foreign corporation formed to issue bonds outside the United States to the public.

SEC. 124. TREATMENT OF CERTAIN TRANSPORTATION INCOME.

26 USC. 863.

(a) GENERAL RULE.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsection:

"(c) SOURCE RULE FOR CERTAIN TRANSPORTATION INCOME.—

"(1) TRANSPORTATION BEGINNING AND ENDING IN THE UNITED STATES.—All transportation income attributable to transportation which begins and ends in the United States shall be treated as derived from sources within the United States.

"(2) TRANSPORTATION BETWEEN UNITED STATES AND ANY POSSESSION.—

"(A) IN GENERAL.—50 percent of all transportation income attributable to transportation which—

"(i) begins in the United States and ends in a possession of the United States, or

"(ii) begins in a possession of the United States and ends in the United States,

shall be treated as derived from sources within the United States.

"(B) SPECIAL RULE FOR CERTAIN LESSORS OF AIRCRAFT.—If—

"(i) the taxpayer owns an aircraft which is section 38 property and leases such aircraft to a United States person (other than a member of the same controlled group of corporations (as defined in section 1563) as the taxpayer), and

"(ii) such United States person is a regularly scheduled air carrier,

subparagraph (A) shall be applied by substituting '100 percent' for '50 percent'.

Post, p. 827.

"(3) TRANSPORTATION INCOME.—For purposes of this subsection, the term 'transportation income' means any income derived from, or in connection with—

"(A) the use (or hiring or leasing for use) of a vessel or aircraft, or

"(B) the performance of services directly related to the use of a vessel or aircraft.

For purposes of the preceding sentence, the term 'vessel or aircraft' includes any container used in connection with a vessel or aircraft."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act in taxable years ending after such date.

26 USC 863 note.

SEC. 125. TREATMENT OF CERTAIN DISTRIBUTIONS RECEIVED BY UNITED STATES-OWNED FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 535 (defining accumulated taxable income) is amended by adding at the end thereof the following new subsection:

26 USC 535.

"(d) INCOME DISTRIBUTED TO UNITED STATES-OWNED FOREIGN CORPORATION RETAINS UNITED STATES CONNECTION.—

"(1) IN GENERAL.—For purposes of this part, if 10 percent or more of the earnings and profits of any foreign corporation for any taxable year—

"(A) is derived from sources within the United States, or

"(B) is effectively connected with the conduct of a trade or business within the United States,

any distribution out of such earnings and profits (and any interest payment) received (directly or through 1 or more other entities) by a United States-owned foreign corporation shall be treated as derived by such corporation from sources within the United States.

"(2) UNITED STATES-OWNED FOREIGN CORPORATION.—The term 'United States-owned foreign corporation' has the meaning given to such term by section 904(g)(6)."

Ante, p. 638.

(b) EFFECTIVE DATE.—

26 USC 535 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to distributions and interest payments received by a United States-owned foreign corporation (within the meaning of section 535(d) of the Internal Revenue Code of 1954) on or after May 23, 1983, in taxable years ending on or after such date.

Ante, p. 647.

(2) CORPORATIONS IN EXISTENCE ON MAY 23, 1983.—In the case of a United States-owned foreign corporation (as so defined) in existence on May 23, 1983, the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

26 USC 861 note.

SEC. 126. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—For purposes of section 861(b), section 862(b), and section 863(b) of the Internal Revenue Code of 1954, all amounts allowable as a deduction for qualified research and experimental expenditures shall be allocated to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

(1) IN GENERAL.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174 of such Code, and

(B) which are attributable to activities conducted in the United States.

(2) TREATMENT OF DEPRECIATION, ETC.—Rules similar to the rules of subsection (c) of section 174 of such Code shall apply.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—This section shall apply to taxable years beginning after August 13, 1983, and on or before August 1, 1985.

(2) SPECIAL RULE.—If the taxpayer's 3rd taxable year beginning after August 13, 1981, is not described in paragraph (1), this section shall apply also to such 3rd taxable year.

PART II—WITHHOLDING PROVISIONS

SEC. 127. REPEAL OF THE 30 PERCENT TAX ON INTEREST RECEIVED BY FOREIGNERS ON CERTAIN PORTFOLIO INVESTMENTS.

(a) REPEAL OF TAX ON NONRESIDENT INDIVIDUALS.—

26 USC 871.
Post, p. 653.

(1) IN GENERAL.—Section 871 (relating to 30 percent tax on income not connected with United States business), as amended by this Act, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) REPEAL OF TAX ON INTEREST OF NONRESIDENT ALIEN INDIVIDUALS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—

"(1) IN GENERAL.—In the case of any portfolio interest received by a nonresident individual from sources within the United States, no tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a).

"(2) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original

issue discount) which is described in any of the following subparagraphs:

"(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—Interest which is paid on any obligation which—

"(i) is not in registered form, and

"(ii) is described in section 163(f)(2)(B).

"(B) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

"(i) which is in registered form, and

"(ii) with respect to which the United States person who would otherwise be required to deduct and withhold tax from such interest under section 1441(a) has received a statement (which meets the requirements of paragraph (4)) that the beneficial owner of the obligation is not a United States person.

"(3) PORTFOLIO INTEREST NOT TO INCLUDE INTEREST RECEIVED BY 10-PERCENT SHAREHOLDERS.— For purposes of this subsection—

"(A) IN GENERAL.—The term 'portfolio interest' shall not include any interest described in subparagraph (A) or (B) of paragraph (2) which is received by a 10-percent shareholder.

"(B) 10-PERCENT SHAREHOLDER.—The term '10-percent shareholder' means—

"(i) in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.

"(C) ATTRIBUTION RULES.—For purposes of determining ownership of stock under subparagraph (B)(i) the rules of section 318(a) shall apply, except that—

"(i) section 318(a)(2)(C) shall be applied without regard to the 50-percent limitation therein, and

"(ii) any stock which a person is treated as owning after application of section 318(a)(4) shall not, for purposes of applying paragraphs (2) and (3) of section 318(a), be treated as actually owned by such person.

Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall be applied in determining the ownership of the capital or profits interest in a partnership for purposes of subparagraph (B)(ii).

"(4) CERTAIN STATEMENTS.—A statement with respect to any obligation meets the requirements of this paragraph if such statement is made by—

"(A) the beneficial owner of such obligation, or

"(B) a securities clearing organization, a bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business.

The preceding sentence shall not apply to any statement with respect to payment of interest on any obligation by any person if, at least one month before such payment, the Secretary has published a determination that any statement from such person (or any class including such person) does not meet the requirements of this paragraph.

"(5) SECRETARY MAY PROVIDE SUBSECTION NOT TO APPLY IN CASES OF INADEQUATE INFORMATION EXCHANGE.—

"(A) IN GENERAL.—If the Secretary determines that the exchange of information between the United States and a foreign country is inadequate to prevent evasion of the United States income tax by United States persons, the Secretary may provide in writing (and publish a statement) that the provisions of this subsection shall not apply to payments of interest to any person within such foreign country (or payments addressed to, or for the account of, persons within such foreign country) during the period—

"(i) beginning on the date specified by the Secretary, and

"(ii) ending on the date that the Secretary determines that the exchange of information between the United States and the foreign country is adequate to prevent the evasion of United States income tax by United States persons.

"(B) EXCEPTION FOR CERTAIN OBLIGATIONS.—Subparagraph (A) shall not apply to the payment of interest on any obligation which is issued on or before the date of the publication of the Secretary's determination under such subparagraph.

"(6) REGISTERED FORM.—For purposes of this subsection, the term 'registered form' has the same meaning given such term by section 163(f).".

26 USC 871.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 871(a) (relating to tax on income other than capital gains) is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (i), there".

(b) FOREIGN CORPORATIONS.—

26 USC 881.
Post, p. 654.

(1) IN GENERAL.—Section 881 (relating to tax on income of foreign corporations not connected with United States business), as amended by this Act, is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) REPEAL OF TAX ON INTEREST OF FOREIGN CORPORATIONS RECEIVED FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—

"(1) IN GENERAL.—In the case of any portfolio interest received by a foreign corporation from sources within the United States, no tax shall be imposed under paragraph (1) or (3) of subsection (a).

"(2) PORTFOLIO INTEREST.—For purposes of this subsection, the term 'portfolio interest' means any interest (including original issue discount) which is described in any of the following subparagraphs:

"(A) CERTAIN OBLIGATIONS WHICH ARE NOT REGISTERED.—Interest which is paid on any obligation which is described in section 871(h)(2)(A).

Ante, p. 648.

"(B) CERTAIN REGISTERED OBLIGATIONS.—Interest which is paid on an obligation—

"(i) which is in registered form, and

"(ii) with respect to which the person who would otherwise be required to deduct and withhold tax from such interest under section 1442(a) has received a statement which meets the requirements of section 871(h)(4)

Ante, p. 648.

that the beneficial owner of the obligation is not a United States person.

"(3) PORTFOLIO INTEREST SHALL NOT INCLUDE INTEREST RECEIVED BY CERTAIN PERSONS.—For purposes of this subsection, the term 'portfolio interest' shall not include any portfolio interest which—

"(A) except in the case of interest paid on an obligation of the United States, is received by a bank on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of its trade or business,

"(B) is received by a 10-percent shareholder (within the meaning of section 871(h)(3)(B)), or

Ante, p. 648.

"(C) is received by a controlled foreign corporation from a related person (within the meaning of section 864(d)(4).

Ante, p. 644.

"(4) SPECIAL RULES FOR CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of any portfolio interest received by a controlled foreign corporation, the following provisions shall not apply:

"(i) Subparagraph (A) of section 954(b)(3) (relating to exception where foreign base company income is less than 10 percent).

"(ii) Paragraph (4) of section 954(b) (relating to corporations not formed or availed of to avoid tax).

"(iii) Subparagraph (B) of section 954(c)(3) (relating to certain income derived in active conduct of trade or business).

"(iv) Subparagraph (C) of section 954(c)(3) (relating to certain income derived by an insurance company).

"(v) Subparagraphs (A) and (B) of section 954(c)(4) (relating to exception for certain income received from related persons).

"(B) CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection, the term 'controlled foreign corporation' has the meaning given to such term by section 957(a).

"(5) SECRETARY MAY CEASE APPLICATION OF THIS SUBSECTION.—Under rules similar to the rules of section 871(h)(5), the Secretary may provide that this subsection shall not apply to payments of interest described in section 871(h)(5).

Ante, p. 648.

"(6) REGISTERED FORM.—For purposes of this subsection, the term 'registered form' has the meaning given such term by section 163(f)."

(2) CONFORMING AMENDMENT.—Subsection (a) of section 881 (relating to imposition of tax) is amended by striking out "There" and inserting in lieu thereof "Except as provided in subsection (c), there".

26 USC 881.

(c) AMENDMENT OF SECTION 864(c)(2).—Paragraph (2) of section 864(c) (relating to effectively connected income, etc.) is amended by striking out "section 871(a)(1) or section 881(a)" and inserting in lieu thereof "section 871(a)(1), section 871(h) section 881(a), or section 881(c)".

26 USC 864.

(d) AMENDMENT OF SECTION 2105.—Subsection (b) of section 2105 (relating to property without the United States) is amended to read as follows:

26 USC 2105.

"(b) BANK DEPOSITS AND CERTAIN OTHER DEBT OBLIGATIONS.—For purposes of this subchapter—

"(1) amounts described in section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as

income from sources without the United States were such interest received by the decedent at the time of his death,

"(2) deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business, and

"(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(h)(4) has been received, any interest thereon would be eligible for the exemption from tax under section 871(h)(1) were such interest received by the decedent at the time of his death,

Ante, p. 648.

shall not be deemed property within the United States.".

(e) WITHHOLDING.—

26 USC 1441.

(1) NONRESIDENT ALIENS.—Subsection (c) of section 1441 (relating to withholding of tax on nonresident aliens) is amended by adding at the end thereof the following new paragraph:

"(9) INTEREST INCOME FROM CERTAIN PORTFOLIO DEBT INVESTMENTS.—In the case of portfolio interest (within the meaning of 871(h)(2)), no tax shall be required to be deducted and withheld from such interest unless the person required to deduct and withhold tax from such interest knows, or has reason to know, that such interest is not portfolio interest by reason of section 871(h)(3).".

Ante, p. 648.

26 USC 1442.

(2) FOREIGN CORPORATIONS.—The last sentence of section 1442(a) is amended—

(A) by striking out "and" after "section 881(a)(4)," and

(B) by inserting before the period at the end thereof the following: ", and the references in section 1449(c)(9) to sections 871(h)(2) and 871(h)(3) shall be treated as referring to sections 881(c)(2) and 881(c)(3)".

26 USC 163.

(f) REGISTERED OBLIGATIONS.—Subparagraph (C)(i) of section 163(f)(2) (relating to authority to include other obligations) is amended to read as follows:

"(i) in the case of—

"(I) subparagraph (A), such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, or

"(II) subparagraph (B), such obligation is of a type specified by the Secretary in regulations, and".

26 USC 871 note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to interest received after the date of the enactment of this Act with respect to obligations issued after such date, in taxable years ending after such date.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to obligations issued after the date of the enactment of this Act with respect to the estates of decedents dying after such date.

(3) SPECIAL RULE FOR CERTAIN UNITED STATES AFFILIATE OBLIGATIONS.—

26 USC 1 *et seq.*

(A) IN GENERAL.—For purposes of the Internal Revenue Code of 1954, payments of interest on a United States affiliate obligation to an applicable CFC in existence on or before June 22, 1984, shall be treated as payments to a resident of the country in which the applicable CFC is incorporated.

(B) EXCEPTION.—Subparagraph (A) shall not apply to any applicable CFC which did not meet requirements which are based on the principles set forth in Revenue Rulings 69-501, 69-377, 70-645, and 73-110.

(C) DEFINITIONS.—

(i) The term "applicable CFC" has the meaning given such term by section 121(b)(2)(D) of this Act, except that such section shall be applied by substituting "the date of interest payment" for "March 31, 1984," in clause (i) thereof.

Ante, p. 638.

(ii) The term "United States affiliate obligation" means an obligation described in section 121(b)(2)(F) of this Act which was issued before June 22, 1984.

SEC. 128. TREATMENT OF UNITED STATES SOURCE ORIGINAL ISSUE DISCOUNT IN CASE OF FOREIGN PERSONS.

(a) NONRESIDENT ALIEN INDIVIDUALS.—

(1) IN GENERAL.—Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

26 USC 871.

"(C) in the case of—

"(i) a sale or exchange of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

"(ii) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this clause only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by subparagraph (A) thereon), and".

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT.—For purposes of this section and section 881—

"(1) ORIGINAL ISSUE DISCOUNT OBLIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original issue discount obligation' means any bond or other evidence of indebtedness having original issue discount (within the meaning of section 1273).

Ante, p. 536.

"(B) EXCEPTIONS.—The term 'original issue discount obligation' shall not include—

"(i) CERTAIN SHORT-TERM OBLIGATIONS.—Any obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

"(ii) TAX-EXEMPT OBLIGATIONS.—Any obligation the interest on which is exempt from tax under section 103 or under any other provision of law without regard to the identity of the holder.

"(2) DETERMINATION OF PORTION OF ORIGINAL ISSUE DISCOUNT ACCRUING DURING ANY PERIOD.—The determination of the

amount of the original issue discount which accrues during any period shall be made under the rules of section 1272 (or the corresponding provisions of prior law) without regard to any exception for short-term obligations.

Ante, p. 533.

"(3) SOURCE OF ORIGINAL ISSUE DISCOUNT.—Except to the extent provided in regulations prescribed by the Secretary, the determination of whether any amount described in subsection (a)(1)(C) is from sources within the United States shall be made at the time of the payment (or sale or exchange) as if such payment (or sale or exchange) involved the payment of interest.

"(4) STRIPPED BONDS.—The provisions of section 1286 (relating to the treatment of stripped bonds and stripped coupons as obligations with original issue discount) shall apply for purposes of this section."

Ante, p. 551.

(b) FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 881(a) (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

26 USC 881.

"(3) in the case of—

"(A) a sale or exchange of an original issue discount obligation, the amount of any gain not in excess of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not therefore taken into account under subparagraph (B)), and

"(B) the payment of interest on an original issue discount obligation, an amount equal to the original issue discount accrued on such obligation since the last payment of interest thereon (except that such original issue discount shall be taken into account under this subparagraph only to the extent that the tax thereon does not exceed the interest payment less the tax imposed by paragraph (1) thereon), and".

(2) CROSS REFERENCE.—Subsection (c) of section 881 (relating to doubling of tax) is amended to read as follows:

"(c) CROSS REFERENCE.—

"For doubling of tax on corporations of certain foreign countries, see section 891.

"For special rules for original issue discount, see section 871(g)."

Ante, p. 653.

(c) DEDUCTION FOR ORIGINAL ISSUE DISCOUNT HELD BY RELATED FOREIGN PERSON.—Subsection (e) of section 163 (relating to original issue discount), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

Ante, p. 556.

"(3) SPECIAL RULE FOR ORIGINAL ISSUE DISCOUNT ON OBLIGATION HELD BY RELATED FOREIGN PERSON.—

"(A) IN GENERAL.—If any debt instrument having original issue discount is held by a related foreign person, any portion of such original issue discount shall not be allowable as a deduction to the issuer until paid.

"(B) RELATED FOREIGN PERSON.—For purposes of subparagraph (A), the term 'related foreign person' means any person—

"(i) who is not a United States person, and

"(ii) who is related (within the meaning of section 267(b)) to the issuer."

(d) EFFECTIVE DATE.— 26 USC 871 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to payments made on or after the 60th day after the date of the enactment of this Act with respect to obligations issued after March 31, 1972.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to obligations issued after June 9, 1984.

SEC. 129. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS.

(a) WITHHOLDING OF TAX.—

(1) IN GENERAL.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1445. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED STATES REAL PROPERTY INTERESTS. 26 USC 1445.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of a United States real property interest (as defined in section 897(c)) by a foreign person, the transferee shall be required to deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXEMPTIONS.—

"(1) IN GENERAL.—No person shall be required to deduct and withhold any amount under subsection (a) with respect to a disposition if paragraph (2), (3), (4), (5), or (6) applies to the transaction.

"(2) TRANSFEROR FURNISHES NONFOREIGN AFFIDAVIT.—Except as provided in paragraph (7), this paragraph applies to the disposition if the transferor furnishes to the transferee an affidavit by the transferor stating, under penalty of perjury, the transferor's United States taxpayer identification number and that the transferor is not a foreign person.

"(3) NONPUBLICLY TRADED DOMESTIC CORPORATION FURNISHES AFFIDAVIT THAT IT IS NOT A UNITED STATES REAL PROPERTY HOLDING CORPORATION.—Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation, if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii).

"(4) TRANSFEREE RECEIVES QUALIFYING STATEMENT.—

"(A) IN GENERAL.—This paragraph applies to the disposition if the transferee receives a qualifying statement at such time, in such manner, and subject to such terms and conditions as the Secretary may by regulations prescribe.

"(B) QUALIFYING STATEMENT.—For purposes of subparagraph (A), the term 'qualifying statement' means a statement by the Secretary that—

"(i) the transferor either—

"(I) has reached agreement with the Secretary (or such agreement has been reached by the transferee) for the payment of any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by

the transferor on the disposition of the United States real property interest, or

"(II) is exempt from any tax imposed by section 871(b)(1) or 882(a)(1) on any gain recognized by the transferor on the disposition of the United States real property interest, and

"(ii) the transferor or transferee has satisfied any transferor's unsatisfied withholding liability or has provided adequate security to cover such liability.

"(5) RESIDENCE WHERE AMOUNT REALIZED DOES NOT EXCEED $300,000.—This paragraph applies to the disposition if—

"(A) the property is acquired by the transferee for use by him as a residence, and

"(B) the amount realized for the property does not exceed $300,000.

"(6) STOCK REGULARLY TRADED ON ESTABLISHED SECURITIES MARKET.—This paragraph applies if the disposition is of a share of a class of stock that is regularly traded on an established securities market.

"(7) SPECIAL RULES FOR PARAGRAPHS (2) AND (3).—Paragraph (2) or (3) (as the case may be) shall not apply to any disposition—

"(A) if—

"(i) the transferee has actual knowledge that the affidavit referred to in such paragraph is false, or

"(ii) the transferee receives a notice (as described in subsection (d)) from a transferor's agent or a transferee's agent that such affidavit is false, or

"(B) if the Secretary by regulations requires the transferee to furnish a copy of such affidavit to the Secretary and the transferee fails to furnish a copy of such affidavit to the Secretary at such time and in such manner as required by such regulations.

"(c) LIMITATIONS ON AMOUNT REQUIRED TO BE WITHHELD.—

"(1) CANNOT EXCEED TRANSFEROR'S MAXIMUM TAX LIABILITY.—

"(A) IN GENERAL.—The amount required to be withheld under this section with respect to any disposition shall not exceed the amount (if any) determined under subparagraph (B) as the transferor's maximum tax liability.

"(B) REQUEST.—At the request of the transferor or transferee, the Secretary shall determine, with respect to any disposition, the transferor's maximum tax liability.

"(C) REFUND OF EXCESS AMOUNTS WITHHELD.—Subject to such terms and conditions as the Secretary may by regulations prescribe, a transferor may seek and obtain a refund of any amounts withheld under this section in excess of the transferor's maximum tax liability.

"(2) AUTHORITY OF SECRETARY TO PRESCRIBE REDUCED AMOUNT.—At the request of the transferor or transferee, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(3) PROCEDURAL RULES.—

"(A) REGULATIONS.—Requests for—

"(i) qualifying statements under subsection (b)(4),

"(ii) determinations of transferor's maximum tax liability under paragraph (1), and

"(iii) reductions under paragraph (2) in the amount required to be withheld,

shall be made at the time and manner, and shall include such information, as the Secretary shall prescribe by regulations.

"(B) REQUESTS TO BE HANDLED WITHIN 90 DAYS.—The Secretary shall take action with respect to any request described in subparagraph (A) within 90 days after the Secretary receives the request.

"(d) LIABILITY OF TRANSFEROR'S AGENTS OR TRANSFEREE'S AGENTS.—

"(1) NOTICE OF FALSE AFFIDAVIT; FOREIGN CORPORATIONS.—If—

"(A) the transferor furnishes the transferee an affidavit described in paragraph (2)(A) of subsection (b) or a domestic corporation furnishes the transferee an affidavit described in paragraph (3) of subsection (b), and

"(B) in the case of—

"(i) any transferor's agent, the transferor is a foreign corporation or such agent has actual knowledge that such affidavit is false, or

"(ii) any transferee's agent, such agent has actual knowledge that such affidavit is false,

such agent shall so notify the transferee at such time and in such manner as the Secretary shall require by regulations.

"(2) FAILURE TO FURNISH NOTICE.—

"(A) IN GENERAL.—If any transferor's agent or transferee's agent is required by paragraph (1) to furnish notice, but fails to furnish such notice at such time or times and in such manner as may be required by regulations, such agent shall have the same duty to deduct and withhold that the transferee would have had if such agent had complied with paragraph (1).

"(B) LIABILITY LIMITED TO AMOUNT OF COMPENSATION.—An agent's liability under subparagraph (A) shall be limited to the amount of compensation the agent derives from the transaction.

"(3) TRANSFEROR'S AGENT.—For purposes of this subsection, the term 'transferor's agent' means any person who represents the transferor—

"(A) in any negotiation with the transferee or any transferee's agent related to the transaction, or

"(B) in settling the transaction.

"(4) TRANSFEREE'S AGENT.—For purposes of this subsection, the term 'transferee's agent' means any person who represents the transferee—

"(A) in any negotiation with the transferor or any transferor's agent related to the transaction, or

"(B) in settling the transaction.

"(5) SETTLEMENT OFFICER NOT TREATED AS TRANSFEROR'S AGENT.—For purposes of this subsection, a person shall not be treated as a transferor's agent or transferee's agent with respect to any transaction merely because such person performs 1 or more of the following acts:

"(A) The receipt and the disbursement of any portion of the consideration for the transaction.

"(B) The recording of any document in connection with the transaction.

"(e) SPECIAL RULES RELATING TO DISTRIBUTIONS, ETC., BY CORPORATIONS, PARTNERSHIPS, TRUSTS, OR ESTATES.—

"(1) CERTAIN DOMESTIC PARTNERSHIPS, TRUSTS, AND ESTATES.—A domestic partnership, the trustee of a domestic trust, or the executor of a domestic estate shall be required to deduct and withhold under subsection (a) a tax equal to 10 percent of any amount of which such partnership, trustee, or executor has custody which is—

"(A) attributable to the disposition of a United States real property interest (as defined in section 897(c), other than a disposition described in paragraph (4) or (5)), and

"(B) either—

"(i) includible in the distributive share of a partner of the partnership who is a foreign person,

"(ii) includible in the income of a beneficiary of the trust or estate who is a foreign person, or

"(iii) includible in the income of a foreign person under the provisions of section 671.

"(2) CERTAIN DISTRIBUTIONS BY FOREIGN CORPORATIONS.—In the case of any distribution by a foreign corporation on which gain is recognized under subsection (d) or (e) of section 897, the foreign corporation shall deduct and withhold under subsection (a) a tax equal to 28 percent of the amount of gain recognized on such distribution under such subsection.

"(3) DISTRIBUTIONS BY CERTAIN DOMESTIC CORPORATIONS TO FOREIGN SHAREHOLDERS.—If a domestic corporation which is or has been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii) distributes property to a foreign person in a transaction to which section 302 or part II of subchapter C applies, such corporation shall deduct and withhold under subsection (a) a tax equal to 10 percent of the amount realized by the foreign shareholder.

26 USC 331.

"(4) TAXABLE DISTRIBUTIONS BY DOMESTIC OR FOREIGN PARTNERSHIPS, TRUSTS, OR ESTATES.—A domestic or foreign partnership, the trustee of a domestic or foreign trust, or the executor of a domestic or foreign estate shall be required to deduct and withhold under subsection (a) a tax equal to 10 percent of the fair market value (as of the time of the taxable distribution) of any United States real property interest distributed to a partner of the partnership or a beneficiary of the trust or estate, as the case may be, who is a foreign person in a transaction which would constitute a taxable distribution under the regulations promulgated by the Secretary pursuant to section 897(g).

"(5) RULES RELATING TO DISPOSITIONS OF INTEREST IN PARTNERSHIPS, TRUSTS, OR ESTATES.—To the extent provided in regulations, the transferee of a partnership interest or of a beneficial interest in a trust or estate shall be required to deduct and withhold under subsection (a) a tax equal to 10 percent of the amount realized on the disposition.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for exceptions from provisions of this subsection.

"(f) DEFINITIONS.—For purposes of this section—

"(1) TRANSFEROR.—The term 'transferor' means the person disposing of the United States real property interest.

"(2) TRANSFEREE.—The term 'transferee' means the person acquiring the United States real property interest.

"(3) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(4) TRANSFEROR'S MAXIMUM TAX LIABILITY.—The term 'transferor's maximum tax liability' means, with respect to the disposition of any interest, the sum of—

"(A) the maximum amount which the Secretary determines could be imposed as tax under section 871(b)(1) or 882(a)(1) by reason of the disposition, plus

"(B) the amount the Secretary determines to be the transferor's unsatisfied withholding liability with respect to such interest.

"(5) TRANSFEROR'S UNSATISFIED WITHHOLDING LIABILITY.—The term 'transferor's unsatisfied withholding liability' means the withholding obligation imposed by this section on the transferor's acquisition of the United States real property interest or on the acquisition of a predecessor interest, to the extent such obligation has not been satisfied."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1445. Withholding of tax on dispositions of United States real property interests."

(b) REPORTING REQUIREMENTS LIMITED TO FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY.—

(1) IN GENERAL.—Section 6039C (relating to returns with respect to United States real property interests) is amended to read as follows: 26 USC 6039C.

"SEC. 6039C. RETURNS WITH RESPECT TO FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY INTERESTS.

"(a) GENERAL RULE.—To the extent provided in regulations, any foreign person holding direct investments in United States real property interests for the calendar year shall make a return setting forth—

"(1) the name and address of such person,

"(2) a description of all United States real property interests held by such person at any time during the calendar year, and

"(3) such other information as the Secretary may by regulations prescribe.

"(b) DEFINITION OF FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY INTERESTS.—For purposes of this section, a foreign person shall be treated as holding direct investments in United States real property interests during any calendar year if—

"(1) such person did not engage in a trade or business in the United States at any time during such calendar year, and

"(2) the fair market value of the United States real property interests held directly by such person at any time during such year equals or exceeds $50,000.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) UNITED STATES REAL PROPERTY INTEREST.—The term 'United States real property interest' has the meaning given to such term by section 897(c).

"(2) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person.

"(3) ATTRIBUTION OF OWNERSHIP.—For purposes of subsection (b)(2)—

"(A) INTERESTS HELD BY PARTNERSHIPS, ETC.—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

"(B) INTERESTS HELD BY FAMILY MEMBERS.—United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

"(4) TIME AND MANNER OF FILING RETURN.—All returns required to be made under this section shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(d) SPECIAL RULE FOR UNITED STATES INTEREST AND VIRGIN ISLANDS INTEREST.—A nonresident alien individual or foreign corporation subject to tax under section 897(a) shall pay any tax and file any return required by this title—

"(1) to the United States, in the case of any interest in real property located in the United States and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the United States) described in section 897(c)(1)(A)(ii), and

"(2) to the Virgin Islands, in the case of any interest in real property located in the Virgin Islands and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the Virgin Islands) described in section 897(c)(1)(A)(ii)."

(2) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6039C and inserting in lieu thereof the following:

"Sec. 6039C. Returns with respect to foreign persons holding direct investments in United States real property interests."

(c) EFFECTIVE DATES.—

26 USC 1445 note.

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to any disposition on or after January 1, 1985.

26 USC 6039C note.

(2) REPORTING REQUIREMENTS.—The amendments made by subsection (b) shall apply to calendar year 1980 and subsequent calendar years.

SEC. 130. TREATMENT OF PAYMENTS TO GUAM AND VIRGIN ISLANDS CORPORATIONS.

26 USC 881.

(a) GENERAL RULE.—Subsection (b) of section 881 (relating to exception for Guam corporations) is amended to read as follows:

"(b) EXCEPTION FOR CERTAIN GUAM AND VIRGIN ISLANDS CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this section, a corporation created or organized in Guam or the Virgin Islands or under the law of Guam or the Virgin Islands shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of such corporation is owned (directly or indirectly) by foreign persons, and

"(B) at least 20 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to have been derived from sources within Guam or the Virgin Islands (as the case may be) for the 3-year period ending with the close of the preceding taxable year of such corporation (or for such part of such period as the corporation has been in existence).

"(2) PARAGRAPH (1) NOT TO APPLY TO TAX IMPOSED IN GUAM.—For purposes of applying this subsection with respect to income tax liability incurred to Guam—

"(A) Paragraph (1) shall not apply, and

"(B) for purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam or under the law of Guam.

"(3) DEFINITIONS.—

"(A) FOREIGN PERSON.—For purposes of paragraph (1), the term 'foreign person' means any person other than—

"(i) a United States person, or

"(ii) a person who would be a United States person if references to the United States in section 7701 included references to a possession of the United States.

"(B) INDIRECT OWNERSHIP RULES.—For purposes of paragraph (1), the rules of section 318(a)(2) shall apply except that '5 percent' shall be substituted for '50 percent' in subparagraph (C) thereof.

"(4) CROSS REFERENCE.—

"For tax imposed in the Virgin Islands, see sections 934 and 934A."

(b) WITHHOLDING OF TAX.—Subsection (c) of section 1442 (relating to exception for Guam corporations) is amended to read as follows: 26 USC 1442.

"(c) EXCEPTION FOR CERTAIN GUAM AND VIRGIN ISLANDS CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam or the Virgin Islands or under the law of Guam or the Virgin Islands if the requirements of subparagraphs (A) and (B) of section 881(b)(1) are met with respect to such corporation. *Ante*, p. 660.

"(2) PARAGRAPH (1) NOT TO APPLY TO TAX IMPOSED IN GUAM.—For purposes of applying this subsection with respect to income tax liability incurred to Guam—

"(A) paragraph (1) shall not apply, and

"(B) for purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam or under the law of Guam.

"(3) CROSS REFERENCE.—

"For tax imposed in the Virgin Islands, see sections 934 and 934A."

(c) TECHNICAL AMENDMENT.—Subparagraph (B) of section 7651(5) is amended by inserting "(other than section 881(b)(1))" after "For purposes of this title". 26 USC 7651.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after March 1, 1984, in taxable years ending after such date. 26 USC 881 note.

PART III—TAXATION OF CERTAIN TRANSFERS OF PROPERTY OUTSIDE THE UNITED STATES

SEC. 131. TAXATION OF CERTAIN TRANSFERS OF PROPERTY OUTSIDE THE UNITED STATES.

26 USC 367.

(a) IN GENERAL.—Subsection (a) of section 367 (relating to transfers of property from the United States) is amended to read as follows:

"(a) TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

"(1) GENERAL RULE.—If, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, a United States person transfers property to a foreign corporation, such foreign corporation shall not, for purposes of determining the extent to which gain shall be recognized on such transfer, be considered to be a corporation.

"(2) EXCEPTION FOR CERTAIN STOCK OR SECURITIES.—Except to the extent provided in regulations, paragraph (1) shall not apply to the transfer of stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization.

"(3) EXCEPTION FOR TRANSFERS OF CERTAIN PROPERTY USED IN THE ACTIVE CONDUCT OF A TRADE OR BUSINESS.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, paragraph (1) shall not apply to any property transferred to a foreign corporation for use by such foreign corporation in the active conduct of a trade or business outside of the United States.

"(B) PARAGRAPH NOT TO APPLY TO CERTAIN PROPERTY.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to any—

"(i) property described in paragraph (1) or (3) of section 1221 (relating to inventory and copyrights, etc.),

"(ii) installment obligations, accounts receivable, or similar property,

"(iii) foreign currency or other property denominated in foreign currency,

"(iv) intangible property (within the meaning of section 936(h)(3)(B)), or

"(v) property with respect to which the transferor is a lessor at the time of the transfer, except that this clause shall not apply if the transferee was the lessee.

"(C) TRANSFER OF FOREIGN BRANCH WITH PREVIOUSLY DEDUCTED LOSSES.—Except as provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to gain realized on the transfer of the assets of a foreign branch of a United States person to a foreign corporation in an exchange described in paragraph (1) to the extent that—

"(i) the sum of losses—

"(I) which were incurred by the foreign branch before the transfer, and

"(II) with respect to which a deduction was allowed to the taxpayer, exceeds

"(ii) the sum of—

"(I) any taxable income of such branch for a taxable year after the taxable year in which the

loss was incurred and through the close of the taxable year of the transfer, and

"(II) the amount which is recognized under section 904(f)(3) on account of the transfer.

Any gain recognized by reason of the preceding sentence shall be treated for purposes of this chapter as income from sources outside the United States having the same character as such losses had.

"(4) SPECIAL RULE FOR TRANSFER OF PARTNERSHIP INTERESTS.—Except as provided in regulations prescribed by the Secretary, a transfer by a United States person of an interest in a partnership to a foreign corporation in an exchange described in paragraph (1) shall, for purposes of this subsection, be treated as a transfer to such corporation of such person's pro rata share of the assets of the partnership.

"(5) SECRETARY MAY EXEMPT CERTAIN TRANSACTIONS FROM APPLICATION OF THIS SUBSECTION.—Paragraph (1) shall not apply to the transfer of any property which the Secretary, in order to carry out the purposes of this subsection, designates by regulation."

(b) SPECIAL RULES FOR TRANSFERS OF INTANGIBLES.—Subsection (d) of section 367 (relating to special rule for transfer of intangibles by possession corporations) is amended to read as follows: 26 USC 367.

"(d) SPECIAL RULES RELATING TO TRANSFERS OF INTANGIBLES.—

"(1) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if a United States person transfers any intangible property (within the meaning of section 936(h)(3)(B)) to a foreign corporation in an exchange described in section 351 or 361—

"(A) subsection (a) shall not apply to the transfer of such property, and

"(B) the provisions of this subsection shall apply to such transfer.

"(2) TRANSFER OF INTANGIBLES TREATED AS TRANSFER PURSUANT TO SALE OF CONTINGENT PAYMENTS.—

"(A) IN GENERAL.—If paragraph (1) applies to any transfer, the United States person transferring such property shall be treated as—

"(i) having sold such property in exchange for payments which are contingent upon the productivity, use, or disposition of such property, and

"(ii) receiving amounts which reasonably reflect the amounts which would have been received—

"(I) annually in the form of such payments over the useful life of such property, or

"(II) in the case of a disposition following such transfer (whether direct or indirect), at the time of the disposition.

"(B) EFFECT ON EARNINGS AND PROFITS.—For purposes of this chapter, the earnings and profits of a foreign corporation to which the intangible property was transferred shall be reduced by the amount required to be included in the income of the transferor of the intangible property under subparagraph (A)(ii).

"(C) AMOUNTS RECEIVED TREATED AS UNITED STATES SOURCE ORDINARY INCOME.—For purposes of this chapter, any amount included in gross income by reason of this subsec-

tion shall be treated as ordinary income from sources within the United States."

26 USC 367.

(c) TREATMENT OF LIQUIDATIONS UNDER SECTION 336.—Section 367 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF LIQUIDATIONS UNDER SECTION 336.—In the case of any distribution described in section 336 by a domestic corporation which is made to a person who is not a United States person, to the extent provided in regulations, gain shall be recognized under principles similar to the principles of this section."

(d) SECRETARY MUST BE NOTIFIED OF TRANSACTIONS DESCRIBED IN SECTION 367.—

(1) NOTIFICATION REQUIREMENT.—Subpart A of part III of subchapter A of chapter 61 is amended by adding after section 6038A the following new section:

26 USC 6038B.

"SEC. 6038B. NOTICE OF CERTAIN TRANSFERS TO FOREIGN PERSONS.

"(a) IN GENERAL.—Each United States person who—

"(1) transfers property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361, or

"(2) makes a distribution described in section 336 to a person who is not a United States person,

shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulations prescribe, such information with respect to such exchange or distribution as the Secretary may require in such regulations.

"(b) PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any United States person fails to furnish the information described in subsection (a) at the time and in the manner required by regulations, such person shall pay a penalty equal to 25 percent of the amount of the gain realized on the exchange.

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure if the United States person shows such failure is due to reasonable cause and not to willful neglect."

(2) EXTENSION OF PERIOD FOR ASSESSMENT AND COLLECTION WHERE SECRETARY NOT NOTIFIED.—Subsection (c) of section 6501 (relating to exceptions to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

Post, p. 817.
26 USC 6501.

"(8) FAILURE TO NOTIFY SECRETARY UNDER SECTION 6038B.—In the case of any tax imposed on any exchange by reason of subsection (a) or (d) of section 367, the time for assessment of such tax shall not expire before the date which is 3 years after the date on which the Secretary is notified of such exchange under section 6038B(a)."

Ante, pp. 662, 663.

(3) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding after the item relating to section 6038A the following new item:

"Sec. 6038B. Notice of certain transfers to foreign persons."

(e) REPEAL OF DECLARATORY JUDGMENT PROVISIONS INVOLVING TRANSFERS OF PROPERTY FROM THE UNITED STATES.—

26 USC 7477.

(1) IN GENERAL.—Section 7477 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 7482(b)(1) (relating to venue for review of Tax Court decisions) is amended by striking out subparagraph (D) and by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively. 26 USC 7482.

(B) The table of sections for part IV of subchapter C of chapter 76 is amended by striking out the item relating to section 7477.

(f) TRANSFERS TO AVOID INCOME TAX.—

(1) IN GENERAL.—Section 1492 (relating to nontaxable transfers) is amended— 26 USC 1492.

(A) by striking out paragraphs (2) and (3) and by inserting in lieu thereof—

"(2) To a transfer—

"(A) described in section 367, or

"(B) not described in section 367 but with respect to which the taxpayer elects (before the transfer) the application of principles similar to the principles of section 367, or", and

(B) by redesignating paragraph (4) as paragraph (3).

(2) CONFORMING AMENDMENT.—Subsection (b) of section 1494 (relating to abatement or refund) is amended to read as follows: 26 USC 1494.

"(b) ABATEMENT OR REFUND.—Under regulations prescribed by the Secretary, the tax may be abated, remitted, or refunded if the taxpayer, after the transfer, elects the application of principles similar to the principles of section 367."

(g) EFFECTIVE DATES.— 26 USC 367 note.

(1) IN GENERAL.—The amendments made by this section shall apply to transfers or exchanges after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN TRANSFERS OF INTANGIBLES.—

(A) IN GENERAL.—If, after June 6, 1984, and before January 1, 1985, a United States person transfers any intangible property (within the meaning of section 936(h)(3)(B) of the Internal Revenue Code of 1954) to a foreign corporation or in a transfer described in section 1491, such transfer shall be treated for purposes of sections 367(a), 1492(2), and 1494(b) of such Code as pursuant to a plan having as 1 of its principal purposes the avoidance of Federal income tax. *Ante*, p. 662. *Supra*.

(B) WAIVER.—Subject to such terms and conditions as the Secretary of the Treasury or his delegate may prescribe, the Secretary may waive the application of subparagraph (A) with respect to any transfer.

(3) RULING REQUEST BEFORE MARCH 1, 1984.—The amendments made by this section (and the provisions of paragraph (2) of this subsection) shall not apply to any transfer or exchange of property described in a request filed before March 1, 1984, under section 367(a), 1492(2), or 1494(b) of the Internal Revenue Code of 1954 (as in effect before such amendments).

PART IV—MISCELLANEOUS FOREIGN CORPORATE PROVISIONS

SEC. 132. AMENDMENTS RELATED TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) ATTRIBUTION FROM FAMILY MEMBERS AND PARTNERSHIPS.—Section 554 (relating to stock ownership) is amended by adding at the end thereof the following new subsection: 26 USC 554.

"(c) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(2).—For purposes of the stock ownership requirement provided in section 552(a)(2)—

"(1) stock owned by a nonresident alien individual (other than a foreign trust or foreign estate) shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through family membership as owned by a citizen or by a resident alien individual who is not the spouse of the nonresident individual and who does not otherwise own stock in such corporation (determined after the application of subsection (a), other than attribution through family membership), and

"(2) stock of a corporation owned by any foreign person shall not be considered by reason of so much of subsection (a)(2) as relates to attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in such corporation (determined after application of subsection (a) and paragraph (1), other than attribution through partners)."

26 USC 551.

(b) INCLUSION IN INCOME OF UNITED STATES PERSONS HOLDING INTEREST THROUGH FOREIGN ENTITY.—Section 551 (relating to foreign personal holding company income taxed to United States shareholders) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) STOCK HELD THROUGH FOREIGN ENTITY.—For purposes of this section, stock of a foreign personal holding company owned (directly or through the application of this subsection) by—

"(1) a partnership, estate, or trust which is not a United States shareholder, or

"(2) a foreign corporation which is not a foreign personal holding company,

shall be considered as being owned proportionately by its partners, beneficiaries, or shareholders. In any case to which the preceding sentence applies, the Secretary may by regulations provide for such adjustments in the application of this part as may be necessary to carry out the purposes of the preceding sentence."

(c) COORDINATION OF SUBPART F WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—

26 USC 951.

(1) IN GENERAL.—Subsection (d) of section 951 (relating to coordination with foreign personal holding company provisions) is amended to read as follows:

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—If, but for this subsection, an amount would be included in the gross income of a United States shareholder for any taxable year both under subsection (a)(1)(A)(i) and under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholder), such amount shall be included in the gross income of such shareholder only under subsection (a)(1)(A)."

26 USC 552.

(2) CERTAIN DIVIDENDS AND INTEREST NOT TAKEN INTO ACCOUNT FOR PERSONAL HOLDING COMPANY DETERMINATION.—Section 552 (defining foreign personal holding company) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN DIVIDENDS AND INTEREST NOT TAKEN INTO ACCOUNT.—For purposes of subsection (a)(1) and section 553(a)(1), gross income and foreign personal holding company income shall not include any dividends and interest which—

"(1) are described in subparagraph (A) of section 954(c)(4), and

"(2) are received from a related person which is not a foreign personal holding company (determined without regard to this subsection)."

(d) EFFECTIVE DATES.— 26 USC 551 note.

(1) SUBSECTIONS (a) AND (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsections (a) and (b) shall apply to taxable years of foreign corporations beginning after December 31, 1983.

(B) 1-YEAR EXTENSION FOR CERTAIN TRUSTS CREATED BEFORE JUNE 30, 1953.—

(i) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years of a foreign corporation beginning after December 31, 1984, with respect to stock of such corporation which is held (directly or indirectly, within the meaning of section 554 of the Internal Revenue Code of 1954) by a trust created before June 30, 1953, if—

(I) none of the beneficiaries of such trust was a citizen or resident of the United States at the time of its creation or within 5 years thereafter, and

(II) such trust does not, after July 1, 1983, acquire (directly or indirectly) stock of any foreign personal holding company other than a company described in clause (ii).

(ii) DESCRIPTION OF COMPANY.—A company is described in this clause if—

(I) substantially all of the assets of such company are stock or assets previously held by such trust, or

(II) such company ceases to be a foreign personal holding company before January 1, 1985.

(2) SUBSECTION (c).—

(A) The amendment made by paragraph (1) of subsection (c) shall apply to taxable years of United States shareholders beginning after the date of the enactment of this Act. 26 USC 951 note.

(B) The amendment made by paragraph (2) of subsection (c) shall apply to taxable years of foreign corporations beginning after March 15, 1984. 26 USC 552 note.

SEC. 133. AMENDMENTS RELATED TO SECTION 1248.

(a) SECTION 1248 TO APPLY TO CERTAIN INDIRECT TRANSFERS OF STOCK IN A FOREIGN CORPORATION.—Section 1248 (relating to gain from certain sales or exchanges of stock in foreign corporations) is amended by adding at the end thereof the following new subsection: 26 USC 1248.

"(i) TREATMENT OF CERTAIN INDIRECT TRANSFERS.—

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, for purposes of this section, the stock of the foreign corporation received in such exchange shall be treated as if it had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption of his stock.

"(2) 10-PERCENT CORPORATE SHAREHOLDER DEFINED.—For purposes of this subsection, the term '10-percent corporate shareholder' means any domestic corporation which, as of the day

before the exchange referred to in paragraph (1), satisfies the stock ownership requirements of subsection (a)(2) with respect to the foreign corporation."

(b) ELIMINATION OF DOUBLE TAXATION OF EARNINGS AND PROFITS OF CERTAIN FOREIGN CORPORATIONS.—

26 USC 959.

(1) Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(e) COORDINATION WITH AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.—For purposes of this section and section 960(b), any amount included in the gross income of any person as a dividend by reason of subsection (a) or (f) of section 1248 shall be treated as an amount included in the gross income of such person under section 951(a)(1)(A)."

Ante, p. 667.

(2) Section 1248 is amended by adding at the end thereof the following new subsection:

"(j) CROSS REFERENCE.—

Supra.

"For provision excluding amounts previously taxed under this section from gross income when subsequently distributed, see section 959(e)."

26 USC 1248.

(c) CLARIFICATION OF SECTION 1248(c)(2)(D).—Subparagraph (D) of section 1248(c)(2) (relating to earnings and profits of subsidiaries of foreign corporations) is amended by striking out "section 958(a)(2)" and inserting in lieu thereof "section 958(a)".

(d) EFFECTIVE DATES.—

26 USC 1248 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to exchanges after the date of the enactment of this Act in taxable years ending after such date.

26 USC 959 note.

(2) SUBSECTIONS (b) AND (c).—Except as provided in paragraph (3), the amendments made by subsections (b) and (c) shall apply with respect to transactions to which subsection (a) or (f) of section 1248 of the Internal Revenue Code of 1954 applies occurring after the date of the enactment of this Act.

26 USC 959 note.

(3) ELECTION OF EARLIER DATE FOR CERTAIN TRANSACTIONS.—

(A) IN GENERAL.—If the appropriate election is made under subparagraph (B), the amendments made by subsection (b) shall apply with respect to transactions to which subsection (a) or (f) of section 1248 of such Code applies occurring after October 9, 1975.

(B) ELECTION.—

(i) Subparagraph (A) shall apply with respect to transactions to which subsection (a) of section 1248 of such Code applies if the foreign corporation described in such subsection (or its successor in interest) so elects.

(ii) Subparagraph (A) shall apply with respect to transactions to which subsection (f) of section 1248 of such Code applies if the domestic corporation described in section 1248(f)(1) of such Code (or its successor) so elects.

(iii) Any election under clause (i) or (ii) shall be made not later than 180 days after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe.

SEC. 134. DEFINITION OF FOREIGN INVESTMENT COMPANY.

26 USC 1246.

(a) GENERAL RULE.—Paragraph (2) of section 1246(b) (defining foreign investment company) is amended to read as follows:

"(2) engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in—

"(A) securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended), 15 USC 80a-2.

"(B) commodities, or

"(C) any interest (including a futures or forward contract or option) in property described in subparagraph (A) or (B),

at a time when 50 percent or more of the total combined voting power of all classes of stock entitled to vote, or the total value of all classes of stock, was held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30)).".

(b) EFFECTIVE DATES.— 26 USC 1246 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to sales and exchanges (and distributions) on or after September 29, 1983, in taxable years ending on or after such date.

(2) STOCK HELD ON SEPTEMBER 29, 1983.—In the case of a sale or exchange (or distribution) not later than the date which is 1 year after the date of the enactment of this Act, the amendment made by subsection (a) shall not apply with respect to stock held by the taxpayer continuously from September 29, 1983, to the date of such sale or exchange (or distribution).

SEC. 135. APPLICATION OF COLLAPSIBLE CORPORATION RULES TO FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subsection (f) of section 341 (relating to collapsible corporations) is amended by adding at the end thereof the following new paragraph: 26 USC 341.

"(8) SPECIAL RULE FOR FOREIGN CORPORATIONS.—Except to the extent provided in regulations prescribed by the Secretary—

"(A) any consent given by a foreign corporation under paragraph (1) shall not be effective, and

"(B) paragraph (3) shall not apply if the transferee is a foreign corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 341 note.

SEC. 136. STAPLED STOCK; STAPLED ENTITIES.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 is amended by inserting after section 269A the following new section:

"SEC. 269B. STAPLED ENTITIES. 26 USC 269B.

"(a) GENERAL RULE.—Except as otherwise provided by regulations, for purposes of this title—

"(1) if a domestic corporation and a foreign corporation are stapled entities, the foreign corporation shall be treated as a domestic corporation.

"(2) in applying section 1563, stock in a second corporation which constitutes a stapled interest with respect to stock of a first corporation shall be treated as owned by such first corporation, and

"(3) in applying subchapter M for purposes of determining whether any stapled entity is a regulated investment company or a real estate investment trust, all entities which are stapled entities with respect to each other shall be treated as 1 entity.

"(b) SECRETARY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent avoidance or evasion of Federal income tax through the use of stapled entities. Such regulations may include (but shall not be limited to) regulations providing the extent to which 1 of such entities shall be treated as owning the other entity (to the extent of the stapled interest).

"(c) DEFINITIONS.—For purposes of this section—

"(1) ENTITY.—The term 'entity' means any corporation, partnership, trust, association, estate, or other form of carrying on a business or activity.

"(2) STAPLED ENTITIES.—The term 'stapled entities' means any group of 2 or more entities if more than 50 percent in value of the beneficial ownership in each of such entities consists of stapled interests.

"(3) STAPLED INTERESTS.—Two or more interests are stapled interests if, by reason of form of ownership, restrictions on transfer, or other terms or conditions, in connection with the transfer of 1 of such interests the other such interests are also transferred or required to be transferred.

"(d) SPECIAL RULE FOR TREATIES.—Nothing in section 894 or 7852(d) or in any other provision of law shall be construed as permitting an exemption, by reason of any treaty obligation of the United States heretofore or hereafter entered into, from the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by inserting after the item relating to section 269A the following new item:

"Sec. 269B. Stapled entities."

26 USC 269B note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INTERESTS STAPLED AS OF JUNE 30, 1983.—Except as otherwise provided in this subsection, in the case of any interests which on June 30, 1983, were stapled interests (as defined in section 269B(c)(3) of the Internal Revenue Code of 1954 (as added by this section)), the amendments made by this section shall take effect on January 1, 1985 (January 1, 1987, in the case of stapled interests in a foreign corporation).

Ante, p. 669.

(3) CERTAIN STAPLED ENTITIES WHICH INCLUDE REAL ESTATE INVESTMENT TRUST.—Paragraph (3) of section 269B(a) of such Code shall not apply in determining the application of the provisions of part II of subchapter M of chapter 1 of such Code to any real estate investment trust which is part of a group of stapled entities if—

26 USC 856.

(A) all members of such group were stapled entities as of June 30, 1983, and

(B) as of June 30, 1983, such group included one or more real estate investment trusts.

(4) CERTAIN STAPLED ENTITIES WHICH INCLUDE PUERTO RICAN CORPORATIONS.—

(A) Paragraph (1) of section 269B(a) of such Code shall not apply to a domestic corporation and a qualified Puerto Rican corporation which, on June 30, 1983, were stapled entities.

(B) For purposes of subparagraph (A), the term "qualified Puerto Rican corporation" means any corporation organized in Puerto Rico—

(i) which is described in section 957(c) of such Code or would be so described if any dividends it received from any other corporation described in such section 957(c) were treated as gross income of the type described in such section 957(c), and

(ii) does not, at any time during the taxable year, own (within the meaning of section 958 of such Code but before applying paragraph (2) of section 269B(a) of such Code) any stock of any corporation which is not described in such section 957(c).

Ante, p. 669.

(5) TREATY RULE NOT TO APPLY TO STAPLED ENTITIES ENTITLED TO TREATY BENEFITS AS OF JUNE 30, 1983.—In the case of any entity which was a stapled entity as of June 30, 1983, subsection (d) of section 269B of such Code shall not apply to any treaty benefit to which such entity was entitled as of June 30, 1983.

(6) ELECTIONS TO TREAT STAPLED FOREIGN ENTITIES AS SUBSIDIARIES.—

(A) IN GENERAL.—In the case of any foreign corporation and domestic corporation which as of June 30, 1983, were stapled entities, such domestic corporation may elect (in lieu of applying paragraph (1) of section 269B(a) of such Code) to be treated as owning all interests in the foreign corporation which constitute stapled interests with respect to stock of the domestic corporation.

(B) ELECTION.—Any election under subparagraph (A) shall be made not later than 180 days after the date of the enactment of this Act and shall be made in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) ELECTION IRREVOCABLE.—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(7) OTHER STAPLED ENTITIES WHICH INCLUDE REAL ESTATE INVESTMENT TRUST.—

(A) IN GENERAL.—Paragraph (3) of section 269B(a) of such Code shall not apply in determining the application of the provisions of part II of subchapter M of chapter 1 of such Code to any qualified real estate investment trust which is a part of a group of stapled entities—

26 USC 856.

(i) which was created pursuant to a written board of directors resolution adopted on April 5, 1984, and

(ii) all members of such group were stapled entities as of June 16, 1985.

(B) QUALIFIED REAL ESTATE INVESTMENT TRUST.—The term "qualified real estate investment trust" means any real estate trust—

(i) at least 75 percent of the gross income of which is derived from interest on obligations secured by mortgages on real property (as defined in section 856 of such Code),

(ii) with respect to which the interest on the obligations described in clause (i) made or acquired by such trust (other than to persons who are independent contractors, as defined in section 856(d)(3) of such Code) is

at an arm's length rate or a rate not more than 1 percentage point greater than the associated borrowing cost of the trust, and

(iii) with respect to which any real property held by the trust is not used in the trade or business of any other member of the group of stapled entities.

SEC. 137. SERVICES RELATING TO INSURANCE POLICIES ARE TREATED AS PERFORMED IN COUNTRY OF RISK.

26 USC 954.

(a) IN GENERAL.—Subsection (e) of section 954 (defining foreign base company services income) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2), any services performed with respect to any policy of insurance or reinsurance with respect to which the primary insured is a related person (within the meaning of section 864(d)(4)) shall be treated as having been performed in the country within which the insured hazards, risks, losses, or liabilities occur, and except as provided in regulations prescribed by the Secretary, rules similar to the rules of section 953(b) shall be applied in determining the income from such services."

Ante, p. 644.

Post, p. 755.

26 USC 954 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years of controlled foreign corporations beginning after the date of the enactment of this Act.

PART V—TREATMENT OF ALIEN INDIVIDUALS

SEC. 138. DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN.

Ante, p. 518.

26 USC 7701.

(a) GENERAL RULE.—Section 7701 (relating to definitions) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DEFINITION OF RESIDENT ALIEN AND NONRESIDENT ALIEN.—

"(1) IN GENERAL.—For purposes of this title (other than subtitle B)—

"(A) RESIDENT ALIEN.—An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i) or (ii):

"(i) LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—Such individual is a lawful permanent resident of the United States at any time during such calendar year.

"(ii) SUBSTANTIAL PRESENCE TEST.—Such individual meets the substantial presence test of paragraph (3).

"(B) NONRESIDENT ALIEN.—An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

"(2) SPECIAL RULES FOR FIRST AND LAST YEAR OF RESIDENCY.—

"(A) FIRST YEAR OF RESIDENCY.—

"(i) IN GENERAL.—If an alien individual is a resident of the United States under paragraph (1)(A) with respect to any calendar year, but was not a resident of the United States at any time during the preceding calendar year, such alien individual shall be treated as a resident of the United States only for the portion of

such calendar year which begins on the residency starting date.

"(ii) RESIDENCY STARTING DATE FOR INDIVIDUALS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—In the case of an individual who is a lawfully permanent resident of the United States at any time during the calendar year, but does not meet the substantial presence test of paragraph (3), the residency starting date shall be the first day in such calendar year on which he was present in the United States while a lawful permanent resident of the United States.

"(iii) RESIDENCY STARTING DATE FOR INDIVIDUALS MEETING SUBSTANTIAL PRESENCE TEST.—In the case of an individual who meets the substantial presence test of paragraph (3) with respect to any calendar year, the residency starting date shall be the first day during such calendar year on which the individual is present in the United States.

"(B) LAST YEAR OF RESIDENCY.—An alien individual shall not be treated as a resident of the United States during a portion of any calendar year if—

"(i) such portion is after the last day in such calendar year on which the individual was present in the United States (or, in the case of an individual described in paragraph (1)(A)(i), the last day on which he was so described),

"(ii) during such portion the individual has a closer connection to a foreign country than to the United States, and

"(iii) the individual is not a resident of the United States at any time during the next calendar year.

"(C) CERTAIN NOMINAL PRESENCE DISREGARDED.—

"(i) IN GENERAL.—For purposes of subparagraphs (A)(iii) and (B), an individual shall not be treated as present in the United States during any period for which the individual establishes that he has a closer connection to a foreign country than to the United States.

"(ii) NOT MORE THAN 10 DAYS DISREGARDED.—Clause (i) shall not apply to more than 10 days on which the individual is present in the United States.

"(3) SUBSTANTIAL PRESENCE TEST.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the 'current year') if—

"(i) such individual was present in the United States on at least 31 days during the calendar year, and

"(ii) the sum of the number of days on which such individual was present in the United States during the current year and the 2 preceding calendar years (when multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days·

"In the case of days in:	The applicable multiplier is:
Current year	1
1st preceding year	⅓
2nd preceding year	⅙

"(B) EXCEPTION WHERE INDIVIDUAL IS PRESENT IN THE UNITED STATES DURING LESS THAN ONE-HALF OF CURRENT YEAR AND CLOSER CONNECTION TO FOREIGN COUNTRY IS ESTABLISHED.—An individual shall not be treated as meeting the substantial presence test of this paragraph with respect to any current year if—

"(i) such individual is present in the United States on fewer than 183 days during the current year, and

"(ii) it is established that for the current year such individual has a tax home (as defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

"(C) SUBPARAGRAPH (B) NOT TO APPLY IN CERTAIN CASES.—Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year—

"(i) such individual had an application for adjustment of status pending, or

"(ii) such individual took other steps to apply for status as a lawful permanent resident of the United States.

"(D) EXCEPTION FOR EXEMPT INDIVIDUALS OR FOR CERTAIN MEDICAL CONDITIONS.—An individual shall not be treated as being present in the United States on any day if—

"(i) such individual is an exempt individual for such day, or

"(ii) such individual was unable to leave the United States on such day because of a medical condition which arose while such individual was present in the United States.

"(4) EXEMPT INDIVIDUAL DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—An individual is an exempt individual for any day if, for such day, such individual is—

"(i) a foreign government-related individual,

"(ii) a teacher or trainee, or

"(iii) a student.

"(B) FOREIGN GOVERNMENT-RELATED INDIVIDUAL.—The term 'foreign government-related individual' means any individual temporarily present in the United States by reason of—

"(i) diplomatic status, or a visa which the Secretary (after consultation with the Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

"(ii) being a full-time employee of an international organization, or

"(iii) being a member of the immediate family of an individual described in clause (i) or (ii).

"(C) TEACHER OR TRAINEE.—The term 'teacher or trainee' means any individual—

"(i) who is temporarily present in the United States under subparagraph (J) of section 101(15) of the Immi-

gration and Nationality Act (other than as a student), and 8 USC 1101.

"(ii) who substantially complies with the requirements for being so present.

"(D) STUDENT.—The term 'student' means any individual—

"(i) who is temporarily present in the United States—

"(I) under subparagraph (F) of section 101(15) of the Immigration and Nationality Act, or 8 USC 1101.

"(II) as a student under subparagraph (J) of such section 101(15), and

"(ii) who substantially complies with the requirements for being so present.

"(E) SPECIAL RULES FOR TEACHERS, TRAINEES, AND STUDENTS.—

"(i) LIMITATION ON TEACHERS AND TRAINEES.—An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceeding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A).

"(ii) LIMITATION ON STUDENTS.—For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of subparagraph (D)(ii).

"(5) LAWFUL PERMANENT RESIDENT.—For purposes of this subsection, an individual is a lawful permanent resident of the United States at any time if—

"(A) such individual has the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, and

"(B) such status has not been revoked (and has not been administratively or judicially determined to have been abandoned).

"(6) PRESENCE IN THE UNITED STATES.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), an individual shall be treated as present in the United States on any day if such individual is physically present in the United States at any time during such day.

"(B) COMMUTERS FROM CANADA OR MEXICO.—If an individual regularly commutes to employment (or self-employment) in the United States from a place of residence in Canada or Mexico, such individual shall not be treated as present in the United States on any day during which he so commutes.

"(C) TRANSIT BETWEEN 2 FOREIGN POINTS.—If an individual, who is in transit between 2 points outside the United

States, is physically present in the United States for less than 24 hours, such individual shall not be treated as present in the United States on any day during such transit.

"(7) ANNUAL STATEMENTS.—The Secretary may prescribe regulations under which an individual who (but for subparagraph (B) or (D) of paragraph (3)) would meet the substantial presence test of paragraph (3) is required to submit an annual statement setting forth the basis on which such individual claims the benefits of subparagraph (B) or (D) of paragraph (3), as the case may be.

"(8) TAXABLE YEAR.—

"(A) IN GENERAL.—For purposes of this title, an alien individual who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

"(B) FISCAL YEAR TAXPAYER.—If—

"(i) an individual is treated under paragraph (1) as a resident of the United States for any calendar year, and

"(ii) after the application of subparagraph (A), such individual has a taxable year other than a calendar year,

he shall be treated as a resident of the United States with respect to any portion of a taxable year which is within such calendar year.

"(9) COORDINATION WITH SECTION 877.—If—

"(A) an alien individual was treated as a resident of the United States during any period which includes at least 3 consecutive calendar years (hereinafter referred to as the 'initial residency period'), and

"(B) such individual ceases to be treated as a resident of the United States but subsequently becomes a resident of the United States before the close of the 3rd calendar year beginning after the close of the initial residency period,

such individual shall be taxable for the period after the close of the initial residency period and before the day on which he subsequently became a resident of the United States in the manner provided in section 877(b). The preceding sentence shall apply only if the tax imposed pursuant to section 877(b) exceeds the tax which, without regard to this paragraph, is imposed pursuant to section 871.

"(10) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

26 USC 7701 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(2) TRANSITIONAL RULE FOR APPLYING SUBSTANTIAL PRESENCE TEST.—

(A) If an alien individual was not a resident of the United States as of the close of calendar year 1984, the determination of whether such individual meets the substantial presence test of section 7701(b)(3) of the Internal Revenue Code of 1954 (as added by this section) shall be made by only taking into account presence after 1984.

Ante, p. 672.

(B) If an alien individual was a resident of the United States as of the close of calendar year 1984, but was not a resident of the United States as of the close of calendar year 1983, the determination of whether such individual meets such substantial presence test shall be made by only taking into account presence in the United States after 1983.

(3) TRANSITIONAL RULE FOR APPLYING LAWFUL RESIDENCE TEST.—In the case of any individual who—

"(A) was a lawful permanent resident of the United States (within the meaning of section 7701(b)(5) of the Internal Revenue Code of 1954, as added by this section) throughout calendar year 1984, or

Ante, p. 672.

(B) was present in the United States at any time during 1984 while such individual was a lawful permanent resident of the United States (within the meaning of such section 7701(b)(5)),

for purposes of section 7701(b)(2)(A) of such Code (as so added), such individual shall be treated as a resident of the United States during 1984.

SEC. 139. TREATMENT OF COMMUNITY INCOME.

(a) GENERAL RULE.—Subsection (a) of section 879 (relating to tax treatment of certain community income in the case of a resident or citizen of the United States who is married to a nonresident alien individual) is amended by striking out so much of such subsection as precedes paragraph (1) thereof and inserting in lieu thereof the following:

26 USC 879.

"(a) GENERAL RULE.—In the case of a married couple 1 or both of whom are nonresident alien individuals and who have community income for the taxable year, such community income shall be treated as follows:".

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 879 is amended to read as follows:

"SEC. 879. TAX TREATMENT OF CERTAIN COMMUNITY INCOME IN THE CASE OF NONRESIDENT ALIEN INDIVIDUALS."

(2) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 879 and inserting in lieu thereof the following:

"Sec. 879. Tax treatment of certain community income in the case of nonresident alien individuals."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

26 USC 879 note.

Subtitle K—Reporting, Penalty, and Other Provisions

PART I—PROVISIONS RELATING TO TAX SHELTERS

SEC. 141. REGISTRATION OF TAX SHELTERS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6111 as section 6112 and by inserting after section 6110 the following new section:

26 USC 6112.
Post, p. 681.

26 USC 6111.

"SEC. 6111. REGISTRATION OF TAX SHELTERS.

"(a) REGISTRATION.—

"(1) IN GENERAL.—Any tax shelter organizer shall register the tax shelter with the Secretary (in such form and in such manner as the Secretary may prescribe) not later than the day on which the first offering for sale of interests in such tax shelter occurs.

"(2) INFORMATION INCLUDED IN REGISTRATION.—Any registration under paragraph (1) shall include—

"(A) information identifying and describing the tax shelter,

"(B) information describing the tax benefits of the tax shelter represented (or to be represented) to investors, and

"(C) such other information as the Secretary may prescribe.

"(b) FURNISHING OF TAX SHELTER IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

"(1) SELLERS, ETC.—Any person who sells (or otherwise transfers) an interest in a tax shelter shall (at such times and in such manner as the Secretary shall prescribe) furnish to each investor who purchases (or otherwise acquires) an interest in such tax shelter from such person the identification number assigned by the Secretary to such tax shelter.

"(2) INCLUSION OF NUMBER ON RETURN.—Any person claiming any deduction, credit, or other tax benefit by reason of a tax shelter shall include (in such manner as the Secretary may prescribe) on the return of tax on which such deduction, credit, or other benefit is claimed the identification number assigned by the Secretary to such tax shelter.

"(c) TAX SHELTER.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax shelter' means any investment—

"(A) with respect to which any person could reasonably infer from the representations made, or to be made, in connection with the offering for sale of interests in the investment that the tax shelter ratio for any investor as of the close of any of the first 5 years ending after the date on which such investment is offered for sale may be greater than 2 to 1, and

"(B) which is—

"(i) required to be registered under a Federal or State law regulating securities,

"(ii) sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or State agency regulating the offering or sale of securities, or

"(iii) a substantial investment.

"(2) TAX SHELTER RATIO DEFINED.—For purposes of this subsection, the term 'tax shelter ratio' means, with respect to any year, the ratio which—

"(A) the aggregate amount of the deductions and 200 percent of the credits which are represented to be potentially allowable to any investor under subtitle A for all periods up to (and including) the close of such year, bears to

"(B) the investment base as of the close of such year.

"(3) INVESTMENT BASE.—

"(A) IN GENERAL.—Except as provided in this paragraph, the term 'investment base' means, with respect to any year, the amount of money and the adjusted basis of other property (reduced by any liability to which such other property is subject) contributed by the investor as of the close of such year.

"(B) CERTAIN BORROWED AMOUNTS EXCLUDED.—For purposes of subparagraph (A), there shall not be taken into account any amount borrowed from any person—

"(i) who participated in the organization, sale, or management of the investment, or

"(ii) who is a related person (as defined in section 168(e)(4)) to any person described in clause (i),

unless such amount is unconditionally required to be repaid by the investor before the close of the year for which the determination is being made.

"(C) CERTAIN OTHER AMOUNTS INCLUDED OR EXCLUDED.—

"(i) AMOUNTS HELD IN CASH EQUIVALENTS, ETC.—No amount shall be taken into account under subparagraph (A) which is to be held in cash equivalent or marketable securities.

"(ii) AMOUNTS INCLUDED OR EXCLUDED BY SECRETARY.—The Secretary may by regulation—

"(I) exclude from the investment base any amount described in subparagraph (A), or

"(II) include in the investment base any amount not described in subparagraph (A),

if the Secretary determines that such exclusion or inclusion is necessary to carry out the purposes of this section.

"(4) SUBSTANTIAL INVESTMENT.—An investment is a substantial investment if—

"(A) the aggregate amount which may be offered for sale exceeds $250,000, and

"(B) there are expected to be 5 or more investors.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAX SHELTER ORGANIZER.—The term 'tax shelter organizer' means—

"(A) the person principally responsible for organizing the tax shelter,

"(B) if the requirements of subsection (a) are not met by a person described in subpargraph (A) at the time prescribed therefor, any other person who participated in the organization of the tax shelter, and

"(C) if the requirements of subsection (a) are not met by a person described in subparagraph (A) or (B) at the time prescribed therefor, any person participating in the sale or management of the investment at a time when the tax shelter was not registered under subsection (a).

"(2) YEAR.—The term 'year' means—

"(A) the taxable year of the tax shelter, or

"(B) if the tax shelter has no taxable year, the calendar year.

"(e) REGULATIONS.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

"(2) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

"(3) exemptions from the requirements of this section, and

"(4) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters."

(b) PENALTIES.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6707.

"SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING TAX SHELTERS.

"(a) FAILURE TO REGISTER TAX SHELTER.—

"(1) IMPOSITION OF PENALTY.—If a person who is required to register a tax shelter under section 6111(a)—

Ante, p. 677.

"(A) fails to register such tax shelter on or before the date described in section 6111(a)(1), or

"(B) files false or incomplete information with the Secretary with respect to such registration,

such person shall pay a penalty with respect to such registration in the amount determined under paragraph (2). No penalty shall be imposed under the preceding sentence with respect to any failure which is due to reasonable cause.

"(2) AMOUNT OF PENALTY.—The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

"(A) $500, or

"(B) the lesser of (i) 1 percent of the aggregate amount invested in such tax shelter, or (ii) $10,000.

The $10,000 limitation in subparagraph (B) shall not apply where there is an intentional disregard of the requirements of section 6111(a).

"(b) FAILURE TO FURNISH TAX SHELTER IDENTIFICATION NUMBER.—

"(1) SELLERS, ETC.—Any person who fails to furnish the identification number of a tax shelter which such person is required to furnish under section 6111(b)(1) shall pay a penalty of $100 for each such failure.

"(2) FAILURE TO INCLUDE NUMBER ON RETURN.—Any person who fails to include an identification number on a return on which such number is required to be included under section 6111(b)(2) shall pay a penalty of $50 for each such failure, unless such failure is due to reasonable cause."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6111 and inserting in lieu thereof the following new items:

"Sec. 6111. Registration of tax shelters.

"Sec. 6112. Cross references."

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6707. Failure to furnish information regarding tax shelters."

26 USC 6111 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1954, as added by this section) any interest in which is first sold to any investor after August 31, 1984.

Ante, p. 677.

(2) SUBSTANTIAL INVESTMENT TEST.—For purposes of determining whether any investment is a tax shelter by reason of section 6111(c)(1)(B)(iii) of such Code (as added by this section), only offers for sale after August 31, 1984, shall be taken into account.

(3) FURNISHING OF SHELTER IDENTIFICATION NUMBER FOR INTERESTS SOLD BEFORE SEPTEMBER 1, 1984.—With respect to interests sold before September 1, 1984, any liability to act under paragraph (1) of section 6111(b) of such Code (as added by this section) which would (but for this sentence) arise before such date shall be deemed to arise on December 31, 1984.

SEC. 142. ORGANIZERS AND SELLERS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP LISTS OF INVESTORS.

(a) IN GENERAL.—Subchapter B of chapter 61 (relating to miscellaneous provisions involving information and returns) is amended by redesignating section 6112 as section 6113 and by inserting after section 6111 the following new section:

Ante, p. 677.
26 USC 6113.

"SEC. 6112. ORGANIZERS AND SELLERS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP LISTS OF INVESTORS.

26 USC 6112.

"(a) IN GENERAL.—Any person who—

"(1) organizes any potentially abusive tax shelter, or

"(2) sells any interest in such a shelter,

shall maintain (in such manner as the Secretary may by regulations prescribe) a list identifying each person who was sold an interest in such shelter and containing such other information as the Secretary may by regulations require.

"(b) POTENTIALLY ABUSIVE TAX SHELTER.—For purposes of this section, the term 'potentially abusive tax shelter' means—

"(1) any tax shelter (as defined in section 6111) with respect to which registration is required under section 6111, and

Ante, p. 677.

"(2) any entity, investment plan or arrangement, or other plan or arrangement which is of a type which the Secretary determines by regulations as having a potential for tax avoidance or evasion.

"(c) SPECIAL RULES.—

"(1) AVAILABILITY FOR INSPECTION; RETENTION OF INFORMATION ON LIST.—Any person who is required to maintain a list under subsection (a)—

"(A) shall make such list available to the Secretary for inspection upon request by the Secretary, and

"(B) except as otherwise provided under regulations prescribed by the Secretary, shall retain any information which is required to be included on such list for 7 years.

"(2) LISTS WHICH WOULD BE REQUIRED TO BE MAINTAINED BY 2 OR MORE PERSONS.—The Secretary shall prescribe regulations which provide that, in cases in which 2 or more persons are required under subsection (a) to maintain the same list (or portion thereof), only 1 person shall be required to maintain such list (or portion)."

Regulations.

(b) PENALTY FOR FAILURE TO MAINTAIN LIST.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6708.
Post, p. 912.

"SEC. 6708. FAILURE TO MAINTAIN LISTS OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS.

Ante, p. 681.

"(a) IN GENERAL.—Any person who fails to meet any requirement imposed by section 6112 shall pay a penalty of $50 for each person with respect to whom there is such a failure, unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection for any calendar year shall not exceed $50,000.

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

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6112 and inserting in lieu thereof the following new items:

"Sec. 6112. Organizers and sellers of potentially abusive tax shelters must keep lists of investors.
"Sec. 6113. Cross reference."

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6708. Failure to maintain lists of investors in potentially abusive tax shelters."

26 USC 6112 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any interest which is first sold to any investor after August 31, 1984.

SEC. 143. INCREASE IN PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS; INJUNCTION AGAINST AIDING OR ABETTING UNDERSTATEMENT OF TAX LIABILITY.

26 USC 6700.

(a) INCREASE IN PROMOTER PENALTY.—Subsection (a) of section 6700 (relating to promotion of abusive tax shelters) is amended by striking out "10 percent" and inserting in lieu thereof "20 percent".

(b) INJUNCTION AGAINST AIDING OR ABETTING UNDERSTATEMENTS OF TAX LIABILITY.—

26 USC 7408.

(1) Subsections (a) and (b) of section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) are each amended by inserting "or section 6701 (relating to penalties for aiding and abetting understatement of tax liability)" after "etc.)".

(2) Subsection (a) of section 7408 is amended by inserting "or section 6701" before the period at the end of the second sentence.

(3) Subsection (b) of section 7408 is amended by inserting before the period "or section 6701".

26 USC 6700 note.

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

SEC. 144. INCREASED RATE OF INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO CERTAIN TAX MOTIVATED TRANSACTIONS.

26 USC 6621.

(a) GENERAL RULE.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end thereof the following new subsection:

"(d) INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO TAX MOTIVATED TRANSACTIONS.—

"(1) IN GENERAL.—In the case of interest payable under section 6601 with respect to any substantial underpayment attributable to tax motivated transactions, the annual rate of interest established under this section shall be 120 percent of the adjusted rate established under subsection (b).

"(2) SUBSTANTIAL UNDERPAYMENT ATTRIBUTABLE TO TAX MOTIVATED TRANSACTIONS.—For purposes of this subsection, the term 'substantial underpayment attributable to tax motivated transactions' means any underpayment of taxes imposed by subtitle A for any taxable year which is attributable to 1 or more tax motivated transactions if the amount of the underpayment for such year so attributable exceeds $1,000.

"(3) TAX MOTIVATED TRANSACTIONS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax motivated transaction' means—

"(i) any valuation overstatement (within the meaning of section 6659(c)),

Post, p. 693.

"(ii) any loss disallowed by reason of section 465(a) and any credit disallowed under section 46(c)(8),

Post, pp. 805, 810.

"(iii) any straddle (as defined in section 1092(c) without regard to subsections (d) and (e) of section 1092), and

"(iv) any use of an accounting method specified in regulations prescribed by the Secretary as a use which may result in a substantial distortion of income for any period.

"(B) REGULATORY AUTHORITY.—The Secretary may by regulations specify other types of transactions which will be treated as tax motivated for purposes of this subsection and may by regulations provide that specified transactions being treated as tax motivated will no longer be so treated. In prescribing regulations under the preceding sentence, the Secretary shall take into account—

"(i) the ratio of tax benefits to cash invested,

"(ii) the methods of promoting the use of this type of transaction, and

"(iii) other relevant considerations.

"(C) EFFECTIVE DATE FOR REGULATIONS.—Any regulations prescribed under subparagraph (A)(iv) or (B) shall apply only to interest accruing after a date (specified in such regulations) which is after the date on which such regulations are prescribed.

"(4) JURISDICTION OF TAX COURT.—In the case of any proceeding in the Tax Court for a redetermination of a deficiency, the Tax Court shall also have jurisdiction to determine the portion (if any) of such deficiency which is a substantial underpayment attributable to tax motivated transactions."

(b) CROSS REFERENCE.—Section 6214 (relating to determinations by Tax Court) is amended by adding at the end thereof the following new subsection:

26 USC 6214.

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to determine whether any portion of deficiency is a substantial underpayment attributable to tax motivated transactions, see section 6621(d)(4)."

Ante, p. 682.
26 USC 6621 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest accruing after December 31, 1984.

PART II—INFORMATION REPORTING PROVISIONS

SEC. 145. RETURNS RELATING TO MORTGAGE INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

26 USC 6050H.

"SEC. 6050H. RETURNS RELATING TO MORTGAGE INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) MORTGAGE INTEREST OF $600 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on any mortgage,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name and address of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person making such return from the individual to whom the statement is furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(e) MORTGAGE DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'mortgage' means any obligation secured by real property.

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a)."

(b) PENALTIES—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended— 26 USC 6652.

(A) by striking out "or" at the end of clause (iii),

(B) by inserting "or" at the end of clause (iv), and

(C) by inserting after clause (iv) the following new clause:

"(v) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),".

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by inserting "or section 6050H" after "section 6041A(b)". 97 Stat. 381.

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended— 26 USC 6678.

(A) by striking out "or 6052(b)" and inserting in lieu thereof "6052(b), or 6050H(d)", and

(B) by striking out "or 6052(a)" and inserting in lieu thereof "6052(a), or 6050H(a)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050H. Returns relating to mortgage interest received in trade or business from individuals."

(d) EFFECTIVE DATES.— 26 USC 6050H note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1984.

(2) SPECIAL RULE FOR OBLIGATIONS IN EXISTENCE ON DECEMBER 31, 1984.—In the case of any obligation in existence on December 31, 1984, no penalty shall be imposed under section 6652 of the Internal Revenue Code of 1954 by reason of the amendments made by this section on any failure to supply a taxpayer identification number with respect to amounts received before January 1, 1986.

SEC. 146. RETURNS RELATING TO CASH RECEIVED IN TRADE OR BUSINESS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050I. RETURNS RELATING TO CASH RECEIVED IN TRADE OR BUSINESS. 26 USC 6050I.

"(a) CASH RECEIPTS OF MORE THAN $10,000.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives more than $10,000 in cash in 1 transaction (or 2 or more related transactions),

shall make the return described in subsection (b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the person from whom the cash was received,

"(B) the amount of cash received,

"(C) the date and nature of the transaction, and

"(D) such other information as the Secretary may prescribe.

"(c) EXCEPTIONS.—

"(1) CASH RECEIVED BY FINANCIAL INSTITUTIONS.—Subsection (a) shall not apply to—

"(A) cash received in a transaction reported under title 31, United States Code, if the Secretary determines that reporting under this section would duplicate the reporting to the Treasury under title 31, United States Code, or

"(B) cash received by any financial institution (as defined in subparagraphs (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), and (S) of section 5312(a)(2) of title 31, United States Code).

"(2) TRANSACTIONS OCCURRING OUTSIDE THE UNITED STATES.—Except to the extent provided in regulations prescribed by the Secretary, subsection (a) shall not apply to any transaction if the entire transaction occurs outside the United States.

"(d) CASH INCLUDES FOREIGN CURRENCY.—For purposes of this section, the term 'cash' includes foreign currency.

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of cash described in subsection (a) received by the person making such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(b) PENALTIES—

Ante, p. 685.

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out "or" at the end of clause (iv),

(B) by inserting "or" at the end of clause (v), and

(C) by inserting after clause (v) the following new clause:

"(vi) section 6050I(a) (relating to cash received in trade or business),".

Ante, p. 685.

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by striking out "or section 6050H" and inserting in lieu thereof ", 6050H or 6050I".

Ante, p. 685.

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050H(d)" and inserting in lieu thereof "6050H(d), or 6050I(e)", and

(B) by striking out "or 6050H(a)" and inserting in lieu thereof "6050H(a), or 6050I(a)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050I. Returns relating to cash received in trade or business."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1984. 26 USC 6050I note.

SEC. 147. PROVISIONS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) CLARIFICATION THAT REGULATIONS MAY REQUIRE REPORTS TO IDENTIFY YEARS TO WHICH CONTRIBUTIONS RELATE.—Subsection (i) of section 408 (relating to individual retirement accounts) is amended by inserting "(and the years to which they relate)" after "contributions". 26 USC 408.

(b) INCREASE IN PENALTY FOR FAILURE TO FILE REPORTS.—Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts and annuities) is amended by striking out "$10" and inserting in lieu thereof "$50". 26 USC 6693.

(c) CONTRIBUTIONS REQUIRED TO BE MADE ON OR BEFORE UNEXTENDED RETURN FILING DATE.—Subparagraph (A) of section 219(f)(3) (relating to time when contributions deemed made) is amended by striking out "including" and inserting in lieu thereof "not including". 26 USC 219.

(d) EFFECTIVE DATES.— 26 USC 219 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions made after December 31, 1984.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to failures occurring after the date of the enactment of this Act.

SEC. 148. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050J. RETURNS RELATING TO FORECLOSURES AND ABANDONMENTS OF SECURITY. 26 USC 6050J.

"(a) IN GENERAL.—Any person who, in connection with a trade or business conducted by such person, lends money secured by property and who—

"(1) in full or partial satisfaction of any indebtedness, acquires an interest in any property which is security for such indebtedness, or

"(2) has reason to know that the property in which such person has a security interest has been abandoned,

shall make a return described in subsection (c) with respect to each of such acquisitions or abandonments, at such time as the Secretary may by regulations prescribe.

"(b) EXCEPTION.—Subsection (a) shall not apply to any loan to an individual secured by an interest in tangible personal property

which is not held for investment and which is not used in a trade or business.

"(c) FORM AND MANNER OF RETURN.—The return required under subsection (a) with respect to any acquisition or abandonment of property—

"(1) shall be in such form as the Secretary may prescribe,

"(2) shall contain—

"(A) the name and address of each person who is a borrower with respect to the indebtedness which is secured,

"(B) a general description of the nature of such property and such indebtedness,

"(C) in the case of a return required under subsection (a)(1)—

"(i) the amount of such indebtedness at the time of such acquisition, and

"(ii) the amount of indebtedness satisfied in such acquisition,

"(D) in the case of a return required under subsection (a)(2), the amount of such indebtedness at the time of such abandonment, and

"(E) such other information as the Secretary may prescribe.

"(d) APPLICATIONS TO GOVERNMENTAL UNITS.—For purposes of this section—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the name and address of the person required to make such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(f) TREATMENT OF OTHER DISPOSITIONS.—To the extent provided by regulations prescribed by the Secretary, any transfer of the property which secures the indebtedness to a person other than the lender shall be treated as an abandonment of such property."

(b) PENALTIES.—

Ante, p. 686.

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended—

(A) by striking out "or" at the end of clause (v),

(B) by adding "or" at the end of clause (vi), and

(C) by inserting after clause (vi) the following new clause:

"(vii) section 6050J(a) (relating to foreclosures and abandonments of security),".

Ante, p. 686.

(2) Clause (iii) of section 6652(a)(3)(A) (relating to penalty in case of intentional disregard) is amended by striking out "or 6050I" and inserting in lieu thereof ", 6050I, or 6050J".

(3) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended— *Ante*, p. 686.

(A) by striking out "or 6050I(e)" and inserting in lieu thereof "6050I(e), or 6050J(e)", and

(B) by striking out "or 6050I(a)" and inserting in lieu thereof "6050I(a), or 6050J(a)".

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050J. Returns relating to foreclosures and abandonments of security."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to acquisitions of property and abandonments of property after December 31, 1984. 26 USC 6050J note.

SEC. 149. RETURNS RELATING TO EXCHANGES OF PARTNERSHIP INTERESTS WHERE UNREALIZED RECEIVABLES, ETC., INVOLVED.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information and returns) is amended by adding at the end thereof the following new section.

"SEC. 6050K. RETURNS RELATING TO EXCHANGES OF CERTAIN PARTNERSHIP INTERESTS. 26 USC 6050K.

"(a) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, if there is an exchange described in section 751(a) of any interest in a partnership during any calendar year, such partnership shall make a return for such calendar year stating—

"(1) the name and address of the transferee and transferor in such exchange, and

"(2) such other information as the Secretary may by regulations prescribe.

Such return shall be made at such time and in such manner as the Secretary may require by regulations.

"(b) STATEMENT TO BE FURNISHED TO TRANSFEROR AND TRANSFEREE.—Every partnership making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(1) the name and address of the partnership making the return, and

"(2) the information shown on the return with respect to such person.

The statement required under the preceding sentence shall be furnished to the person on or before January 31 following the calendar year for which the return under subsection (a) was made.

"(c) REQUIREMENT THAT TRANSFEROR NOTIFY PARTNERSHIP.—

"(1) IN GENERAL.—In the case of any exchange described in subsection (a), the transferor of the partnership interest shall promptly notify the partnership of such exchange.

"(2) PARTNERSHIP NOT REQUIRED TO MAKE RETURN UNTIL NOTICE.—A partnership shall not be required to make a return under this subsection with respect to any exchange until the partnership is notified of such exchange."

(b) PENALTIES.—

(1) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended by striking out "or" at the end of clause (vi), by adding "or" at the end of clause (vii), and by inserting after clause (vii) the following new clause: *Ante*, p. 688.

"(viii) section 6050K (relating to exchanges of certain partnership interests),".

Ante, p. 689.

(2) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended—

(A) by striking out "or 6050J(e)" and inserting in lieu thereof "6050J(e), or 6050K(b)", and

(B) by striking out "or 6050J(a)" and inserting in lieu thereof "6050J(a), or 6050K(a)".

97 Stat. 381.

(3) Section 6678 (relating to failure to furnish certain statements) is amended by adding at the end thereof the following new subsection:

"(c) FAILURE TO NOTIFY PARTNERSHIP OF EXCHANGE OF PARTNERSHIP INTEREST.—In the case of any person who fails to furnish the notice required by section 6050K(c)(1) on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, such person shall pay a penalty of $50 for each such failure."

Ante, p. 689.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050K. Returns relating to exchanges of certain partnership interests."

26 USC 6050K note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to exchanges after December 31, 1984.

SEC. 150. STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.

26 USC 6045.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(d) STATEMENTS REQUIRED IN CASE OF CERTAIN SUBSTITUTE PAYMENTS.—If any broker—

"(1) transfers securities of a customer for use in a short sale or similar transaction, and

"(2) receives (on behalf of the customer) a payment in lieu of—

"(A) a dividend,

"(B) tax-exempt interest, or

"(C) such other items as the Secretary may prescribe by regulations,

during the period such short sale or similar transaction is open, the broker shall furnish such customer a written statement (at such time and in the manner as the Secretary shall prescribe by regulations) identifying such payment as being in lieu of the dividend, tax-exempt interest, or such other item. The Secretary may prescribe regulations which require the broker to make a return which includes the information contained in such written statement."

26 USC 6045 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received after December 31, 1984.

SEC. 151. REPORTING OF STATE AND LOCAL REFUNDS NOT REQUIRED WITH RESPECT TO NON-ITEMIZERS.

26 USC 6050E.

(a) IN GENERAL.—Subsection (b) of section 6050E (relating to State and local income tax refunds) is amended by adding at the end thereof the following: "No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset."

26 USC 1 *et seq.*

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments of refunds, and credits and offsets made, after December 31, 1982. 26 USC 6050E note.

SEC. 152. FURNISHING OF TIN UNDER BACKUP WITHHOLDING.

(a) IN GENERAL.—Section 3406(e)(1) (relating to backup withholding) is amended by inserting at the end thereof the following new sentence: "The Secretary may require that a TIN required to be furnished under subsection (a)(1)(A) be provided under penalties of perjury only with respect to interest, dividends, patronage dividends, and amounts subject to broker reporting." 97 Stat. 371. 26 USC 3406.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 3406 note.

PART III—OTHER COMPLIANCE PROVISIONS

SEC. 155. SUBSTANTIATION OF CHARITABLE CONTRIBUTIONS; MODIFICATIONS OF INCORRECT VALUATION PENALTY. 26 USC 170 note.

(a) SUBSTANTIATION OF CONTRIBUTIONS OF PROPERTY.—

(1) IN GENERAL.—Not later than December 31, 1984, the Secretary shall prescribe regulations under section 170(a)(1) of the Internal Revenue Code of 1954, which require any individual, closely held corporation, or personal service corporation claiming a deduction under section 170 of such Code for a contribution described in paragraph (2)— Regulations. Corporations.

(A) to obtain a qualified appraisal for the property contributed,

(B) to attach an appraisal summary to the return on which such deduction is first claimed for such contribution, and

(C) to include on such return such additional information (including the cost basis and acquisition date of the contributed property) as the Secretary may prescribe in such regulations.

Such regulations shall require the taxpayer to retain any qualified appraisal.

(2) CONTRIBUTIONS TO WHICH PARAGRAPH (1) APPLIES.—For purposes of paragraph (1), a contribution is described in this paragraph—

(A) if such contribution is of property (other than publicly traded securities), and

(B) if the claimed value of such property (plus the claimed value of all similar items of property donated to 1 or more donees) exceeds $5,000.

In the case of any property which is nonpublicly traded stock, subparagraph (B) shall be applied by substituting "$10,000" for "$5,000".

(3) APPRAISAL SUMMARY.—For purposes of this subsection, the appraisal summary shall be in such form and include such information as the Secretary prescribes by regulations. Such summary shall be signed by the qualified appraiser preparing the qualified appraisal and shall contain the TIN of such appraiser. Such summary shall be acknowledged by the donee of the property appraised in such manner as the Secretary prescribes in such regulations.

(4) QUALIFIED APPRAISAL.—The term "qualified appraisal" means an appraisal prepared by a qualified appraiser which includes—

(A) a description of the property appraised,

(B) the fair market value of such property on the date of contribution and the specific basis for the valuation,

(C) a statement that such appraisal was prepared for income tax purposes,

(D) the qualifications of the qualified appraiser,

(E) the signature and TIN of such appaiser, and

(F) such additional information as the Secretary prescribes in such regulations.

(5) QUALIFIED APPRAISER.—

(A) IN GENERAL.—For purposes of this subsection, the term "qualified appraiser" means an appraiser qualified to make appraisals of the type of property donated, who is not—

(i) the taxpayer,

(ii) a party to the transaction in which the taxpayer acquired the property,

(iii) the donee,

(iv) any person employed by any of the foregoing persons or related to any of the foregoing persons under section 267(b) of the Internal Revenue Code of 1954, or

(v) to the extent provided in such regulations, any person whose relationship to the taxpayer would cause a reasonable person to question the independence of such appraiser.

(B) APPRAISAL FEES.—For purposes of this subsection, an appraisal shall not be treated as a qualified appraisal if all or part of the fee paid for such appraisal is based on a percentage of the appraised value of the property. The preceding sentence shall not apply to fees based on a sliding scale that are paid to a generally recognized association regulating appraisers.

(6) OTHER DEFINITIONS.—For purposes of this subsection—

(A) CLOSELY HELD CORPORATION.—The term "closely held corporation" means any corporation (other than an S corporation) with respect to which the stock ownership requirement of paragraph (2) of section 542(a) of such Code is met.

(B) PERSONAL SERVICE CORPORATION.—The term "personal service corporation" means any corporation (other than an S corporation) which is a service organization (within the meaning of section 414(m)(3) of such Code).

(C) PUBLICLY TRADED SECURITIES.—The term "publicly traded securities" means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

(D) NONPUBLICLY TRADED STOCK.—The term "nonpublicly traded stock" means any stock of a corporation which is not a publicly traded security.

(E) THE SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(b) INFORMATION REPORT REQUIRED ON DISPOSITION BY DONEE.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information and returns) is amended by adding at the end thereof the following new section:

"SEC. 6050L. RETURNS RELATING TO CERTAIN DISPOSITIONS OF DONATED PROPERTY. 26 USC 6050L.

"(a) GENERAL RULE.—If the donee of any charitable deduction property sells, exchanges, or otherwise disposes of such property within 2 years after its receipt, the donee shall make a return (in accordance with forms and regulations prescribed by the Secretary) showing—

"(1) the name, address, and TIN of the donor,

"(2) a description of the property,

"(3) the date of the contribution,

"(4) the amount received on the disposition, and

"(5) the date of such disposition.

"(b) CHARITABLE DEDUCTION PROPERTY.—For purposes of this section, the term 'charitable deduction property' means any property (other than publicly traded securities) contributed in a contribution for which a deduction was claimed under section 170 if the claimed value of such property (plus the claimed value of all similar items of property donated by the donor to 1 or more donees) exceeds $5,000.

"(c) STATEMENT TO BE FURNISHED TO DONORS.—Every person making a return under subsection (a) shall furnish a copy of such return to the donor at such time and in such manner as the Secretary may by regulations prescribe.

"(d) DEFINITION OF PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities for which (as of the date of the contribution) market quotations are readily available on an established securities market."

(2) PENALTIES.—

(A) Subparagraph (B) of section 6652(a)(1) (relating to failure to file certain information returns, etc.) is amended— 26 USC 6652.

(i) by striking out "or" at the end of clause (vii),

(ii) by adding "or" at the end of clause (viii), and

(iii) by inserting after clause (viii) the following new clause:

"(ix) section 6050L (relating to returns relating to certain dispositions of donated property),". *Supra.*

(B) Paragraph (1) of section 6678(a) (relating to failure to furnish certain statements) is amended— 26 USC 6678.

(i) by striking out "or 6050K(b)" and inserting in lieu thereof "6050K(b), or 6050L(c)", and

(ii) by striking out "or 6050K(a)" and inserting in lieu thereof "6050K(a), or 6050L(a)".

(3) CLERICAL AMENDMENT.—The table of sections of subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050L. Returns relating to certain dispositions of donated property."

(c) MODIFICATIONS OF INCORRECT VALUATION PENALTY.—

(1) MODIFICATIONS OF SECTION 6659.—

(A) ELIMINATION OF REQUIREMENT THAT PROPERTY BE ACQUIRED WITHIN THE LAST 5 YEARS.—Subsection (c) of section 6659 is amended to read as follows: 26 USC 6659.

"(c) VALUATION OVERSTATEMENT DEFINED.—For purposes of this section, there is a valuation overstatement if the value of any property, or the adjusted basis of any property, claimed on any return is 150 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be)."

26 USC 6659.

(B) SPECIAL RULES FOR OVERSTATEMENT OF CHARITABLE DEDUCTION.—Section 6659 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) SPECIAL RULES FOR OVERSTATEMENT OF CHARITABLE DEDUCTION.—

"(1) AMOUNT OF APPLICABLE PERCENTAGE.—In the case of any underpayment attributable to a valuation overstatement with respect to charitable deduction property, the applicable percentage for purposes of subsection (a) shall be 30 percent.

"(2) LIMITATION ON AUTHORITY TO WAIVE.—In the case of any underpayment attributable to a valuation overstatement with respect to charitable deduction property, the Secretary may not waive any portion of the addition to tax provided by this section unless the Secretary determines that—

"(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

"(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

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

"(A) CHARITABLE DEDUCTION PROPERTY.—The term 'charitable deduction property' means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (2), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

"(B) QUALIFIED APPRAISER.—The term 'qualified appraiser' means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).

"(C) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1)."

(2) EXTENSION OF INCORRECT VALUATION PENALTY TO ESTATE AND GIFT TAX.—

(A) Subchapter A of chapter 68 (relating to additions to the tax and additional amounts) is amended by inserting after section 6659 the following new section:

26 USC 6660.

"SEC. 6660. ADDITION TO TAX IN THE CASE OF VALUATION UNDERSTATEMENT FOR PURPOSES OF THE ESTATE OR GIFT TAXES.

"(a) ADDITION TO THE TAX.—In the case of any underpayment of a tax imposed by subtitle B (relating to estate and gift taxes) which is attributable to a valuation understatement, there shall be added to the tax an amount equal to the applicable percentage of the underpayment so attributed.

26 USC 2001.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined under the following table:

"If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
50 percent or more but not more than 66⅔ percent	10
40 percent or more but less than 50 percent	20
Less than 40 percent	30.

"(c) VALUATION UNDERSTATEMENT DEFINED.—For purposes of this section, there is a valuation understatement if the value of any property claimed on any return is 66⅔ percent or less of the amount determined to be the correct amount of such valuation.

"(d) UNDERPAYMENT MUST BE AT LEAST $1,000.—This section shall not apply if the underpayment is less than $1,000 for any taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent). 26 USC 2001 *et seq.*

"(e) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was a reasonable basis for the valuation claimed on the return and that such claim was made in good faith."

(B) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by inserting after the item relating to section 6659 the following new item:

"Sec. 6660. Addition to tax in the case of valuation understatement for purposes of estate or gift taxes."

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to contributions made after December 31, 1984, in taxable years ending after such date. 26 USC 6050L note.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to returns filed after December 31, 1984. 26 USC 6659 note.

SEC. 156. AUTHORIZATION TO DISREGARD APPRAISALS OF PERSONS PENALIZED FOR AIDING IN UNDERSTATEMENTS OF TAX LIABILITY.

(a) IN GENERAL.—Section 330 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) After notice and opportunity for a hearing to any appraiser with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1954, the Secretary may— 26 USC 6701.

"(1) provide that appraisals by such appraiser shall not have any probative effect in any administrative proceeding before the Department of the Treasury or the Internal Revenue Service, and

"(2) bar such appraiser from presenting evidence or testimony in any such proceeding."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act. 31 USC 330 note.

SEC. 157. LIMITATION ON MAILING OF DEPOSITS OF TAXES.

(a) IN GENERAL.—Subsection (e) of section 7502 (relating to mailing of deposits) is amended by adding at the end thereof the following new paragraph: 26 USC 7502.

"(3) NO APPLICATION TO CERTAIN DEPOSITS.—Paragraph (1) shall not apply with respect to any deposit of $20,000 or more by any person who is required to deposit the tax more than once a month."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to deposits required to be made after July 31, 1984. 26 USC 7502 note.

SEC. 158. INTEREST ON CERTAIN ADDITIONS TO TAX.

26 USC 6601.

(a) IN GENERAL.—Paragraph (2) of section 6601(e) (relating to interest on penalties and additions to tax) is amended to read as follows:

"(2) INTEREST ON PENALTIES, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—

"(A) IN GENERAL.—Interest shall be imposed under subsection (a) in respect of any assessable penalty, additional amount, or addition to the tax (other than an addition to tax imposed under section 6651(a)(1), 6659, 6660, or 6661) only if such assessable penalty, additional amount, or addition to the tax is not paid within 10 days from the date of notice and demand therefor, and in such case interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

Ante, p. 694.

"(B) INTEREST ON CERTAIN ADDITIONS TO TAX.—Interest shall be imposed under this section with respect to any addition to tax imposed by section 6651(a)(1), 6659, 6660, or 6661 for the period which—

"(i) begins on the date on which the return of the tax with respect to which such addition to tax is imposed is required to be filed (including any extensions), and

"(ii) ends on the date of payment of such addition to tax."

26 USC 6601 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accrued after the date of the enactment of this Act, except with respect to additions to tax for which notice and demand is made before such date.

SEC. 159. PENALTY FOR FRAUDULENT WITHHOLDING EXEMPTION CERTIFICATE OR FAILURE TO SUPPLY INFORMATION.

26 USC 7205.

(a) IN GENERAL.—Section 7205 (relating to penalty for fraudulent withholding exemption certificate) is amended—

(1) by striking out "in lieu of" each place it appears and inserting in lieu thereof "in addition to", and

(2) by striking out "(except the penalty provided by section 6682)" each place it appears.

26 USC 7205 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to actions and failures to act occurring after the date of the enactment of this Act.

SEC. 160. APPLICATION OF PENALTY FOR FRIVOLOUS PROCEEDINGS TO PENDING TAX COURT PROCEEDINGS.

26 USC 7430 note.

Paragraph (2) of section 292(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(2) PENALTY.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the United States Tax Court which—

"(A) is commenced after December 31, 1982, or

"(B) is pending in the United States Tax Court on the day which is 120 days after the date of the enactment of the Tax Reform Act of 1984."

Ante, p. 494.

SEC. 161. FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.

26 USC 446.

(a) IN GENERAL.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end thereof the following new subsection:

"(f) FAILURE TO REQUEST CHANGE OF METHOD OF ACCOUNTING.—If the taxpayer does not file with the Secretary a request to change the method of accounting, the absence of the consent of the Secretary to a change in the method of accounting shall not be taken into account—

"(1) to prevent the imposition of any penalty, or the addition of any amount to tax, under this title, or

"(2) to diminish the amount of such penalty or addition to tax."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 446 note.

SEC. 162. CLARIFICATION OF CHANGE OF VENUE FOR CERTAIN TAX OFFENSES.

Section 3237(b) of title 18 of the United States Code is amended to read as follows:

"(b) Notwithstanding subsection (a), where an offense is described in section 7203 of the Internal Revenue Code of 1954, or where venue for prosecution of an offense described in section 7201 or 7206 (1), (2), or (5) of such Code (whether or not the offense is also described in another provision of law) is based solely on a mailing to the Internal Revenue Service, and prosecution is begun in a judicial district other than the judicial district in which the defendant resides, he may upon motion filed in the district in which the prosecution is begun, elect to be tried in the district in which he was residing at the time the alleged offense was committed: *Provided*, That the motion is filed within twenty days after arraignment of the defendant upon indictment or information." 26 USC 7203. 26 USC 7201, 7206.

SEC. 163. EXTENSION OF STATUTE OF LIMITATIONS WITH RESPECT TO CERTAIN EXPENDITURES RELATING TO CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: 26 USC 118.

"(c) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (b), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (b)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (b)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) TECHNICAL AMENDMENTS.—

26 USC 6501.

(1) Section 6501 is amended by striking out subsections (l) and (o) and by redesignating subsection (m), (n), and (p) as subsections (k), (l), and (m), respectively, and by inserting after subsection (m) (as so redesignated) the following new subsection:

"(n) CROSS REFERENCES.—

"(1) For period of limitations for assessment and collection in the case of a joint income return filed after separate returns have been filed, see section 6013(b) (3) and (4).

"(2) For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229.

"(3) For extension of period in the case of certain contributions in aid of construction, see section 118(c)."

Ante, p. 697.

26 USC 6511.

(2) Subsection (f) of section 6511 is amended by striking out "section 6501(n)(1)" and inserting in lieu thereof "section 6501(l)(1)".

26 USC 118 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures with respect to which the second taxable year described in section 118(b)(2)(B) of the Internal Revenue Code of 1954 ends after December 31, 1984.

Subtitle L—Miscellaneous Provisions

SEC. 171. INCLUSION OF TAX BENEFIT ITEMS IN INCOME.

26 USC 111.

(a) IN GENERAL.—Section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts) is amended to read as follows:

"SEC. 111. RECOVERY OF TAX BENEFIT ITEMS.

"(a) DEDUCTIONS.—Gross income does not include income attributable to the recovery during the taxable year of any amount deducted in any prior taxable year to the extent such amount did not reduce income subject to tax.

"(b) CREDITS.—

"(1) IN GENERAL.—If—

"(A) a credit was allowable with respect to any amount for any prior taxable year, and

"(B) during the taxable year there is a downward price adjustment or similar adjustment,

the tax imposed by this chapter for the taxable year shall be increased by the amount of the credit attributable to the adjustment.

"(2) EXCEPTION WHERE CREDIT DID NOT REDUCE TAX.—Paragraph (1) shall not apply to the extent that the credit allowable for the recovered amount did not reduce the amount of tax imposed by this chapter.

"(3) EXCEPTION FOR INVESTMENT TAX CREDIT AND FOREIGN TAX CREDIT.—This subsection shall not apply with respect to the credit determined under section 46 and the foreign tax credit.

"(c) TREATMENT OF CARRYOVERS.—For purposes of this section, an increase in a carryover which has not expired before the beginning of the taxable year in which the recovery or adjustment takes place shall be treated as reducing income subject to tax or reducing tax imposed by this chapter, as the case may be.

"(d) SPECIAL RULES FOR ACCUMULATED EARNINGS TAX AND FOR PERSONAL HOLDING COMPANY TAX.—In applying subsection (a) for the purpose of determining the accumulated earnings tax under section 531 or the tax under section 541 (relating to personal holding companies)—

"(1) any excluded amount under subsection (a) allowed for the purposes of this subtitle (other than section 531 or section 541) shall be allowed whether or not such amount resulted in a reduction of the tax under section 531 or the tax under section 541 for the prior taxable year; and

"(2) where any excluded amount under subsection (a) was not allowable as a deduction for the prior taxable year for purposes of this subtitle other than of section 531 or section 541 but was allowable for the same taxable year under section 531 or section 541, then such excluded amount shall be allowable if it did not result in a reduction of the tax under section 531 or the tax under section 541."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by striking out the item relating to section 111 and inserting in lieu thereof:

"Sec. 111. Recovery of tax benefit items."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts recovered after December 31, 1983, in taxable years ending after such date. 26 USC 111 note.

SEC. 172. LOANS WITH BELOW-MARKET INTEREST RATES.

(a) GENERAL RULE.—Subchapter C of chapter 80 (relating to provisions affecting more than 1 subtitle) is amended by adding at the end thereof the following new section:

"SEC. 7872. TREATMENT OF LOANS WITH BELOW-MARKET INTEREST RATES. 26 USC 7872.

"(a) TREATMENT OF GIFT LOANS AND DEMAND LOANS.—

"(1) IN GENERAL.—For purposes of this title, in the case of any below-market loan to which this section applies and which is a gift loan or a demand loan, the foregone interest shall be treated as—

"(A) transferred from the lender to the borrower, and

"(B) retransferred by the borrower to the lender as interest.

"(2) TIME WHEN TRANSFERS MADE.—Except as otherwise provided in regulations prescribed by the Secretary, any foregone interest attributable to periods during any calendar year shall be treated as transferred (and retransferred) under paragraph (1) on the last day of such calendar year.

"(b) TREATMENT OF OTHER BELOW-MARKET LOANS.—

"(1) IN GENERAL.—For purposes of this title, in the case of any below-market loan to which this section applies and to which subsection (a)(1) does not apply, the lender shall be treated as having transferred on the date the loan was made (or, if later, on the first day on which this section applies to such loan), and the borrower shall be treated as having received on such date, cash in an amount equal to the excess of—

"(A) the amount loaned, over

"(B) the present value of all payments which are required to be made under the terms of the loan.

"(2) OBLIGATION TREATED AS HAVING ORIGINAL ISSUE DISCOUNT.—For purposes of this title—

"(A) IN GENERAL.—Any below-market loan to which paragraph (1) applies shall be treated as having original issue

discount in an amount equal to the excess described in paragraph (1).

"(B) AMOUNT IN ADDITION TO OTHER ORIGINAL ISSUE DISCOUNT.—Any original issue discount which a loan is treated as having by reason of subparagraph (A) shall be in addition to any other original issue discount on such loan (determined without regard to subparagraph (A)).

"(c) BELOW-MARKET LOANS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to—

"(A) GIFTS.—Any below-market loan which is a gift loan.

"(B) COMPENSATION-RELATED LOANS.—Any below-market loan directly or indirectly between—

"(i) an employer and an employee, or

"(ii) an independent contractor and a person for whom such independent contractor provides services.

"(C) CORPORATION-SHAREHOLDER LOANS.—Any below-market loan directly or indirectly between a corporation and any shareholder of such corporation.

"(D) TAX AVOIDANCE LOANS.—Any below-market loan 1 of the principal purposes of the interest arrangements of which is the avoidance of any Federal tax.

"(E) OTHER BELOW-MARKET LOANS.—To the extent provided in regulations, any below-market loan which is not described in subparagraph (A), (B), or (C) if the interest arrangements of such loan have a significant effect on any Federal tax liability of the lender or the borrower.

"(2) $10,000 DE MINIMIS EXCEPTION FOR GIFT LOANS BETWEEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any gift loan directly between individuals, this section shall not apply to any day on which the aggregate outstanding amount of loans between such individuals does not exceed $10,000.

"(B) DE MINIMIS EXCEPTION NOT TO APPLY TO LOANS ATTRIBUTABLE TO ACQUISITION OF INCOME-PRODUCING ASSETS.—Subparagraph (A) shall not apply to any gift loan directly attributable to the purchase or carrying of income-producing assets.

"(C) CROSS REFERENCE.—

"For limitation on amount treated as interest where loans do not exceed $100,000, see subsection (d)(1).

"(3) $10,000 DE MINIMIS EXCEPTION FOR COMPENSATION-RELATED AND CORPORATE-SHAREHOLDER LOANS.—

"(A) IN GENERAL.—In the case of any loan described in subparagraph (B) or (C) of paragraph (1), this section shall not apply to any day on which the aggregate outstanding amount of loans between the borrower and lender does not exceed $10,000.

"(B) EXCEPTION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE.—Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

"(d) SPECIAL RULES FOR GIFT LOANS.—

"(1) LIMITATION ON INTEREST ACCRUAL FOR PURPOSES OF INCOME TAXES WHERE LOANS DO NOT EXCEED $100,000.—

"(A) IN GENERAL.—For purposes of subtitle A, in the case of a gift loan directly between individuals, the amount treated as retransferred by the borrower to the lender as of the close of any year shall not exceed the borrower's net investment income for such year.

"(B) LIMITATION NOT TO APPLY WHERE 1 OF PRINCIPAL PURPOSES IS TAX AVOIDANCE.—Subparagraph (A) shall not apply to any loan the interest arrangements of which have as 1 of their principal purposes the avoidance of any Federal tax.

"(C) SPECIAL RULE WHERE MORE THAN 1 GIFT LOAN OUTSTANDING.—For purposes of subparagraph (A), in any case in which a borrower has outstanding more than 1 gift loan, the net investment income of such borrower shall be allocated among such loans in proportion to the respective amounts which would be treated as retransferred by the borrower without regard to this paragraph.

"(D) LIMITATION NOT TO APPLY WHERE AGGREGATE AMOUNT OF LOANS EXCEED $100,000.—This paragraph shall not apply to any loan made by a lender to a borrower for any day on which the aggregate outstanding amount of loans between the borrower and lender exceeds $100,000.

"(E) NET INVESTMENT INCOME.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'net investment income' has the meaning given such term by section 163(d)(3).

"(ii) DE MINIMIS RULE.—If the net investment income of any borrower for any year does not exceed $1,000, the net investment income of such borrower for such year shall be treated as zero.

"(iii) ADDITIONAL AMOUNTS TREATED AS INTEREST.—In determining the net investment income of a person for any year, any amount which would be included in the gross income of such person for such year by reason of section 1272 if such section applied to all deferred payment obligations shall be treated as interest received by such person for such year.

Ante, p. 533.

"(iv) DEFERRED PAYMENT OBLIGATIONS.—The term 'deferred payment obligation' includes any market discount bond, short-term obligation, United States savings bond, annuity, or similar obligation.

"(2) SPECIAL RULE FOR GIFT TAX.—In the case of any gift loan which is a term loan, subsection (b)(1) (and not subsection (a)) shall apply for purposes of chapter 12.

26 USC 2501 *et seq.*

"(e) DEFINITIONS OF BELOW-MARKET LOAN AND FOREGONE INTEREST.—For purposes of this section—

"(1) BELOW-MARKET LOAN.—The term 'below-market loan' means any loan if—

"(A) in the case of a demand loan, interest is payable on the loan at a rate less than the applicable Federal rate, or

"(B) in the case of a term loan, the amount loaned exceeds the present value of all payments due under the loan.

"(2) FOREGONE INTEREST.—The term 'foregone interest' means, with respect to any period during which the loan is outstanding, the excess of—

"(A) the amount of interest which would have been payable on the loan for the period if interest accrued on the loan at the applicable Federal rate and were payable annually on the day referred to in subsection (a)(2), over

"(B) any interest payable on the loan properly allocable to such period.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PRESENT VALUE.—The present value of any payment shall be determined in the manner provided by regulations prescribed by the Secretary—

"(A) as of the date of the loan, and

"(B) by using a discount rate equal to the applicable Federal rate.

"(2) APPLICABLE FEDERAL RATE.—

"(A) TERM LOANS.—In the case of any term loan, the applicable Federal rate shall be the applicable Federal rate in effect under section 1274(d) (as of the day on which the loan was made), compounded semiannually.

Ante, p. 538.

"(B) DEMAND LOANS.—In the case of a demand loan, the applicable Federal rate shall be the Federal short-term rate in effect under section 1274(d) for the period for which the amount of foregone interest is being determined.

"(3) GIFT LOAN.—The term 'gift loan' means any below-market loan where the foregoing of interest is in the nature of a gift.

"(4) AMOUNT LOANED.—The term 'amount loaned' means the amount received by the borrower.

"(5) DEMAND LOAN.—The term 'demand loan' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan which is not transferable and the benefits of the interest arrangements of which is conditioned on the future performance of substantial services by an individual.

"(6) TERM LOAN.—The term 'term loan' means any loan which is not a demand loan.

"(7) HUSBAND AND WIFE TREATED AS 1 PERSON.—A husband and wife shall be treated as 1 person.

"(8) LOANS TO WHICH SECTION 483 OR 1274 APPLIES.—This section shall not apply to any loan to which section 483 or 1274 applies.

Ante, pp. 553, 538.

"(9) NO WITHHOLDING.—No amount shall be withheld under chapter 24 with respect to any amount treated as transferred or retransferred under subsection (a).

26 USC 3401 *et seq.*

"(10) SPECIAL RULE FOR TERM LOANS.—If this section applies to any term loan on any day, this section shall continue to apply to such loan notwithstanding paragraphs (2) and (3) of subsection (c). In the case of a gift loan, the preceding sentence shall only apply for purposes of chapter 12.

26 USC 2501 *et seq.*

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

"(A) regulations providing that where, by reason of varying rates of interest, conditional interest payments, waivers of interest, disposition of the lender's or borrower's interest

in the loan, or other circumstances, the provisions of this section do not carry out the purposes of this section, adjustments to the provisions of this section will be made to the extent necessary to carry out the purposes of this section,

"(B) regulations for the purpose of assuring that the positions of the borrower and lender are consistent as to the application (or nonapplication) of this section, and

"(C) regulations exempting from the application of this section any class of transactions the interest arrangements of which have no significant effect on any Federal tax liability of the lender or the borrower.

"(2) ESTATE TAX COORDINATION.—Under regulations prescribed by the Secretary, any loan which is made with donative intent and which is a term loan shall be taken into account for purposes of chapter 11 in a manner consistent with the provisions of subsection (b)." 26 USC 2001 *et seq.*

(b) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by adding at the end thereof the following new item:

"Sec. 7872. Treatment of loans with below-market interest rates."

(c) EFFECTIVE DATES.— 26 USC 7872 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) term loans made after June 6, 1984, and

(B) demand loans outstanding after June 6, 1984.

(2) EXCEPTION FOR DEMAND LOANS OUTSTANDING ON JUNE 6, 1984, AND REPAID WITHIN 60 DAYS AFTER DATE OF ENACTMENT.—The amendments made by this section shall not apply to any demand loan which—

(A) was outstanding on June 6, 1984, and

(B) was repaid before the date 60 days after the date of the enactment of this Act.

(3) EXCEPTION FOR CERTAIN EXISTING LOANS TO CONTINUING CARE FACILITIES.—Nothing in this subsection shall be construed to apply the amendments made by this section to any loan made before June 6, 1984, to a continuing care facility by a resident of such facility which is contingent on continued residence at such facility.

(4) APPLICABLE FEDERAL RATE FOR PERIODS BEFORE JANUARY 1, 1985.—For periods before January 1, 1985, the applicable Federal rate under paragraph (2) of section 7872(f) of the Internal Revenue Code of 1954, as added by this section, shall be 10 percent, compounded semiannually. *Ante*, p. 699.

(5) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this subsection, any loan renegotiated, extended, or revised after June 6, 1984, shall be treated as a loan made after such date.

(6) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this subsection, the terms 'demand loan' and 'term loan' have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1954, as added by this section, but the second sentence of such paragraph (5) shall not apply.

SEC. 173. ELIGIBILITY FOR INCOME AVERAGING.

(a) BASE PERIOD SHORTENED TO 3 YEARS.—Paragraph (2) of section 1302(c) (relating to definition of averagable income; related defini- 26 USC 1302.

tions) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

26 USC 1301.

(b) INCREASE IN PERCENTAGE OF AVERAGE BASE INCOME TAKEN INTO ACCOUNT.—Section 1301 (relating to limitation on tax) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1301 (relating to limitation on tax) is amended—

(A) by striking out "5 times" and inserting in lieu thereof "4 times", and

(B) by striking out "20 percent" and inserting in lieu thereof "25 percent".

26 USC 1302.

(2) Paragraph (1) of section 1302(a) (defining averagable income) is amended by striking out "120 percent" and inserting in lieu thereof "140 percent".

(3) Paragraph (1) of section 1302(b) (defining average base period income) is amended by striking out "one-fourth" and inserting in lieu thereof "⅓".

(4) Paragraph (3) of section 1302(c) is amended by striking out "4 taxable years" and inserting in lieu thereof "3 taxable years".

26 USC 1302 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to computation years beginning after December 31, 1983, and to base period years applicable to such computation years.

SEC. 174. AMENDMENTS TO SECTION 267.

(a) ALLOWANCE OF DEDUCTION WHERE EXPENSES AND INTEREST ARE PAID TO RELATED CASH-BASIS TAXPAYERS AFTER 2½-MONTH PERIOD.—

26 USC 267.

(1) IN GENERAL.—Subsection (a) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended to read as follows:

"(a) IN GENERAL.—

"(1) DEDUCTION FOR LOSSES DISALLOWED.—No deduction shall be allowed in respect of any loss from the sale or exchange of property (other than a loss in case of a distribution in corporate liquidation), directly or indirectly, between persons specified in any of the paragraphs of subsection (b).

"(2) MATCHING OF DEDUCTION AND PAYEE INCOME ITEM IN THE CASE OF EXPENSES AND INTEREST.—If—

"(A) by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not (unless paid) includible in the gross income of such person, and

"(B) at the close of the taxable year of the taxpayer for which (but for this paragraph) the amount would be deductible under this chapter, both the taxpayer and the person to whom the payment is to be made are persons specified in any of the paragraphs of subsection (b),

then any deduction allowable under this chapter in respect of such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph)."

(2) CONFORMING AMENDMENT.—Subsection (e) of section 267 (relating to rule where last day of 2½-month period falls on Sunday, etc.) is hereby repealed.

(b) EXTENSION OF SECTION 267 TO CERTAIN RELATED ENTRIES.—

(1) PASS-THRU ENTITIES.—Section 267 is amended by striking out subsection (f) and inserting in lieu thereof the following: 26 USC 267.

"(e) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(1) IN GENERAL.—In the case of any amount paid or incurred by, to, or on behalf of, a pass-thru entity, for purposes of applying subsection (a)(2)—

"(A) such entity,

"(B) in the case of—

"(i) a partnership, any person who owns (directly or indirectly) any capital interest or profits interest of such partnership, or

"(ii) an S corporation, any person who owns (directly or indirectly) any of the stock of such corporation,

"(C) any person who owns (directly or indirectly) any capital interest or profits interest of a partnership in which such entity owns (directly or indirectly) any capital interest or profits interest, and

"(D) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to a person described in subparagraph (B) or (C),

shall be treated as persons specified in a paragraph of subsection (b). Subparagraph (C) shall apply to a transaction only if such transaction is related either to the operations of the partnership described in such subparagraph or to an interest in such partnership.

"(2) PASS-THRU ENTITY.—For purposes of this section, the term 'pass-thru entity' means—

"(A) a partnership, and

"(B) an S corporation.

"(3) CONSTRUCTIVE OWNERSHIP IN THE CASE OF PARTNERSHIPS.—For purposes of determining ownership of a capital interest or profits interest of a partnership, the principles of subsection (c) shall apply, except that—

"(A) paragraph (3) of subsection (c) shall not apply, and

"(B) interests owned (directly or indirectly) by or for a C corporation shall be considered as owned by or for any shareholder only if such shareholder owns (directly or indirectly) 5 percent or more in value of the stock of such corporation.

"(4) SUBSECTION (a)(2) NOT TO APPLY TO CERTAIN GUARANTEED PAYMENTS OF PARTNERSHIPS.—In the case of any amount paid or incurred by a partnership, subsection (a)(2) shall not apply to the extent that section 707(c) applies to such amount.

"(5) EXCEPTION FOR CERTAIN EXPENSES AND INTEREST OF PARTNERSHIPS OWNING LOW-INCOME HOUSING.—

"(A) IN GENERAL.—This subsection shall not apply with respect to qualified expenses and interest paid or incurred by a partnership owning low-income housing to—

"(i) any qualified 5-percent or less partner of such partnership, or

"(ii) any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to any qualified 5-percent or less partner of such partnership.

"(B) QUALIFIED 5-PERCENT OR LESS PARTNER.—For purposes of this paragraph, the term 'qualified 5-percent or less partner' means any partner who has (directly or indirectly)

an interest of 5 percent or less in the aggregate capital and profits interests of the partnership but only if—

"(i) such partner owned the low-income housing at all times during the 2-year period ending on the date such housing was transferred to the partnership, or

"(ii) such partnership acquired the low-income housing pursuant to a purchase, assignment, or other transfer from the Department of Housing and Urban Development or any State or local housing authority.

For purposes of the preceding sentence, a partner shall be treated as holding any interest in the partnership which is held (directly or indirectly) by any person related (within the meaning of subsection (b) of this section or section 707(b)(1)) to such partner.

"(C) QUALIFIED EXPENSES AND INTEREST.—For purpose of this paragraph, the term 'qualified expenses and interest' means any expense or interest incurred by the partnership with respect to low-income housing held by the partnership but—

"(i) only if the amount of such expense or interest (as the case may be) is unconditionally required to be paid by the partnership not later than 10 years after the date such amount was incurred, and

"(ii) in the case of such interest, only if such interest is incurred at an annual rate not in excess of 12 percent.

"(D) LOW-INCOME HOUSING.—For purposes of this paragraph, the term 'low-income housing' means—

"(i) any interest in low-income housing (as defined in paragraph (5) of section 189(e)), and

"(ii) any interest in a partnership owning low-income housing (as so defined)."

(2) CERTAIN CONTROLLED GROUPS.—

26 USC 267.

(A) Paragraph (3) of section 267(b) is amended to read as follows:

"(3) Two corporations which are members of the same controlled group (as defined in subsection (f));".

(B) Section 267 is amended by adding at the end thereof the following new subsection:

"(f) CONTROLLED GROUP DEFINED; SPECIAL RULES APPLICABLE TO CONTROLLED GROUPS.—

"(1) CONTROLLED GROUP DEFINED.—For purposes of this section, the term 'controlled group' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(2) DEFERRAL (RATHER THAN DENIAL) OF LOSS FROM SALE OR EXCHANGE BETWEEN MEMBERS.—In the case of any loss from the sale or exchange of property which is between members of the same controlled group and to which subsection (a)(1) applies (determined without regard to this paragraph but with regard to paragraph (3))—

"(A) subsections (a)(1) and (d) shall not apply to such loss, but

"(B) such loss shall be deferred until the property is transferred outside such controlled group and there would be recognition of loss under consolidated return principles or until such other time as may be prescribed in regulations.

"(3) LOSS DEFERRAL RULES NOT TO APPLY IN CERTAIN CASES.—

"(A) TRANSFER TO DISC.—For purposes of applying subsection (a)(1), the term 'controlled group' shall not include a DISC.

"(B) CERTAIN SALES OF INVENTORY.—Except to the extent provided in regulations prescribed by the Secretary, subsection (a)(1) shall not apply to the sale or exchange of property between members of the same controlled group if—

"(i) such property in the hands of the transferor is property described in section 1221(1),

"(ii) such sale or exchange is in the ordinary course of the transferor's trade or business,

"(iii) such property in the hands of the transferee is property described in section 1221(1), and

"(iv) the transferee or the transferor is a foreign corporation.

"(C) CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, subsection (a)(1) shall not apply to any loss sustained by a member of a controlled group on the repayment of a loan made to another member of such group if such loan is payable in a foreign currency or is denominated in such a currency and such loss is attributable to a reduction in value of such foreign currency."

(3) CORPORATION AND PARTNERSHIP OWNED BY SAME PERSONS.—Paragraph (10) of section 267(b) is amended— 26 USC 267.

(A) by striking out "An S corporation" and inserting in lieu thereof "A corporation", and

(B) by striking out "the S corporation" and inserting in lieu thereof "the corporation".

(4) S CORPORATION AND C CORPORATION OWNED BY SAME PERSONS.—Paragraph (12) of section 267(b) is amending by striking out "the same individual" and inserting in lieu thereof "the same persons".

(5) TECHNICAL AMENDMENTS.—

(A) Paragraph (3) of section 170(a) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)". 26 USC 170.

(B) Clause (iii) of section 514(c)(9)(B) is amended by striking out "section 267(b)" and inserting in lieu thereof "section 267(b) or 707(b)". *Post*, p. 1039.

(C) Subsection (d) of section 1235 is amended— 26 USC 1235.

(i) by striking out "section 267(b)" in the matter preceding paragraph (1) and inserting in lieu thereof "section 267(b) or persons described in section 707(b)",

(ii) by striking out "section 267 (b) and (c)" and inserting in lieu thereof "section 267 (b) and (c) and section 707(b)", and

(iii) by striking out "section 267(b)" in paragraph (1) and inserting in lieu thereof "section 267(b) or 707(b)".

(D) Subparagraph (F) of section 368(a)(2) is amended by striking out clause (viii). 26 USC 368.

(c) EFFECTIVE DATES.— 26 USC 267 note.

(1) SUBSECTIONS (a) AND (b)(1).—The amendments made by subsections (a) and (b)(1) shall apply to amounts allowable as deductions under chapter 1 of the Internal Revenue Code of 1954 for taxable years beginning after December 31, 1983. For purposes of the preceding sentence, the allowability of a deduction shall be determined without regard to any disallowance or postponement of deductions under section 267 of such Code.

26 USC 1 *et seq.*

(2) SUBSECTION (b) (OTHER THAN PARAGRAPH (1)).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (b) (other than paragraph (1) thereof) shall apply to transactions after December 31, 1983, in taxable years ending after such date.

(B) EXCEPTION FOR TRANSFERS TO FOREIGN CORPORATIONS ON OR BEFORE MARCH 1, 1984.—The amendments made by subsection (b)(2) shall not apply to property transferred to a foreign corporation on or before March 1, 1984.

(3) EXCEPTION FOR EXISTING INDEBTEDNESS, ETC.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any amount paid or incurred—

(i) on indebtedness incurred on or before September 29, 1983, or

(ii) pursuant to a contract which was binding on September 29, 1983, and at all times thereafter before the amount is paid or incurred.

(B) TREATMENT OF RENEGOTIATIONS, EXTENSIONS, ETC.—If any indebtedness (or contract described in subparagraph (A)) is renegotiated, extended, renewed, or revised after September 29, 1983, subparagraph (A) shall not apply to any amount paid or incurred on such indebtedness (or pursuant to such contract) after the date of such renegotiation, extension, renewal, or revision.

SEC. 175. AMENDMENTS TO SECTION 1239.

(a) PATENT APPLICATIONS TREATED AS DEPRECIABLE PROPERTY.—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

Post, p. 898.

"(e) PATENT APPLICATIONS TREATED AS DEPRECIABLE PROPERTY.—For purposes of this section, a patent application shall be treated as property which, in the hands of the transferee, is of a character which is subject to the allowance for depreciation provided in section 167."

(b) TAXPAYER AND CERTAIN TRUSTS TREATED AS RELATED PERSONS.—Subsection (b) of section 1239 is amended to read as follows:

"(b) RELATED PERSONS.—For purposes of subsection (a), the term 'related persons' means—

"(1) a husband and wife,

"(2) a person and all entities which are 80-percent owned entities with respect to such person,

"(3) a taxpayer and any trust in which such taxpayer (or his spouse) is a beneficiary, unless such beneficiary's interest in the trust is a remote contingent interest (within the meaning of section 318(a)(3)(B)(i))."

26 USC 1239 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after March 1, 1984, in taxable years ending after such date.

SEC. 176. RECAPTURE OF NET ORDINARY LOSSES UNDER SECTION 1231.

(a) GENERAL RULE.—Section 1231 (relating to property used in the trade or business and involuntary conversions) is amended by adding at the end thereof the following new subsection: 26 USC 1231.

"(c) RECAPTURE OF NET ORDINARY LOSSES.—

"(1) IN GENERAL.—The net section 1231 gain for any taxable year shall be treated as ordinary income to the extent such gain does not exceed the non-recaptured net section 1231 losses.

"(2) NON-RECAPTURED NET SECTION 1231 LOSSES.—For purposes of this subsection, the term 'non-recaptured net section 1231 losses' means the excess of—

"(A) the aggregate amount of the net section 1231 losses for the 5 most recent preceding taxable years beginning after December 31, 1981, over

"(B) the portion of such losses taken into account under paragraph (1) for such preceding taxable years.

"(3) NET SECTION 1231 GAIN.—For purposes of this subsection, the term 'net section 1231 gain' means the excess of—

"(A) the section 1231 gains, over

"(B) the section 1231 losses.

"(4) NET SECTION 1231 LOSS.—For purposes of this subsection, the term 'net section 1231 loss' means the excess of—

"(A) the section 1231 losses, over

"(B) the section 1231 gains.

"(5) SPECIAL RULES.—For purposes of determining the amount of the net section 1231 gain or loss for any taxable year, the rules of paragraph (4) of subsection (a) shall apply." *Post*, p. 944.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to net section 1231 gains for taxable years beginning after December 31, 1984. 26 USC 1231 note.

SEC. 177. REPEAL OF EXEMPTION FROM FEDERAL TAX OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) REPEAL OF EXEMPTION.—Subsection (d) of section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(d)) is amended—

(1) by striking out "by the United States,",

(2) by striking out "possession thereof," and inserting in lieu thereof "possession of the United States", and

(3) by striking out the last sentence.

(b) TREATMENT OF DIVIDENDS PAID BY FEDERAL HOME LOAN BANK WHICH ARE ALLOCABLE TO DIVIDENDS FROM THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—Subsection (a) of section 246 (relating to denial of dividends received deduction for dividends from certain corporations) is amended to read as follows: 26 USC 246.

"(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS FROM CERTAIN CORPORATIONS.—

"(1) IN GENERAL.—The deductions allowed by sections 243, 244, and 245 shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DIVIDENDS OF FEDERAL HOME LOAN BANKS.—

"(A) DIVIDENDS OUT OF CURRENT EARNINGS AND PROFITS.—In the case of any dividend paid by any FHLB out of earnings and profits of the FHLB for the taxable year in which such dividend was paid, paragraph (1) shall not apply to that portion of such dividend which bears the same ratio to the total dividend as—

"(i) the dividends received by the FHLB from the FHLMC during such taxable year, bears to

"(ii) the total earnings and profits of the FHLB for such taxable year.

"(B) DIVIDENDS OUT OF ACCUMULATED EARNINGS AND PROFITS.—For purposes of subparagraph (A), in the case of any dividend which is paid out of any accumulated earnings and profits of any FHLB, paragraph (1) shall not apply to that portion of the dividend which bears the same ratio to the total dividend as—

"(i) the amount of dividends received by such FHLB from the FHLMC which are out of earnings and profits of the FHLMC—

"(I) for taxable years ending after December 31, 1984, and

"(II) which were not taken into account under subparagraph (A), bears to

"(ii) the total accumulated earnings and profits of the FHLB as of the time such dividend is paid.

For purposes of clause (ii), the accumulated earnings and profits of the FHLB as of January 1, 1985, shall be treated as equal to its retained earnings as of such date.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) FHLB.—The term 'FHLB' means any Federal Home Loan Bank.

"(ii) FHLMC.—The term 'FHLMC' means the Federal Home Loan Mortgage Corporation.

"(iii) TAXABLE YEAR OF FHLB.—The taxable year of an FHLB shall, except as provided in regulations prescribed by the Secretary, be treated as the calendar year."

(c) TREATMENT OF NET OPERATING LOSSES OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION.—

26 USC 172.

(1) IN GENERAL.—Subparagraph (H) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended—

(A) by inserting ", or a net operating loss of the Federal Home Loan Mortgage Corporation for any taxable year beginning after December 31, 1984" after "1981",

(B) by striking out "the FNMA mortgage disposition loss (within the meaning of subsection (i))" in clause (i) and inserting in lieu thereof "the mortgage disposition loss (within the meaning of subsection (i))", and

(C) by striking out "FNMA mortgage disposition loss" in clause (ii) and inserting in lieu thereof "mortgage disposition loss".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 172 is amended—

(A) by striking out "FNMA mortgage disposition loss" each place it appears in paragraphs (1) and (2) (including in

headings) and inserting in lieu thereof "mortgage disposition loss", and

(B) by striking out "FNMA MORTGAGE DISPOSITION LOSS" in the subsection heading and inserting in lieu thereof "MORTGAGE DISPOSITION LOSS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION OR THE FEDERAL HOME LOAN MORTGAGE CORPORATION".

(d) EFFECTIVE DATES.— 26 USC 172 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1985.

(2) ADJUSTED BASIS OF ASSETS.—

(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the adjusted basis of any asset of the Federal Home Loan Mortgage Corporation held on January 1, 1985, shall—

(i) for purposes of determining any loss, be equal to the lesser of the adjusted basis of such asset or the fair market value of such asset as of such date, and

(ii) for purposes of determining any gain, be equal to the higher of the adjusted basis of such asset or the fair market value of such asset as of such date.

(B) SPECIAL RULE FOR TANGIBLE DEPRECIABLE PROPERTY.—In the case of any tangible property which—

(i) is of a character subject to the allowance for depreciation provided by section 167 of the Internal Revenue Code of 1954, and

(ii) is held by the Federal Home Loan Mortgage Corporation on January 1, 1985,

the adjusted basis of such property shall be equal to the lesser of the basis of such property or the fair market value of such property as of such date.

(3) TREATMENT OF PARTICIPATION CERTIFICATES.—

(A) IN GENERAL.—Paragraph (2) shall not apply to any right to receive income with respect to any mortgage pool participation certificate or other similar interest in any mortgage (not including any mortgage).

(B) TREATMENT OF CERTAIN SALES AFTER MARCH 15, 1984, AND BEFORE JANUARY 1, 1985.—If any gain is realized on the sale or exchange of any right described in subparagraph (A) after March 15, 1984, and before January 1, 1985, the gain shall not be recognized when realized but shall be recognized on January 1, 1985.

(4) NO ACCUMULATED EARNINGS AND PROFITS ON JANUARY 1, 1985.—For purposes of the Internal Revenue Code of 1954, the accumulated profits of the Federal Home Loan Mortgage Corporation as of January 1, 1985, shall be treated as zero. 26 USC 1 *et seq.*

(5) ADJUSTED BASIS.—For purposes of this subsection, the adjusted basis of any asset shall be determined under part II of subchapter O of the Internal Revenue Code of 1954.

(6) NO CARRYBACKS FOR YEARS BEFORE 1985.—No net operating loss, capital loss, or excess credit of the Federal Home Loan Mortgage Corporation for any taxable year beginning after December 31, 1984, shall be allowed as a carryback to any taxable year beginning before January 1, 1985.

(7) NO DEDUCTION ALLOWED FOR INTEREST ON REPLACEMENT OBLIGATIONS.—

(A) IN GENERAL.—The Federal Home Loan Mortgage Corporation shall not be allowed any deduction for interest accruing after December 31, 1984, on any replacement obligation.

(B) REPLACEMENT OBLIGATION DEFINED.—For purposes of subparagraph (A), the term "replacement obligation" means any obligation to any person created after March 15, 1984, which the Secretary of the Treasury or his delegate determines replaces any equity or debt interest of a Federal Home Loan Bank or any other person in the Federal Home Loan Mortgage Corporation existing on such date. The preceding sentence shall not apply to any obligation with respect to which the Federal Home Loan Mortgage Corporation establishes that there is no tax avoidance effect.

SEC. 178. SPECIAL RULE RELATING TO SALES OR EXCHANGES OF CERTAIN ECONOMIC INTERESTS IN COAL BETWEEN RELATED PARTIES.

26 USC 631.

(a) IN GENERAL.—The last sentence of section 631(c) (relating to disposal of coal or domestic iron ore with a retained economic interest) is amended by inserting "or coal" after "iron ore" each place it appears.

26 USC 631 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to dispositions after September 30, 1985.

(2) SPECIAL RULE FOR FIXED CONTRACTS.—

(A) IN GENERAL.—The amendment made by subsection (a) shall not apply to any disposition of an interest in coal by a person to a related person if such coal is subsequently sold before January 1, 1990, by either such person—

(i) to a person who is not a related person with respect to either such person, and

(ii) pursuant to a qualified fixed contract.

(B) ALLOCATION WHERE MORE THAN 1 CONTRACT.—If, for any taxable year, there is a disposition described in subparagraph (A) which is not specifically allocable to a qualified fixed contract or to a contract which is not a qualified fixed contract, such disposition shall be treated as first allocable to the qualified fixed contract.

(C) QUALIFIED FIXED CONTRACT DEFINED.—The term "qualified fixed contract" means any contract for the sale of coal which—

(i) was entered into before June 12, 1984,

(ii) is binding at all times thereafter, and

(iii) cannot be adjusted to reflect to any extent the increase in liabilities of the person disposing of the coal for tax under chapter 1 of the Internal Revenue Code of 1954 by reason of the amendment made by subsection (a).

26 USC 1 *et seq.*

(D) RELATED PERSON.—For purposes of this paragraph, the term "related person" means a person who bears a relationship to another person described in the last sentence of section 631(c).

SEC. 179. LIMITATION ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT FOR LUXURY AUTOMOBILES; LIMITATION WHERE CERTAIN PROPERTY USED FOR PERSONAL PURPOSES.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 280E the following new section:

"SEC. 280F. LIMITATION ON INVESTMENT TAX CREDIT AND DEPRECIATION FOR LUXURY AUTOMOBILES; LIMITATION WHERE CERTAIN PROPERTY USED FOR PERSONAL PURPOSES. 26 USC 280F.

"(a) LIMITATION ON AMOUNT OF INVESTMENT TAX CREDIT AND DEPRECIATION FOR LUXURY AUTOMOBILES.—

"(1) INVESTMENT TAX CREDIT.—The amount of the credit determined under section 46(a) for any passenger automobile shall not exceed $1,000. *Post*, p. 834.

"(2) DEPRECIATION.—

"(A) LIMITATION.—The amount of the recovery deduction for any taxable year for any passenger automobile shall not exceed—

"(i) $4,000 for the first taxable year in the recovery period, and

"(ii) $6,000 for each succeeding taxable year in the recovery period.

"(B) DISALLOWED DEDUCTIONS ALLOWED FOR YEARS AFTER RECOVERY PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), the unrecovered basis of any passenger automobile shall be treated as an expense for the 1st taxable year after the recovery period. Any excess of the unrecovered basis over the limitation of clause (ii) shall be treated as an expense in the succeeding taxable year.

"(ii) $6,000 LIMITATION.—The amount treated as an expense under clause (i) for any taxable year shall not exceed $6,000.

"(iii) PROPERTY MUST BE DEPRECIABLE.—No amount shall be allowable as a deduction by reason of this subparagraph with respect to any property for any taxable year unless a depreciation deduction would be allowable with respect to such property for such taxable year.

"(iv) AMOUNT TREATED AS RECOVERY DEDUCTION.—For purposes of this subtitle, any amount allowable as a deduction by reason of this subparagraph shall be treated as a recovery deduction allowable under section 168.

"(3) COORDINATION WITH REDUCTIONS IN AMOUNT ALLOWABLE BY REASON OF PERSONAL USE, ETC.—This subsection shall be applied before—

"(A) the application of subsection (b), and

"(B) the application of any other reduction in the amount of the credit determined under section 46(a) or any recovery deduction allowable under section 168 by reason of any use not qualifying the property for such credit or recovery deduction.

"(4) SPECIAL RULE WHERE ELECTION OF REDUCED CREDIT IN LIEU OF THE BASIS ADJUSTMENT.—In the case of any election under section 48(q)(4) with respect to any passenger automobile, the

limitation of paragraph (1) applicable to such passenger automobile shall be ⅔ of the amount which would be so applicable but for this paragraph.

"(b) LIMITATION WHERE BUSINESS USE OF LISTED PROPERTY NOT GREATER THAN 50 PERCENT.—

"(1) INVESTMENT TAX CREDIT.—For purposes of this subtitle, any listed property shall not be treated as section 38 property for any taxable year unless such property is predominantly used in a qualified business use for such taxable year.

Post, p. 827.

"(2) DEPRECIATION.—If any listed property is not predominantly used in a qualified business use for any taxable year, the deduction allowed under section 168 with respect to such property for such taxable year and any subsequent taxable year shall be determined under the straight line method over the earnings and profits life for such property.

"(3) RECAPTURE.—

"(A) WHERE BUSINESS USE PERCENTAGE DOES NOT EXCEED 50 PERCENT.—If—

"(i) property is predominantly used in a qualified business use in a taxable year in which it is placed in service, and

"(ii) such property is not predominantly used in a qualified business use for any subsequent taxable year,

then any excess depreciation shall be included in gross income for the taxable year referred to in clause (ii), and the recovery deduction for the taxable year referred to in clause (ii) and any subsequent taxable years shall be determined under the straight line method over the earnings and profits life.

"(B) EXCESS DEPRECIATION.—For purposes of subparagraph (A), the term 'excess depreciation' means the excess (if any) of—

"(i) the amount of the recovery deductions allowable with respect to the property for taxable years before the 1st taxable year in which the property was not predominantly used in a qualified business use, over

"(ii) the amount which would have been so allowable if the property had not been predominantly used in a qualified business use for the taxable year in which it was placed in service.

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

"(A) PROPERTY PREDOMINANTLY USED IN QUALIFIED BUSINESS USE.—Property shall be treated as predominantly used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50 percent.

"(B) STRAIGHT LINE METHOD OVER EARNINGS AND PROFITS LIFE.—The amount determined under the straight line method over the earnings and profits life with respect to any property shall be the amount which would be determined with respect to such property under the principles of section 312(k)(3). If the recovery period applicable to any property under section 168 is longer than the recovery period applicable to such property under section 312(k)(3), such longer recovery period shall be used for purposes of the preceding sentence.

"(c) TREATMENT OF LEASES.—

"(1) LESSOR'S CREDITS AND DEDUCTIONS NOT AFFECTED.—This section shall not apply to any listed property leased or held for leasing by any person regularly engaged in the business of leasing such property.

"(2) LESSEE'S DEDUCTIONS REDUCED.—For purposes of determining the amount allowable as a deduction under this chapter for rentals or other payments under a lease for a period of 30 days or more of listed property, only the allowable percentage of such payments shall be taken into account.

"(3) ALLOWABLE PERCENTAGE.—For purposes of paragraph (2), the allowable percentage shall be determined under tables prescribed by the Secretary. Such tables shall be prescribed so that the reduction in the deduction under paragraph (2) is substantially equivalent to the applicable restrictions contained in subsections (a) and (b).

"(4) LEASE TERM.—In determining the term of any lease for purposes of paragraph (2), the rules of section 168(j)(6)(B) shall apply. *Ante*, p. 509.

"(5) LESSEE RECAPTURE.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (b)(3) shall apply to any lessee to which paragraph (2) applies.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH SECTION 179.—Any deduction allowable under section 179 with respect to any listed property shall be subject to the limitations of subsections (a) and (b) in the same manner as if it were a recovery deduction allowable under section 168.

"(2) SUBSEQUENT DEPRECIATION DEDUCTIONS REDUCED FOR DEDUCTIONS ALLOCABLE TO PERSONAL USE.—Solely for purposes of determining the amount of the recovery deduction for subsequent taxable years, if less than 100 percent of the use of any listed property during any taxable year is not use described in section 168(c)(1) (defining recovery property), all of the use of such property during such taxable year shall be treated as use so described.

"(3) DEDUCTIONS OF EMPLOYEE.—

"(A) IN GENERAL.—Any employee use of listed property shall not be treated as use in a trade or business for purposes of determining the amount of any credit allowable under section 38 to the employee or the amount of any recovery deduction allowable to the employee unless such use is for the convenience of the employer and required as a condition of employment. *Post*, p. 827.

"(B) EMPLOYEE USE.—For purposes of subparagraph (A), the term 'employee use' means any use in connection with the performance of services as an employee.

"(4) LISTED PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'listed property' means—

"(i) any passenger automobile,

"(ii) any other property used as a means of transportation,

"(iii) any property of a type generally used for purposes of entertainment, recreation, or amusement,

"(iv) any computer or peripheral equipment (as defined in section 168(j)(5)(D)), and *Ante*, p. 509.

"(v) any other property of a type specified by the Secretary by regulations.

"(B) EXCEPTION FOR CERTAIN COMPUTERS.—The term 'listed property' shall not include any computer or peripheral equipment (as so defined) used exclusively at a regular business establishment. For purposes of the preceding sentence, any portion of a dwelling unit shall be treated as a regular business establishment if (and only if) the requirements of section 280A(c)(1) are met with respect to such portion.

"(5) PASSENGER AUTOMOBILE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'passenger automobile' means any 4-wheeled vehicle—

"(i) which is manufactured primarily for use on public streets, roads, and highways, and

"(ii) which is rated at 6,000 pounds gross vehicle weight or less.

"(B) EXCEPTION FOR CERTAIN VEHICLES.—The term 'passenger automobile' shall not include—

"(i) any ambulance, hearse, or combination ambulance-hearse used by the taxpayer directly in a trade or business,

"(ii) any vehicle used by the taxpayer directly in the trade or business of transporting persons or property for compensation or hire, and

"(iii) under regulations, any truck or van.

"(6) BUSINESS USE PERCENTAGE.—

"(A) IN GENERAL.—The term 'business use percentage' means the percentage of the use of any listed property during any taxable year which is a qualified business use.

"(B) QUALIFIED BUSINESS USE.—Except as provided in subparagraph (C), the term 'qualified business use' means any use in a trade or business of the taxpayer.

"(C) EXCEPTION FOR CERTAIN USE BY 5-PERCENT OWNERS AND RELATED PERSONS.—

"(i) IN GENERAL.—The term 'qualified business use' shall not include—

"(I) leasing property to any 5-percent owner or related person,

"(II) use of property provided as compensation for the performance of services by a 5-percent owner or related person, or

"(III) use of property provided as compensation for the performance of services by any person not described in subclause (II) unless an amount is included in the gross income of such person with respect to such use, and, where required, there was withholding under chapter 24.

26 USC 3401 *et seq.*

"(ii) SPECIAL RULE FOR AIRCRAFT.—Clause (i) shall not apply with respect to any aircraft if at least 25 percent of the total use of the aircraft during the taxable year consists of qualified business use not described in clause (i).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) 5-PERCENT OWNER.—The term '5-percent owner' means any person who is a 5-percent owner with re-

spect to the taxpayer (as defined in section 416(i)(1)(B)(i)).

"(ii) RELATED PERSON.—The term 'related person' means any person related to the taxpayer (within the meaning of section 267(b)).

"(7) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any passenger automobile, subsection (a) shall be applied by increasing each dollar amount contained in such subsection by the automobile price inflation adjustment for the calendar year in which such automobile is placed in service. Any increase under the preceding sentence shall be rounded to the nearest multiple of $100 (or if the increase is a multiple of $50, such increase shall be increased to the next higher multiple of $100).

"(B) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

"(I) the CPI automobile component for October of the preceding calendar year, exceeds

"(II) the CPI automobile component for October of 1983.

In the case of calendar year 1984, the automobile price inflation adjustment shall be zero.

"(ii) CPI AUTOMOBILE COMPONENT.—The term 'CPI automobile component' means the automobile component of the Consumer Price Index for All Urban Consumers published by the Department of Labor.

"(8) UNRECOVERED BASIS.—For purposes of subsection (a)(2), the term 'unrecovered basis' means the excess (if any) of—

"(A) the unadjusted basis (as defined in section 168(d)(1)(A)) of the passenger automobile, over

"(B) the amount of the recovery deductions which would have been allowable for taxable years in the recovery period determined after the application of subsection (a) and as if all use during the recovery period were use described in section 168(c)(1).

"(9) ALL TAXPAYERS HOLDING INTERESTS IN PASSENGER AUTOMOBILE TREATED AS 1 TAXPAYER.—All taxpayers holding interests in any passenger automobile shall be treated as 1 taxpayer for purposes of applying subsection (a) to such automobile, and the limitations of subsection (a) shall be allocated among such taxpayers in proportion to their interests in such automobile.

"(10) SPECIAL RULE FOR PROPERTY ACQUIRED IN NONRECOGNITION TRANSACTIONS.—For purposes of subsection (a)(2), notwithstanding any regulations prescribed under section 168(f)(7), any property acquired in a nonrecognition transaction shall be treated as a single property originally placed in service in the taxable year in which it was placed in service after being so acquired.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations with respect to items properly included in, or excluded from, the adjusted basis of any listed property."

(b) COMPLIANCE PROVISIONS.—

26 USC 274.

(1) AMENDMENT OF SECTION 274(d).—Subsection (d) of section 274 (relating to substantiation requirements) is amended—

(A) by striking out "No deduction" and inserting in lieu thereof "No deduction or credit",

(B) by striking out "or" at the end of paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) with respect to any listed property (as defined in section 280F(d)(4)),",

(C) by striking out "adequate records or by sufficient evidence corroborating his own statement" and inserting in lieu thereof "adequate contemporaneous records", and

(D) by striking out "the facility" each place it appears following paragraph (4) (as added by subparagraph (B)) and inserting in lieu thereof "the facility or property".

26 USC 6695.

(2) DUTIES OF RETURN PREPARERS.—Subsection (b) of section 6695 (relating to failure to sign return) is amended to read as follows:

"(b) FAILURE TO INFORM TAXPAYER OF CERTAIN RECORDKEEPING REQUIREMENTS OR TO SIGN RETURN.—Any person who is an income tax return preparer with respect to any return or claim for refund and who is required by regulations to sign such return or claim—

"(1) shall advise the taxpayer of the substantiation requirements of section 274(d) and obtain written confirmation from the taxpayer that such requirements were met with respect to any deduction or credit claimed on such return or claim for refund, and

"(2) shall sign such return or claim for refund.

Any person who fails to comply with the requirements of the preceding sentence with respect to any return or claim shall pay a penalty of $25 for such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect."

26 USC 6653.

(3) UNDERPAYMENT ATTRIBUTABLE TO FAILURE TO MEET SUBSTANTIATION REQUIREMENTS TREATED AS DUE TO NEGLIGENCE.—Section 6653 (relating to failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULE IN THE CASE OF UNDERPAYMENT ATTRIBUTABLE TO FAILURE TO MEET CERTAIN SUBSTANTIATION REQUIREMENTS.—

"(1) IN GENERAL.—Any portion of an underpayment attributable to a failure to comply with the requirements of section 274(d) shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary.

"(2) PENALTY TO APPLY ONLY TO PORTION OF UNDERPAYMENT DUE TO FAILURE TO MEET SUBSTANTIATION REQUIREMENTS.—If any penalty is imposed under subsection (a) by reason of paragraph (1), the amount of the penalty imposed by paragraph (1) of subsection (a) shall be 5 percent of the portion of the underpayment which is attributable to the failure described in paragraph (1)."

(c) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding after the item relating to section 280E the following new item:

"Sec. 280F. Limitation on investment tax credit and depreciation for luxury automobiles; limitation where certain property used for personal purposes."

(d) EFFECTIVE DATES.— 26 USC 280F note.

(1) IN GENERAL.—

(A) Except as provided in subparagraph (B), the amendments made by subsections (a) and (c) shall apply to—

(i) property placed in service after June 18, 1984, in taxable years ending after such date, and

(ii) property leased after June 18, 1984, in taxable years ending after such date.

(B) The amendments made by subsections (a) and (c) shall not apply to any property—

(i) acquired by the taxpayer pursuant to a binding contract in effect on June 18, 1984, and at all times thereafter (or under construction on such date) but only if the property is placed in service before January 1, 1985 (January 1, 1987, in the case of 15-year real property), or

(ii) of which the taxpayer is the lessee but only if the lease is pursuant to a binding contract in effect on June 18, 1984, and at all times thereafter and only if the taxpayer first uses such property under the lease before January 1, 1985 (January 1, 1987, in the case of 15-year real property).

For purposes of the preceding sentence, the term "15-year real property" includes 18-year real property.

(2) COMPLIANCE PROVISIONS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1984.

TITLE II—LIFE INSURANCE PROVISIONS

SEC. 201. TABLE OF SECTIONS FOR PART I OF SUBCHAPTER L.

Under the amendment to part I of subchapter L made by section 211(a), the subparts and sections of such part I will be as follows:

PART I—LIFE INSURANCE COMPANIES

SUBPART A—TAX IMPOSED

Sec. 801. Tax imposed.

SUBPART B—LIFE INSURANCE GROSS INCOME

Sec. 803. Life insurance gross income.

SUBPART C—LIFE INSURANCE DEDUCTIONS

Sec. 804. Life insurance deductions.
Sec. 805. General deductions.
Sec. 806. Special deductions.
Sec. 807. Rules for certain reserves.
Sec. 808. Policyholder dividends deduction.
Sec. 809. Reduction in certain deductions of mutual life insurance companies.
Sec. 810. Operations loss deduction.

SUBPART D—ACCOUNTING, ALLOCATION, AND FOREIGN PROVISIONS

Sec. 811. Accounting provisions.
Sec. 812. Definition of company's share and policyholders' share.
Sec. 813. Foreign life insurance companies.
Sec. 814. Contiguous country branches of domestic life insurance companies.
Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

SUBPART E—DEFINITIONS AND SPECIAL RULES

Sec. 816. Life insurance company defined.

Sec. 817. Treatment of variable contracts.
Sec. 818. Other definitions and special rules.

Subtitle A—Taxation of Life Insurance Companies

PART I—AMENDMENT OF SUBCHAPTER L

SEC. 211. AMENDMENT OF SUBCHAPTER L.

(a) GENERAL RULE.—Part I of subchapter L of chapter 1 is amended to read as follows:

"PART I—LIFE INSURANCE COMPANIES

"Subpart A. Tax imposed.
"Subpart B. Life insurance gross income.
"Subpart C. Life insurance deductions.
"Subpart D. Accounting, allocation, and foreign provisions.
"Subpart E. Definitions and special rules.

"Subpart A—Tax Imposed

"Sec. 801. Tax imposed.

26 USC 801.

"SEC. 801. TAX IMPOSED.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the life insurance company taxable income of every life insurance company. Such tax shall consist of a tax computed as provided in section 11 as though the life insurance company taxable income were the taxable income referred to in section 11.

"(2) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—

"(A) IN GENERAL.—If a life insurance company has a net capital gain for the taxable year, then (in lieu of the tax imposed by paragraph (1)), there is hereby imposed a tax (if such tax is less than the tax imposed by paragraph (1)).

"(B) AMOUNT OF TAX.—The amount of the tax imposed by this paragraph shall be the sum of—

"(i) a partial tax, computed as provided by paragraph (1), on the life insurance company taxable income reduced by the amount of the net capital gain, and

"(ii) an amount determined as provided in section 1201(a) on such net capital gain.

"(C) NET CAPITAL GAIN NOT TAKEN INTO ACCOUNT IN DETERMINING SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of subparagraph (B)(i), the amounts allowable as deductions under paragraphs (2) and (3) of section 804 shall be determined by reducing the tentative LICTI by the amount of the net capital gain (determined without regard to items attributable to noninsurance businesses).

Post, p. 722.

"(b) LIFE INSURANCE COMPANY TAXABLE INCOME.—For purposes of this part, the term 'life insurance company taxable income' means—

"(1) life insurance gross income, reduced by

"(2) life insurance deductions.

"(c) TAXATION OF DISTRIBUTIONS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

"For provision taxing distributions to shareholders from pre-1984 policyholders surplus account, see section 815. *Post*, p. 747.

"Subpart B—Life Insurance Gross Income

"Sec. 803. Life insurance gross income.

"SEC. 803. LIFE INSURANCE GROSS INCOME. 26 USC 803.

"(a) IN GENERAL.—For purposes of this part, the term 'life insurance gross income' means the sum of the following amounts:

"(1) PREMIUMS.—

"(A) The gross amount of premiums and other consideration on insurance and annuity contracts, less

"(B) return premiums, and premiums and other consideration arising out of indemnity reinsurance.

"(2) DECREASES IN CERTAIN RESERVES.—Each net decrease in reserves which is required by section 807(a) to be taken into account under this paragraph. *Post*, p. 726.

"(3) OTHER AMOUNTS.—All amounts not includible under paragraph (1) or (2) which under this subtitle are includible in gross income.

"(b) SPECIAL RULES FOR PREMIUMS.—

"(1) CERTAIN ITEMS INCLUDED.—For purposes of subsection (a)(1)(A), the term 'gross amount of premiums and other consideration' includes—

"(A) advance premiums,

"(B) deposits,

"(C) fees,

"(D) assessments,

"(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

"(F) the amount of policyholder dividends reimbursable to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts.

"(2) POLICYHOLDER DIVIDENDS EXCLUDED FROM RETURN PREMIUMS.—For purposes of subsection (a)(1)(B)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'return premiums' does not include any policyholder dividends.

"(B) EXCEPTION FOR INDEMNITY REINSURANCE.—Subparagraph (A) shall not apply to amounts of premiums or other consideration returned to another life insurance company in respect of indemnity reinsurance.

"Subpart C—Life Insurance Deductions

"Sec. 804. Life insurance deductions.

"Sec. 805. General deductions.

"Sec. 806. Special deductions.

"Sec. 807. Rules for certain reserves.

"Sec. 808. Policyholder dividends deduction.

"Sec. 809. Reduction in certain deductions of mutual life insurance companies.

"Sec. 810. Operations loss deduction.

26 USC 804.

"SEC. 804. LIFE INSURANCE DEDUCTIONS.

"For purposes of this part, the term 'life insurance deductions' means—

"(1) the general deductions provided in section 805,

"(2) the special life insurance company deduction determined under section 806(a), and

Post, p. 724.

"(3) the small life insurance company deduction (if any) determined under section 806(b).

26 USC 805.

"SEC. 805. GENERAL DEDUCTIONS.

"(a) GENERAL RULE.—For purposes of this part, there shall be allowed the following deductions:

"(1) DEATH BENEFITS, ETC.—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts.

"(2) INCREASES IN CERTAIN RESERVES.—The net increase in reserves which is required by section 807(b) to be taken into account under this paragraph.

Post, p. 726.

"(3) POLICYHOLDER DIVIDENDS.—The deduction for policyholder dividends (determined under section 808(c)).

Post, p. 732.

"(4) DIVIDENDS RECEIVED BY COMPANY.—

"(A) IN GENERAL.—The deductions provided by sections 243, 244, and 245 (as modified by subparagraph (B))—

"(i) for 100 percent dividends received, and

"(ii) for the life insurance company's share of the dividends (other than 100 percent dividends) received.

"(B) APPLICATION OF SECTION 246(b).—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1), 244(a), and 245 shall be 85 percent of the life insurance company taxable income, computed without regard to—

"(i) the special life insurance company deduction and the small life insurance company deduction,

"(ii) the operations loss deduction provided by section 810,

"(iii) the deductions allowed by sections 243(a)(1), 244(a), and 245, and

"(iv) any capital loss carryback to the taxable year under section 1212(a)(1),

but such limit shall not apply for any taxable year for which there is a loss from operations.

"(C) 100 PERCENT DIVIDEND.—For purposes of subparagraph (A), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent. Such term does not include any dividend to the extent it is a distribution out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this sentence).

"(D) CERTAIN DIVIDENDS RECEIVED BY FOREIGN CORPORATIONS.—Subparagraph (A)(i) (and not subparagraph (A)(ii)) shall apply to any dividend received by a foreign corporation from a domestic corporation which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(5).

"(5) OPERATIONS LOSS DEDUCTION.—The operations loss deduction (determined under section 810).

Post, p. 738.

"(6) ASSUMPTION BY ANOTHER PERSON OF LIABILITIES UNDER INSURANCE, ETC., CONTRACTS.—The consideration (other than consideration arising out of indemnity reinsurance) in respect of the assumption by another person of liabilities under insurance and annuity contracts.

"(7) REIMBURSABLE DIVIDENDS.—The amount of policyholder dividends which—

"(A) are paid or accrued by another insurance company in respect of policies the taxpayer has reinsured, and

"(B) are reimbursable by the taxpayer under the terms of the reinsurance contract.

"(8) OTHER DEDUCTIONS.—Subject to the modifications provided by subsection (b), all other deductions allowed under this subtitle for purposes of computing taxable income.

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this part in respect of policyholder dividends.

"(b) MODIFICATIONS.—The modifications referred to in subsection (a)(8) are as follows:

"(1) INTEREST.—In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 807(c).

Post, p. 726.

"(2) BAD DEBTS.—Section 166(c) (relating to reserve for bad debts) shall not apply.

"(3) CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—In applying section 170—

"(A) the limit on the total deductions under such section provided by section 170(b)(2) shall be 10 percent of the life insurance company taxable income computed without regard to—

"(i) the deduction provided by section 170,

"(ii) the deductions provided by paragraphs (3) and (4) of subsection (a),

"(iii) the special life insurance company deduction and the small life insurance company deduction,

"(iv) any operations loss carryback to the taxable year under section 810, and

"(v) any capital loss carryback to the taxable year under section 1212(a)(1), and

"(B) under regulations prescribed by the Secretary, a rule similar to the rule contained in section 170(d)(2)(B) (relating to special rule for net operating loss carryovers) shall be applied.

"(4) AMORTIZABLE BOND PREMIUM.—

"(A) IN GENERAL.—Section 171 shall not apply.

"(B) CROSS REFERENCE.—

"For rules relating to amortizable bond premium, see section 811(b).

Post, p. 740.

"(5) NET OPERATING LOSS DEDUCTION.—Except as provided by section 844, the deduction for net operating losses provided in section 172 shall not be allowed.

"(6) DIVIDENDS RECEIVED DEDUCTION.—Except as provided in subsection (a)(4), the deductions for dividends received provided by sections 243, 244, and 245 shall not be allowed.

26 USC 806.

"SEC. 806. SPECIAL DEDUCTIONS.

"(a) SPECIAL LIFE INSURANCE COMPANY DEDUCTION.—For purposes of section 804, the special life insurance company deduction for any taxable year is 20 percent of the excess of the tentative LICTI for such taxable year over the small life insurance company deduction (if any).

Ante, p. 722.

"(b) SMALL LIFE INSURANCE COMPANY DEDUCTION.—

"(1) IN GENERAL.—For purposes of section 804, the small life insurance company deduction for any taxable year is 60 percent of so much of the tentative LICTI for such taxable year as does not exceed $3,000,000.

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small life insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative LICTI for such taxable year as exceeds $3,000,000.

"(3) SMALL LIFE INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small life insurance company deduction shall not be allowed for any taxable year to any life insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company.

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(c) TENTATIVE LICTI.—For purposes of this part—

"(1) IN GENERAL.—The term 'tentative LICTI' means life insurance company taxable income determined without regard to—

"(A) the special life insurance company deduction, and

"(B) the small life insurance company deduction.

"(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative LICTI for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(3) NONINSURANCE BUSINESS.—

"(A) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(B) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if—

"(i) it is of a type traditionally carried on by life insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

"(ii) it involves the performance of administrative services in connection with plans providing life insurance, pension, or accident and health benefits.

"(C) LIMITATION ON AMOUNT OF LOSS FROM NONINSURANCE BUSINESS WHICH MAY OFFSET INCOME FROM INSURANCE BUSINESS.—In computing the life insurance company taxable income of any life insurance company, any loss from a noninsurance business shall be limited under the principles of section 1503(c).

"(d) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(1) SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of subsections (a) and (b)—

"(A) all life insurance companies which are members of the same controlled group shall be treated as 1 life insurance company, and

"(B) any special life insurance company deduction and any small life insurance company deduction determined with respect to such group shall be allocated among the life insurance companies which are members of such group in proportion to their respective tentative LICTI's.

"(2) NONLIFE INSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of subsection (b)(3), all members of the same controlled group (whether or not life insurance companies) shall be treated as 1 company.

"(3) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

"(4) ELECTION WITH RESPECT TO LOSS FROM OPERATIONS OF MEMBER OF GROUP.—

"(A) IN GENERAL.—Any life insurance company which is a member of a controlled group may elect to have its loss from operations for any taxable year not taken into account for purposes of determining the amount of the special life insurance company deduction for the life insurance companies which are members of such group and which do not file a consolidated return with such life insurance company for the taxable year.

"(B) LIMITATION ON AMOUNT OF LOSS WHICH MAY OFFSET NONLIFE INCOME.—In the case of that portion of any loss from operations for any taxable year of a life insurance company which (but for subparagraph (A)) would have reduced tentative LICTI of other life insurance companies for such taxable year—

"(i) only 80 percent of such portion may be used to offset nonlife income, and

"(ii) to the extent such portion is used to offset nonlife income, the loss shall be treated as used at a rate of $1 for each 80 cents of income so offset.

For purposes of the preceding sentence, any such portion shall be used before the remaining portion of the loss from

the same year and shall be treated as first being offset against income which is not nonlife income.

"(C) NONLIFE INCOME.—

"(i) IN GENERAL.—The term 'nonlife income' means the portion of the life insurance company's taxable income for which the special life insurance company deduction was not allowable and any income of a corporation not subject to tax under this part.

"(ii) SPECIAL RULE FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1984.—In the case of a taxable year beginning before January 1, 1984, all life insurance company taxable income shall be treated as nonlife income.

"(5) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this subsection.

26 USC 807.

"SEC. 807. RULES FOR CERTAIN RESERVES.

"(a) DECREASE TREATED AS GROSS INCOME.—If for any taxable year—

"(1) the opening balance for the items described in subsection (c), exceeds

"(2)(A) the closing balance for such items, reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year,

Post, p. 733.
Ante, p. 721.

such excess shall be included in gross income under section 803(a)(2).

"(b) INCREASE TREATED AS DEDUCTION.—If for any taxable year—

"(1)(A) the closing balance for the items described in subsection (c), reduced by

"(B) the sum of (i) the amount of the policyholders' share of tax-exempt interest, plus (ii) any excess described in section 809(a)(2) for the taxable year, exceeds

"(2) the opening balance for such items,

such excess shall be taken into account as a deduction under section 805(a)(2).

Ante, p. 722.

"(c) ITEMS TAKEN INTO ACCOUNT.—The items referred to in subsections (a) and (b) are as follows:

Post, p. 748.

"(1) The life insurance reserves (as defined in section 816(b)).

"(2) The unearned premiums and unpaid losses included in total reserves under section 816(c)(2).

"(3) The amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts, but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, accident, or health contingencies.

"(4) Dividend accumulations, and other amounts, held at interest in connection with insurance and annuity contracts.

"(5) Premiums received in advance, and liabilities for premium deposit funds.

"(6) Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance which are established and maintained for the provi-

sion of insurance on retired lives, for premium stabilization, or for a combination thereof.

For purposes of paragraph (3), the appropriate rate of interest for any obligation is the higher of the prevailing State assumed interest rate as of the time such obligation first did not involve life, accident, or health contingencies or the rate of interest assumed by the company (as of such time) in determining the guaranteed benefit.

"(d) METHOD OF COMPUTING RESERVES FOR PURPOSES OF DETERMINING INCOME.—

"(1) IN GENERAL.—For purposes of this part (other than section 816), the amount of the life insurance reserves for any contract shall be the greater of— *Post*, p. 748.

"(A) the net surrender value of such contract, or

"(B) the reserve determined under paragraph (2).

In no event shall the reserve determined under the preceding sentence for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining statutory reserves (as defined in section 809(b)(4)(B)). *Post*, p. 733.

"(2) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined by using—

"(A) the tax reserve method applicable to such contract,

"(B) the prevailing State assumed interest rate, and

"(C) the prevailing commissioners' standard tables for mortality and morbidity adjusted as appropriate to reflect the risks (such as substandard risks) incurred under the contract which are not otherwise taken into account.

"(3) TAX RESERVE METHOD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tax reserve method' means—

"(i) LIFE INSURANCE CONTRACTS.—The CRVM in the case of a contract covered by the CRVM.

"(ii) ANNUITY CONTRACTS.—The CARVM in the case of a contract covered by the CARVM.

"(iii) NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—In the case of any noncancellable accident and health insurance contract, a 2-year full preliminary term method.

"(iv) OTHER CONTRACTS.—In the case of any contract not described in clause (i), (ii), or (iii)—

"(I) the reserve method prescribed by the National Association of Insurance Commissioners which covers such contract (as of the date of issuance), or

"(II) if no reserve method has been prescribed by the National Association of Insurance Commissioners which covers such contract, a reserve method which is consistent with the reserve method required under clause (i), (ii), or (iii) or under subclause (I) of this clause as of the date of the issuance of such contract (whichever is most appropriate).

"(B) DEFINITION OF CRVM AND CARVM.—For purposes of this paragraph—

"(i) CRVM.—The term 'CRVM' means the Commissioners' Reserve Valuation Method prescribed by the

National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(ii) CARVM.—The term 'CARVM' means the Commissoners' Annuities Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

"(C) NO ADDITIONAL RESERVE DEDUCTION ALLOWED FOR DEFICIENCY RESERVES.—Nothing in any reserve method described under this paragraph shall permit any increase in the reserve because the net premium (computed on the basis of assumptions required under this subsection) exceeds the actual premiums or other consideration charged for the benefit.

"(4) PREVAILING STATE ASSUMED INTEREST RATE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing State assumed interest rate' means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of the nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

"(B) WHEN RATE DETERMINED.—Except as provided in subparagraph (C), the prevailing State assumed rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued.

"(C) ELECTION FOR NONANNUITY CONTRACTS.—In the case of a contract other than an annuity contract, the issuer may elect (at such time and in such manner as the Secretary shall by regulations prescribe) to determine the prevailing State assumed rate as of the beginning of the calendar year preceding the calendar year in which the contract was issued.

"(D) RATE FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—If there is no prevailing State assumed interest rate applicable under subparagraph (A) to any noncancellable accident and health insurance contract when it is issued, the prevailing State assumed interest rate for such contract shall be the prevailing State assumed interest rate which would be determined under subparagraph (A) for a whole life insurance contract issued on the date on which the noncancellable accident and health insurance contract is issued.

"(5) PREVAILING COMMISSIONERS' STANDARD TABLES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'prevailing commissioners' standard tables' means, with respect to any contract, the most recent commissioners' standard tables prescribed by the National Association of Insurance Commissioners which are permitted to be used in computing reserves for that type of contract under the insurance laws of at least 26 States when the contract was issued.

"(B) INSURER MAY USE OLD TABLES FOR 3 YEARS WHEN TABLES CHANGE.—If the prevailing commissioners' standard

tables as of the beginning of any calendar year (hereinafter in this subparagraph referred to as the 'year of change') is different from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, the issuer may use the prevailing commissioners' standard tables as of the beginning of the preceding calendar year with respect to any contract issued after the change and before the close of the 3-year period beginning on the first day of the year of change.

"(C) SPECIAL RULE FOR CONTRACTS FOR WHICH THERE ARE NO COMMISSIONERS' STANDARD TABLES.—If there are no commissioners' standard tables applicable to any contract when it is issued, the mortality and morbidity tables used for purposes of paragraph (2)(C) shall be determined under regulations prescribed by the Secretary.

"(D) SPECIAL RULE FOR CONTRACTS ISSUED BEFORE 1948.—If—

"(i) a contract was issued before 1948, and

"(ii) there were no commissioners' standard tables applicable to such contract when it was issued,

the mortality and morbidity tables used in computing statutory reserves for such contracts shall be used for purposes of paragraph (2)(C).

"(E) SPECIAL RULE WHERE MORE THAN 1 TABLE OR OPTION APPLICABLE.—If, with respect to any category of risks, there are 2 or more tables (or options under 1 or more tables) which meet the requirements of subparagraph (A) (or, where applicable, subparagraph (B) or (C)), the table (and option thereunder) which generally yields the lowest reserves shall be used for purposes of paragraph (2)(C).

"(e) SPECIAL RULES FOR COMPUTING RESERVES.—

"(1) NET SURRENDER VALUE.—For purposes of this section—

"(A) IN GENERAL.—The net surrender value of any contract shall be determined—

"(i) with regard to any penalty or charge which would be imposed on surrender, but

"(ii) without regard to any market value adjustment on surrender.

"(B) SPECIAL RULE FOR PENSION PLAN CONTRACTS.—In the case of a pension plan contract, the balance in the policyholder's fund shall be treated as the net surrender value of such contract. For purposes of the preceding sentence, such balance shall be determined with regard to any penalty or forfeiture which would be imposed on surrender but without regard to any market value adjustment.

"(2) ISSUANCE DATE IN CASE OF GROUP CONTRACTS.—For purposes of this section, in the case of a group contract, the date on which such contract is issued shall be the date as of which the master plan is issued (or, with respect to a benefit guaranteed to a participant after such date, the date as of which such benefit is guaranteed).

"(3) SUPPLEMENTAL BENEFITS.—

"(A) QUALIFIED SUPPLEMENTAL BENEFITS TREATED SEPARATELY.—For purposes of this part, the amount of the life insurance reserve for any qualified supplemental benefit—

"(i) shall be computed separately as though such benefit were under a separate contract, and

"(ii) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(B) SUPPLEMENTAL BENEFITS WHICH ARE NOT QUALIFIED SUPPLEMENTAL BENEFITS.—In the case of any supplemental benefit described in subparagraph (D) which is not a qualified supplemental benefit, the amount of the reserve determined under paragraph (2) of subsection (d) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(C) QUALIFIED SUPPLEMENTAL BENEFIT.—For purposes of this paragraph, the term 'qualified supplemental benefit' means any supplemental benefit described in subparagraph (D) if—

"(i) there is a separately identified premium or charge for such benefit, and

"(ii) any net surrender value under the contract attributable to any other benefit is not available to fund such benefit.

"(D) SUPPLEMENTAL BENEFITS.—For purposes of this paragraph, the supplemental benefits described in this subparagraph are any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,

"(iii) convertibility,

"(iv) disability waiver benefit, or

"(v) other benefit prescribed by regulations,

which is supplemental to a contract for which there is a reserve described in subsection (c).

"(4) CERTAIN CONTRACTS ISSUED BY FOREIGN BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.—

"(A) IN GENERAL.—In the case of any qualified foreign contract, the amount of the reserve shall be not less than the minimum reserve required by the laws, regulations, or administrative guidance of the regulatory authority of the foreign country referred to in subparagraph (B) (but not to exceed the net level reserves for such contract).

"(B) QUALIFIED FOREIGN CONTRACT.—For purposes of subparagraph (A), the term 'qualified foreign contract' means any contract issued by a foreign life insurance branch (which has its principal place of business in a foreign country) of a domestic life insurance company if—

"(i) such contract is issued on the life or health of a resident of such country,

"(ii) such domestic life insurance company was required by such foreign country (as of the time it began operations in such country) to operate in such country through a branch, and

"(iii) such foreign country is not contiguous to the United States.

"(5) TREATMENT OF SUBSTANDARD RISKS.—

"(A) SEPARATE COMPUTATION.—Except to the extent provided in regulations, the amount of the life insurance reserve for any qualified substandard risk shall be computed

separately under subsection (d)(1) from any other reserve under the contract.

"(B) QUALIFIED SUBSTANDARD RISK.—For purposes of subparagraph (A), the term 'qualified substandard risk' means any substandard risk if—

"(i) the insurance company maintains a separate reserve for such risk,

"(ii) there is a separately identified premium or charge for such risk,

"(iii) the amount of the net surrender value under the contract is not increased or decreased by reason of such risk, and

"(iv) the net surrender value under the contract is not regularly used to pay premium charges for such risk.

"(C) LIMITATION ON AMOUNT OF LIFE INSURANCE RESERVE.—The amount of the life insurance reserve determined for any qualified substandard risk shall in no event exceed the sum of the separately identified premiums charged for such risk plus interest less mortality charges for such risk.

"(D) LIMITATION ON AMOUNT OF CONTRACTS TO WHICH PARAGRAPH APPLIES.—The aggregate amount of insurance in force under contracts to which this paragraph applies shall not exceed 10 percent of the insurance in force (other than term insurance) under life insurance contracts of the company.

"(6) SPECIAL RULES FOR CONTRACTS ISSUED BEFORE JANUARY 1, 1989, UNDER EXISTING PLANS OF INSURANCE, WITH TERM INSURANCE OR ANNUITY BENEFITS.—For purposes of this part—

"(A) IN GENERAL.—In the case of a life insurance contract issued before January 1, 1989, under an existing plan of insurance, the life insurance reserve for any benefit to which this paragraph applies shall be computed separately under subsection (d)(1) from any other reserve under the contract.

"(B) BENEFITS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph applies to any term insurance or annuity benefit with respect to which the requirements of clauses (i) and (ii) of paragraph (3)(C) are met.

"(C) EXISTING PLAN OF INSURANCE.—For purposes of this paragraph, the term 'existing plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company using such contract in one or more States before January 1, 1984, and is on file in the appropriate State for such contract.

"(f) ADJUSTMENT FOR CHANGE IN COMPUTING RESERVES.—

"(1) 10-YEAR SPREAD.—

"(A) IN GENERAL.—For purposes of this part, if the basis for determining any item referred to in subsection (c) as of the close of any taxable year differs from the basis for such determination as of the close of the preceding taxable year, then so much of the difference between—

"(i) the amount of the item at the close of the taxable year, computed on the new basis, and

"(ii) the amount of the item at the close of the taxable year, computed on the old basis,

as is attributable to contracts issued before the taxable year shall be taken into account under the method provided in subparagraph (B).

"(B) METHOD.—The method provided in this subparagraph is as follows:

"(i) if the amount determined under subparagraph (A)(i) exceeds the amount determined under subparagraph (A)(ii), 1/10 of such excess shall be taken into account, for each of the succeeding 10 taxable years, as a deduction under section 805(a)(2); or

Ante, p. 722.

"(ii) if the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i), 1/10 of such excess shall be included in gross income, for each of the 10 succeeding taxable years, under section 803(a)(2).

Ante, p. 721.

"(2) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if for any taxable year the taxpayer is not a life insurance company, the balance of any adjustments under this subsection shall be taken into account for the preceding taxable year.

26 USC 808.

"SEC. 808. POLICYHOLDER DIVIDENDS DEDUCTION.

"(a) POLICYHOLDER DIVIDEND DEFINED.—For purposes of this part, the term 'policyholder dividend' means any dividend or similar distribution to policyholders in their capacity as such.

"(b) CERTAIN AMOUNTS INCLUDED.—For purposes of this part, the term 'policyholder dividend' includes—

"(1) any amount paid or credited (including as an increase in benefits) where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management,

"(2) excess interest,

"(3) premium adjustments, and

"(4) experience-rated refunds.

"(c) AMOUNT OF DEDUCTION.—

"(1) IN GENERAL.—Except as limited by paragraph (2), the deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year.

"(2) REDUCTION IN CASE OF MUTUAL COMPANIES.—In the case of a mutual life insurance company, the deduction for policyholder dividends for any taxable year shall be reduced by the amount determined under section 809.

Post, p. 733.

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

"(1) EXCESS INTEREST.—The term 'excess interest' means any amount in the nature of interest—

"(A) paid or credited to a policyholder in his capacity as such, and

"(B) determined at a rate in excess of the prevailing State assumed interest rate for such contract.

"(2) PREMIUM ADJUSTMENT.—The term 'premium adjustment' means any reduction in the premium under an insurance or annuity contract which (but for the reduction) would have been required to be paid under the contract.

"(3) EXPERIENCE-RATED REFUND.—The term 'experience-rated refund' means any refund or credit based on the experience of the contract or group involved.

"(e) TREATMENT OF POLICYHOLDER DIVIDENDS.—For purposes of this part, any policyholder dividend which—

"(1) increases the cash surrender value of the contract or other benefits payable under the contract, or

"(2) reduces the premium otherwise required to be paid, shall be treated as paid to the policyholder and returned by the policyholder to the company as a premium.

"SEC. 809. REDUCTION IN CERTAIN DEDUCTIONS OF MUTUAL LIFE INSURANCE COMPANIES. 26 USC 809.

"(a) GENERAL RULE.—

"(1) POLICYHOLDER DIVIDENDS.—In the case of any mutual life insurance company, the amount of the deduction allowed under section 808 shall be reduced (but not below zero) by the differential earnings amount. *Ante*, p. 732.

"(2) REDUCTION IN RESERVE DEDUCTION IN CERTAIN CASES.—In the case of any mutual life insurance company, if the differential earnings amount exceeds the amount allowable as a deduction under section 808 for the taxable year (determined without regard to this section), such excess shall be taken into account under subsections (a) and (b) of section 807. *Ante*, p. 726.

"(3) DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this section, the term 'differential earnings amount' means, with respect to any taxable year, an amount equal to the product of—

"(A) the life insurance company's average equity base for the taxable year, multiplied by

"(B) the differential earnings rate for such taxable year.

"(b) AVERAGE EQUITY BASE.—For purposes of this section—

"(1) IN GENERAL.—The term 'average equity base' means, with respect to any taxable year, the average of—

"(A) the equity base determined as of the close of the taxable year, and

"(B) the equity base determined as of the close of the preceding taxable year.

"(2) EQUITY BASE.—The term 'equity base' means an amount determined in the manner prescribed by regulations equal to—

"(A) the surplus and capital,

"(B) adjusted as provided in paragraphs (3), (4), (5), and (6) of this subsection.

"(3) INCREASE FOR NONADMITTED FINANCIAL ASSETS.—

"(A) IN GENERAL.—The amount of the surplus and capital shall be increased by the amount of the nonadmitted financial assets.

"(B) NONADMITTED FINANCIAL ASSETS.—For purposes of subparagraph (A), the term 'nonadmitted financial asset' means any nonadmitted asset of the company which is—

"(i) a bond,

"(ii) stock,

"(iii) real estate,

"(iv) a mortgage loan on real estate, or

"(v) any other invested asset.

"(4) INCREASE WHERE STATUTORY RESERVES EXCEED TAX RESERVES.—

"(A) IN GENERAL.—If—

"(i) the aggregate amount of statutory reserves, exceeds

"(ii) the aggregate amount of tax reserves,

the amount of the surplus and capital shall be increased by the amount of such excess.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) STATUTORY RESERVES.—The term 'statutory reserves' means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c).

Ante, p. 726.

Post, p. 740.

"(ii) TAX RESERVES.—The term 'tax reserves' means the aggregate of the items described in section 807(c) as determined for purposes of section 807.

"(5) INCREASE BY AMOUNT OF CERTAIN OTHER RESERVES.—The amount of the surplus and capital shall be increased by the sum of—

"(A) the amount of any mandatory securities valuation reserve,

"(B) the amount of any deficiency reserve, and

"(C) the amount of any voluntary reserve or similar liability not described in subparagraph (A) or (B).

"(6) ADJUSTMENT FOR NEXT YEAR'S POLICYHOLDER DIVIDENDS.—The amount of the surplus and capital shall be increased by 50 percent of the amount of any provision for policyholder dividends (or other similar liability) payable in the following taxable year.

"(c) DIFFERENTIAL EARNINGS RATE.—

"(1) IN GENERAL.—For purposes of this section, the differential earnings rate for any taxable year is the excess of—

"(A) the imputed earnings rate for the taxable year, over

"(B) the average mutual earnings rate for the second calendar year preceding the calendar year in which the taxable year begins.

"(2) TRANSITIONAL RULE.—The differential earnings rate—

"(A) for any taxable year beginning in 1984, or

"(B) for purposes of computing the amount of underpayment under section 6655 (including the application of section 6655(d)(3)) for any taxable year beginning in 1985, shall be equal to 7.8 percent.

"(d) IMPUTED EARNINGS RATE.—

"(1) IN GENERAL.—For purposes of this section, the imputed earnings rate for any taxable year is—

"(A) 16.5 percent in the case of taxable years beginning in 1984, and

"(B) in the case of taxable years beginning after 1984, an amount which bears the same ratio to 16.5 percent as the current stock earnings rate for the taxable year bears to the base period stock earnings rate.

"(2) CURRENT STOCK EARNINGS RATE.—For purposes of this subsection, the term 'current stock earnings rate' means, with respect to any taxable year, the average of the stock earnings rates determined under paragraph (4) for the 3 calendar years preceding the calendar year in which the taxable year begins.

"(3) BASE PERIOD STOCK EARNINGS RATE.—For purposes of this subsection, the base period stock earnings rate is the average of the stock earnings rates determined under paragraph (4) for calendar years 1981, 1982, and 1983.

"(4) STOCK EARNINGS RATE.—

"(A) IN GENERAL.—For purposes of this subsection, the stock earnings rate for any calendar year is the numerical average of the earnings rates of the 50 largest stock companies.

"(B) EARNINGS RATE.—For purposes of subparagraph (A), the earnings rate of any stock company is the percentage (determined by the Secretary) which—

"(i) the statement gain or loss from operations for the calendar year of such company, is of

"(ii) such company's average equity base for such year.

"(C) 50 LARGEST STOCK COMPANIES.—For purposes of this paragraph, the term '50 largest stock companies' means a group (as determined by the Secretary) of stock life insurance companies which consists of the 50 largest stock life insurance companies which are subject to tax under this part. The Secretary may by regulations provide for exclusion from the group determined under the preceding sentence of any stock life insurance company if (i) the equity of such company is not great enough for such company to be 1 of the 50 largest stock life insurance companies if the determination were made on the basis of equity, and (ii) by reason of the small equity base of such company, it has an earnings rate which would seriously distort the stock earnings rate.

"(D) TREATMENT OF AFFILIATED GROUPS.—For purposes of this paragraph, all stock life insurance companies which are members of the same affiliated group shall be treated as one stock life insurance company.

"(e) AVERAGE MUTUAL EARNINGS RATE.—For purposes of this section, the average mutual earnings rate for any calendar year is the percentage (determined by the Secretary) which—

"(1) the aggregate statement gain or loss from operations for such year of mutual life insurance companies, is of

"(2) their aggregate average equity bases for such year.

"(f) RECOMPUTATION IN SUBSEQUENT YEAR.—

"(1) INCLUSION IN INCOME WHERE RECOMPUTED AMOUNT GREATER.—In the case of any mutual life insurance company, if—

"(A) the recomputed differential earnings amount for any taxable year, exceeds

"(B) the differential earnings amount determined under this section for such taxable year,

such excess shall be included in life insurance gross income for the succeeding taxable year.

"(2) DEDUCTION WHERE RECOMPUTED AMOUNT SMALLER.—In the case of any mutual life insurance company, if—

"(A) the differential earnings amount determined under this section for any taxable year, exceeds

"(B) the recomputed differential earnings amount for such taxable year,

such excess shall be allowed as a life insurance deduction for the succeeding taxable year.

"(3) RECOMPUTED DIFFERENTIAL EARNINGS AMOUNT.—For purposes of this subsection, the term 'recomputed differential earnings amount' means, with respect to any taxable year, the amount which would be the differential earnings amount for such taxable year if the average mutual earnings rate taken into account under subsection (c)(2) were the average mutual earnings rate for the calendar year in which the taxable year begins.

"(4) SPECIAL RULE WHERE COMPANY CEASES TO BE MUTUAL LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if—

"(A) a life insurance company is a mutual life insurance company for any taxable year, but

"(B) such life insurance company is not a mutual life insurance company for the succeeding taxable year,

any adjustment under paragraph (1) or (2) by reason of the recomputed differential earnings amount for the first of such taxable years shall be taken into account for the first of such taxable years.

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATEMENT GAIN OR LOSS FROM OPERATIONS.—The term 'statement gain or loss from operations' means the net gain or loss from operations required to be set forth in the annual statement—

"(A) determined with regard to policyholder dividends (as defined in section 808) but without regard to Federal income taxes,

Ante, p. 732.

"(B) determined on the basis of the tax reserves rather than statutory reserves, and

"(C) properly adjusted for realized capital gains and losses and other relevant items.

"(2) OTHER TERMS.—Except as otherwise provided in this section, the terms used in this section shall have the same respective meanings as when used in the annual statement.

"(3) DETERMINATIONS BASED ON AMOUNT SET FORTH IN ANNUAL STATEMENT.—Except as otherwise provided in this section or in regulations, all determinations under this section shall be made on the basis of the amounts required to be set forth on the annual statement.

"(4) ANNUAL STATEMENT.—The term 'annual statement' means the annual statement for life insurance companies approved by the National Association of Insurance Commissioners.

"(5) REDUCTION IN EQUITY BASE FOR PORTION OF EQUITY ALLOCABLE TO LIFE INSURANCE BUSINESS IN NONCONTIGUOUS WESTERN HEMISPHERE COUNTRIES.—The equity base of any mutual life insurance company shall be reduced by an amount equal to the portion of the equity base attributable to the life insurance business multiplied by a fraction—

"(A) the numerator of which is the portion of the tax reserves which is allocable to life insurance contracts issued on the life of residents of countries in the Western Hemisphere which are not contiguous to the United States, and

"(B) the denominator of which is the amount of the tax reserves allocable to life insurance contracts.

The preceding sentence shall not apply unless the fraction determined under the preceding sentence exceeds 1/20.

"(6) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED BEFORE JANUARY 1, 1985.—In determining the amount of tax reserves of a subsidiary of a mutual insurance company for purposes of subsection (b)(4), section 811(d) shall not apply with respect to any life insurance contract issued before January 1, 1985, under a plan of life insurance in existence on July 1, 1983.

Post, p. 740.

"(h) TREATMENT OF STOCK COMPANIES OWNED BY MUTUAL LIFE INSURANCE COMPANIES.—

"(1) TREATMENT AS MUTUAL LIFE INSURANCE COMPANIES FOR PURPOSES OF DETERMINING STOCK EARNINGS RATES AND MUTUAL EARNINGS RATES.—Solely for purposes of subsections (d) and (e), a stock life insurance company shall be treated as a mutual life insurance company if stock possessing—

"(A) at least 80 percent of the total combined voting power of all classes of stock of such stock life insurance company entitled to vote, or

"(B) at least 80 percent of the total value of shares of all classes of stock of such stock life insurance company,

is owned at any time during the calendar year directly (or through the application of section 318) by one or more mutual life insurance companies.

"(2) TREATMENT OF AFFILIATED GROUP WHICH INCLUDES MUTUAL PARENT AND STOCK SUBSIDIARY.—In the case of an affiliated group of corporations which includes a common parent which is a mutual life insurance company and one or more stock life insurance companies, for purposes of determining the average equity base of such common parent (and the statement gain or loss from operations)—

"(A) stock in such stock life insurance companies held by such common parent (and dividends on such stock) shall not be taken into account, and

"(B) such common parent and such stock life insurance companies shall be treated as though they were one mutual life insurance company.

"(3) ADJUSTMENT WHERE STOCK COMPANY NOT MEMBER OF AFFILIATED GROUP.—In the case of any stock life insurance company which is described in paragraph (1) but is not a member of an affiliated group described in paragraph (2), under regulations, proper adjustments shall be made in the average equity bases (and statement gains or losses from operations) of mutual life insurance companies owning stock in such company as may be necessary or appropriate to carry out the purposes of this section.

"(i) TRANSITIONAL RULE FOR CERTAIN HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), the average equity base of a high surplus mutual life insurance company for any taxable year shall not include the applicable percentage of the excess equity base of such company for such taxable year.

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

"(A) EXCESS EQUITY BASE.—The term 'excess equity base' means the excess of—

"(i) the average equity base of the company for the taxable year, over

"(ii) the amount which would be its average equity base if its equity percentage equaled the following percentage:

"For taxable years beginning in:	The percentage is:
1984	14.5
1985 or 1986	14
1987 or 1988	13.5

In no case shall the excess equity base for any taxable year be greater than the excess equity base for the company's first taxable year beginning in 1984.

"(B) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage determined in accordance with the following table:

"For taxable years beginning in:	The applicable percentage is:
1984	100
1985	80
1986	60
1987	40
1988	20
1989 or thereafter	0.

"(C) HIGH SURPLUS MUTUAL LIFE INSURANCE COMPANY.—The term 'high surplus mutual life insurance company' means any mutual life insurance company if, for the taxable year beginning in 1984, its equity percentage exceeded 14.5 percent.

"(D) EQUITY PERCENTAGE.—The term 'equity percentage' means, with respect to any mutual life insurance company, the percentage which—

"(i) the average equity base of such company (determined under this section without regard to this subsection) for a taxable year bears to

"(ii) the average of—

"(I) the assets of such company as of the close of the preceding taxable year, and

"(II) the assets of such company as of the close of the taxable year.

For purposes of the preceding sentence, the assets of a company shall include all assets taken into account under this section in determining its equity base (after applying the principles of subsection (h)).

26 USC 810.

"SEC. 810. OPERATIONS LOSS DEDUCTION.

"(a) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of—

"(1) the operations loss carryovers to such year, plus

"(2) the operations loss carrybacks to such year.

For purposes of this part, the term 'operations loss deduction' means the deduction allowed by this subsection.

"(b) OPERATIONS LOSS CARRYBACKS AND CARRYOVERS.—

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—The loss from operations for any taxable year (hereinafter in this section referred to as the 'loss year') shall be—

"(A) an operations loss carryback to each of the 3 taxable years preceding the loss year,

"(B) an operations loss carryover to each of the 15 taxable years following the loss year, and

"(C) if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 15 taxable years described in subparagraph (B).

"(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—The entire amount of the loss from operations for any loss year shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess (if any) of the amount of such loss over the sum of the offsets (as defined in subsection (d)) for each of the prior taxable years to which such loss may be carried.

"(3) ELECTION FOR OPERATIONS LOSS CARRYBACKS.—In the case of a loss from operations for any taxable year, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and, once made for any taxable year, such election shall be irrevocable for that taxable year.

"(c) COMPUTATION OF LOSS FROM OPERATIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'loss from operations' means the excess of the life insurance deductions for any taxable year over the life insurance gross income for such taxable year.

"(2) MODIFICATIONS.—For purposes of paragraph (1)—

"(A) the operations loss deduction shall not be allowed, and

"(B) the deductions allowed by sections 243 (relating to dividends received by corporations), 244 (relating to dividends received on certain preferred stock of public utilities), and 245 (relating to dividends received from certain foreign corporations) shall be computed without regard to section 246(b) as modified by section 805(a)(4). *Ante*, p. 722.

"(d) OFFSET DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the term 'offset' means, with respect to any taxable year, an amount equal to that increase in the operations loss deduction for the taxable year which reduces the life insurance company taxable income (computed without regard to paragraphs (2) and (3) of section 804) for such year to zero. *Ante*, p. 722.

"(2) OPERATIONS LOSS DEDUCTION.—For purposes of paragraph (1), the operations loss deduction for any taxable year shall be computed without regard to the loss from operations for the loss year or for any taxable year thereafter.

"(e) NEW COMPANY DEFINED.—For purposes of this part, a life insurance company is a new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies) was authorized to do business as an insurance company.

"(f) APPLICATION OF SUBTITLES A AND F IN RESPECT OF OPERATION LOSSES.—Except as provided in section 805(b)(5), subtitles A and F shall apply in respect of operation loss carrybacks, operation loss carryovers, and the operations loss deduction under this part, in the same manner and to the same extent as such subtitles apply in 26 USC 1, 6001.

respect of net operating loss carrybacks, net operating loss carryovers, and the net operating loss deduction.

"(g) TRANSITIONAL RULE.—For purposes of this section and section 812 (as in effect before the enactment of the Life Insurance Tax Act of 1984), this section shall be treated as a continuation of such section 812.

Post, p. 741.

"Subpart D—Accounting, Allocation, and Foreign Provisions

"Sec. 811. Accounting provisions.
"Sec. 812. Definition of company's share and policyholders' share.
"Sec. 813. Foreign life insurance companies.
"Sec. 814. Contiguous country branches of domestic life insurance companies.
"Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

26 USC 811.

"SEC. 811. ACCOUNTING PROVISIONS.

"(a) METHOD OF ACCOUNTING.—All computations entering into the determination of the taxes imposed by this part shall be made—

"(1) under an accrual method of accounting, or

"(2) to the extent permitted under regulations prescribed by the Secretary, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).

To the extent not inconsistent with the preceding sentence or any other provision of this part, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

"(b) AMORTIZATION OF PREMIUM AND ACCRUAL OF DISCOUNT.—

"(1) IN GENERAL.—The appropriate items of income, deductions, and adjustments under this part shall be adjusted to reflect the appropriate amortization of premium and the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such amortization and accrual shall be determined—

"(A) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(B) in all other cases, in accordance with regulations prescribed by the Secretary.

"(2) SPECIAL RULES.—

"(A) AMORTIZATION OF BOND PREMIUM.—In the case of any bond (as defined in section 171(d)), the amount of bond premium, and the amortizable bond premium for the taxable year, shall be determined under section 171(b) as if the election set forth in section 171(c) had been made.

"(B) CONVERTIBLE EVIDENCE OF INDEBTEDNESS.—In no case shall the amount of premium on a convertible evidence of indebtedness include any amount attributable to the conversion features of the evidence of indebtedness.

"(3) EXCEPTION.—No accrual of discount shall be required under paragraph (1) on any bond (as defined in section 171(d)), except in the case of discount which is—

"(A) interest to which section 103 applies, or

"(B) original issue discount (as defined in section 1232(b)).

"(c) NO DOUBLE COUNTING.—Nothing in this part shall permit—

"(1) a reserve to be established for any item unless the gross amount of premiums and other consideration attributable to such item are required to be included in life insurance gross income,

"(2) the same item to be counted more than once for reserve purposes, or

"(3) any item to be deducted (either directly or as an increase in reserves) more than once.

"(d) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 816), amounts in the nature of interest to be paid or credited under any contract for any period which is computed at a rate which— *Post*, p. 748.

"(1) exceeds the prevailing State assumed interest rate for the contract for such period, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.

"(e) SHORT TAXABLE YEARS.—If any return of a corporation made under this part is for a period of less than the entire calendar year (referred to in this subsection as 'short period'), then section 443 shall not apply in respect to such period, but life insurance company taxable income shall be determined, under regulations prescribed by the Secretary, on an annual basis by a ratable daily projection of the appropriate figures for the short period.

"SEC. 812. DEFINITION OF COMPANY'S SHARE AND POLICYHOLDERS' SHARE. 26 USC 812.

"(a) GENERAL RULE.—

"(1) COMPANY'S SHARE.—For purposes of section 805(a)(4), the term 'company's share' means, with respect to any taxable year, the percentage obtained by dividing— *Ante*, p. 722.

"(A) the company's share of the net investment income for the taxable year, by

"(B) the net investment income for the taxable year.

"(2) POLICYHOLDERS' SHARE.—For purposes of section 807, the term 'policyholders' share' means, with respect to any taxable year, the excess of 100 percent over the percentage determined under paragraph (1). *Ante*, p. 726.

"(b) COMPANY'S SHARE OF NET INVESTMENT INCOME.—

"(1) IN GENERAL.—For purposes of this section, the company's share of net investment income is the excess (if any) of—

"(A) the net investment income for the taxable year, over

"(B) the sum of—

"(i) the policy interest, for the taxable year, plus

"(ii) the gross investment income's proportionate share of policyholder dividends for the taxable year.

"(2) POLICY INTEREST.—For purposes of this subsection, the term 'policy interest' means—

"(A) required interest (at the prevailing State assumed rate) on reserves under section 807(c) (other than paragraph (2) thereof),

"(B) the deductible portion of excess interest, and

"(C) the deductible portion of any amount (whether or not a policyholder dividend), and not taken into account under subparagraph (A) or (B), credited to—

"(i) a policyholder's fund under a pension plan contract for employees (other than retired employees), or

"(ii) a deferred annuity contract before the annuity starting date.

"(3) GROSS INVESTMENT INCOME'S PROPORTIONATE SHARE OF POLICYHOLDER DIVIDENDS.—For purposes of paragraph (1), the gross investment income's proportionate share of policyholder dividends is—

"(A) the deduction for policyholders' dividends determined under sections 808 and 809 for the taxable year, but not including—

Ante, pp. 732, 733.

"(i) the deductible portion of excess interest,

"(ii) the deductible portion of policyholder dividends on contracts referred to in clauses (i) and (ii) of paragraph (2)(C), and

"(iii) the deductible portion of the premium and mortality charge adjustments with respect to contracts paying excess interest for such year,

multiplied by

"(B) the fraction—

"(i) the numerator of which is gross investment income for the taxable year (reduced by the policy interest for such year), and

"(ii) the denominator of which is life insurance gross income (including tax-exempt interest) reduced by the excess (if any) of the closing balance for the items described in section 807(c) over the opening balance for such items for the taxable year.

Ante, p. 726.

"(c) NET INVESTMENT INCOME.—For purposes of this section, the term 'net investment income' means 90 percent of gross investment income.

"(d) GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' means the sum of the following:

"(1) INTEREST, ETC.—The gross amount of income from—

"(A) interest (including tax-exempt interest), dividends, rents, and royalties,

"(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties, and

"(C) the alteration or termination of any instrument or agreement described in subparagraph (B).

"(2) SHORT-TERM CAPITAL GAIN.—The amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

"(3) TRADE OR BUSINESS INCOME.—The gross income from any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

"(e) DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT INCLUDED IN GROSS INVESTMENT INCOME.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100-percent dividend (as defined in section 805(a)(4)(C)). Such term also shall not include any dividend described in section 805(a)(4)(D) (relating to certain dividends in the case of foreign corporations).

Ante, p. 722.

"(f) NO DOUBLE COUNTING.—Under regulations, proper adjustments shall be made in the application of this section to prevent an item from being counted more than once.

"SEC. 813. FOREIGN LIFE INSURANCE COMPANIES.

26 USC 813.

"(a) ADJUSTMENT WHERE SURPLUS HELD IN THE UNITED STATES IS LESS THAN SPECIFIED MINIMUM.—

"(1) IN GENERAL.—In the case of any foreign company taxable under this part, if—

"(A) the required surplus determined under paragraph (2), exceeds

"(B) the surplus held in the United States,

then its income effectively connected with the conduct of an insurance business within the United States shall be increased by an amount determined by multiplying such excess by such company's current investment yield.

"(2) REQUIRED SURPLUS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'required surplus' means the amount determined by multiplying the taxpayer's total insurance liabilities on United States business by a percentage for the taxable year determined and proclaimed by the Secretary under subparagraph (B).

"(B) DETERMINATION OF PERCENTAGE.—The percentage determined and proclaimed by the Secretary under this subparagraph shall be based on such data with respect to domestic life insurance companies for the preceding taxable year as the Secretary considers representative. Such percentage shall be computed on the basis of a ratio the numerator of which is the excess of the assets over the total insurance liabilities, and the denominator of which is the total insurance liabilities.

"(3) CURRENT INVESTMENT YIELD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current investment yield' means the percent obtained by dividing—

"(i) the net investment income on assets held in the United States, by

"(ii) the mean of the assets held in the United States during the taxable year.

"(B) DETERMINATIONS BASED ON AMOUNT SET FORTH IN THE ANNUAL STATEMENT.—Except as otherwise provided in regulations, determinations under subparagraph (A) shall be made on the basis of the amounts required to be set forth on the annual statement approved by the National Association of Insurance Commissioners.

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SURPLUS HELD IN THE UNITED STATES.—The surplus held in the United States is the excess of the assets (determined under section 806(b)(3)(C)) held in the United States

Ante, p. 724.

over the total insurance liabilities on United States business.

"(B) TOTAL INSURANCE LIABILITIES.—For purposes of this subsection, the term 'total insurance liabilities' means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

Post, p. 748.

Ante, p. 726.

"(5) REDUCTION OF SECTION 881 TAXES.—In the case of any foreign company taxable under this part, there shall be determined—

"(A) the amount which would be subject to taxes under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894, and

"(B) the amount of the increase provided by paragraph (1).

The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which is the same proportion of such tax as the amount referred to in subparagraph (B) is of the amount referred to in subparagraph (A); but such reduction in taxes shall not exceed the increase in taxes under this part by reason of the increase provided by paragraph (1).

"(b) ADJUSTMENT TO LIMITATION ON DEDUCTION FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the amount of any excess determined under paragraph (1) of subsection (a) with respect to such taxable year.

Ante, p. 733.

"(c) CROSS REFERENCE.—

"For taxation of foreign corporations carrying on life insurance business within the United States, see section 842.

26 USC 814.

"SEC. 814. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC LIFE INSURANCE COMPANIES.

"(a) EXCLUSION OF ITEMS.—In the case of a domestic mutual insurance company which—

"(1) is a life insurance company,

"(2) has a contiguous country life insurance branch, and

"(3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

"(b) CONTIGUOUS COUNTRY LIFE INSURANCE BRANCH.—For purposes of this section, the term contiguous country life insurance branch means a branch which—

"(1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,

"(2) has its principal place of business in such contiguous country, and

"(3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term 'insurance contract' means any life, health, accident, or annuity contract or reinsurance contract or any contract relating thereto.

"(c) SEPARATE ACCOUNTING REQUIRED.—Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

"(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) RECOGNITION OF GAIN ON ASSETS IN BRANCH ACCOUNT.—If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

"(e) TRANSACTIONS BETWEEN CONTIGUOUS COUNTRY BRANCH AND DOMESTIC LIFE INSURANCE COMPANY.—

"(1) REIMBURSEMENT FOR HOME OFFICE SERVICES, ETC.—Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

"(2) REPATRIATION OF INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the income of the domestic life insurance company.

"(B) LIMITATION.—The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—

"(i) the aggregate decrease in the tentative LICTI of the domestic life insurance company for the taxable year and for all prior taxable years resulting solely from the application of subsection (a) of this section with respect to such branch, exceeds

"(ii) the amount of additions to tentative LICTI pursuant to subparagraph (A) with respect to such contiguous country branch for all prior taxable years.

"(C) TRANSITIONAL RULE.—For purposes of this paragraph, in the case of a prior taxable year beginning before January 1, 1984, the term 'tentative LICTI' means life insurance company taxable income determined under this part (as in effect for such year) without regard to this paragraph.

"(f) OTHER RULES.—

"(1) TREATMENT OF FOREIGN TAXES.—

"(A) IN GENERAL.—No income, war profits, or excess profits taxes paid or accrued to any foreign country or possession of the United States which is attributable to income excluded under subsection (a) shall be taken into account for purposes of subpart A of part III of subchapter N (relating to foreign tax credit) or allowable as a deduction.

26 USC 901.

"(B) TREATMENT OF REPATRIATED AMOUNTS.—For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.

"(2) UNITED STATES SOURCE INCOME ALLOCABLE TO CONTIGUOUS COUNTRY BRANCH.—For purposes of sections 881, 882, and 1442, each contiguous country life insurance branch shall be treated as a foreign corporation. Such sections shall be applied to each such branch in the same manner as if such sections contained the provisions of any treaty to which the United States and the contiguous country are parties, to the same extent such provisions would apply if such branch were incorporated in such contiguous country.

"(g) ELECTION.—A taxpayer may make the election provided by this subsection with respect to any contiguous country for any taxable year. An election made under this subsection for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary. The election provided by this subsection shall be made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof) with respect to which such election is made, and such election and any approved revocation thereof shall be made in the manner provided by the Secretary.

"(h) SPECIAL RULE FOR DOMESTIC STOCK LIFE INSURANCE COMPANIES.—At the election of a domestic stock life insurance company which has a contiguous country life insurance branch described in subsection (b) (without regard to the mutual requirement in subsection (b)(3)), the assets of such branch may be transferred to a foreign corporation organized under the laws of the contiguous country without the application of section 367 or 1491. Subsection (a) shall apply to the stock of such foreign corporation as if such domestic company were a mutual company and as if the stock were an item described in subsection (c). Subsection (e)(2) shall apply to amounts transferred or credited to such domestic company as if such domestic company and such foreign corporation constituted one domestic mutual life insurance company. The insurance contracts which may be transferred pursuant to this subsection shall include only those

which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.

"SEC. 815. DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT. 26 USC 815.

"(a) GENERAL RULE.—In the case of a stock life insurance company which has an existing policyholders surplus account, the tax imposed by section 801 for any taxable year shall be the amount which would be imposed by such section for such year on the sum of— *Ante*, p. 720.

"(1) life insurance company taxable income for such year (but not less than zero), plus

"(2) the amount of direct and indirect distributions during such year to shareholders from such account.

"(b) ORDERING RULE.—For purposes of this section, any distribution to shareholders shall be treated as made—

"(1) first out of the shareholders surplus account, to the extent thereof,

"(2) then out of the policyholders surplus account, to the extent thereof, and

"(3) finally, out of other accounts.

"(c) SHAREHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policyholders surplus account shall continue its shareholders surplus account for purposes of this part.

"(2) ADDITIONS TO ACCOUNT.—The amount added to the shareholders surplus account for any taxable year beginning after December 31, 1983, shall be the excess of—

"(A) the sum of—

"(i) the life insurance company's taxable income (but not below zero),

"(ii) the special deductions provided by section 806, and *Ante*, p. 724.

"(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by section 805(a)(4)) and the amount of interest excluded from gross income under section 103, over *Ante*, p. 722.

"(B) the taxes imposed for the taxable year by section 801 (determined without regard to this section). *Ante*, p. 720.

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the shareholders surplus account for any taxable year the amount which is treated under this section as distributed out of such account.

"(d) POLICYHOLDERS SURPLUS ACCOUNT.—

"(1) IN GENERAL.—Each stock life insurance company which has an existing policyholders surplus account shall continue such account.

"(2) NO ADDITIONS TO ACCOUNT.—No amount shall be added to the policyholders surplus account for any taxable year beginning after December 31, 1983.

"(3) SUBTRACTIONS FROM ACCOUNT.—There shall be subtracted from the policyholders surplus account for any taxable year an amount equal to the sum of—

"(A) the amount which (without regard to subparagraph (B)) is treated under this section as distributed out of the policyholders surplus account, and

"(B) the amount by which the tax imposed for the taxable year by section 801 is increased by reason of this section.

Ante, p. 720.

"(e) EXISTING POLICYHOLDERS SURPLUS ACCOUNT.—For purposes of this section, the term 'existing policyholders surplus account' means any policyholders surplus account which has a balance as of the close of December 31, 1983.

"(f) OTHER RULES APPLICABLE TO POLICYHOLDERS SURPLUS ACCOUNT CONTINUED.—Except to the extent inconsistent with the provisions of this part, the provisions of subsections (d), (e), (f), and (g) of section 815 (and of sections 6501(c)(6), 6501(k), 6511(d)(6), 6601(d)(3), and 6611(f)(4)) as in effect before the enactment of the Tax Reform Act of 1984 are hereby made applicable in respect of any policyholders surplus account for which there was a balance as of December 31, 1983.

Ante, p. 747.

"Subpart E—Definitions and Special Rules

"Sec. 816. Life insurance company defined.
"Sec. 817. Treatment of variable contracts.
"Sec. 818. Other definitions and special rules.

26 USC 816.

"SEC. 816. LIFE INSURANCE COMPANY DEFINED.

"(a) LIFE INSURANCE COMPANY DEFINED.—For purposes of this subtitle, the term 'life insurance company' means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable contracts of health and accident insurance, if—

"(1) its life insurance reserves (as defined in subsection (b)), plus

"(2) unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, accident, or health policies not included in life insurance reserves,

comprise more than 50 percent of its total reserves (as defined in subsection (c)). For purposes of the preceding sentence, the term 'insurance company' means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

"(b) LIFE INSURANCE RESERVES DEFINED.—

"(1) IN GENERAL.—For purposes of this part, the term 'life insurance reserves' means amounts—

"(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and

"(B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable accident and health insurance contracts (including life insurance or annuity contracts combined with noncancellable accident and health insurance) involving, at the time with respect to which the reserve is computed, life, accident, or health contingencies.

"(2) RESERVES MUST BE REQUIRED BY LAW.—Except—

"(A) in the case of policies covering life, accident, and health insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, and

"(B) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

"(3) ASSESSMENT COMPANIES.—In the case of an assessment life insurance company or association, the term 'life insurance reserves' includes—

"(A) sums actually deposited by such company or association with State officers pursuant to law as guaranty or reserve funds, and

"(B) any funds maintained, under the charter or articles of incorporation or association (or bylaws approved by a State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued on the assessment plan and not subject to any other use.

"(4) AMOUNT OF RESERVES.—For purposes of this subsection, subsection (a), and subsection (c), the amount of any reserve (or portion thereof) for any taxable year shall be the mean of such reserve (or portion thereof) at the beginning and end of the taxable year.

"(c) TOTAL RESERVES DEFINED.—For purposes of subsection (a), the term 'total reserves' means—

"(1) life insurance reserves,

"(2) unearned premiums, and unpaid losses (whether or not ascertained), not included in life insurance reserves, and

"(3) all other insurance reserves required by law.

"(d) ADJUSTMENTS IN RESERVES FOR POLICY LOANS.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, the life insurance reserves, and the total reserves, shall each be reduced by an amount equal to the mean of the aggregates, at the beginning and end of the taxable year, of the policy loans outstanding with respect to contracts for which life insurance reserves are maintained.

"(e) GUARANTEED RENEWABLE CONTRACTS.—For purposes of this part, guaranteed renewable life, accident, and health insurance shall be treated in the same manner as noncancellable life, accident, and health insurance.

"(f) AMOUNTS NOT INVOLVING LIFE, ACCIDENT, OR HEALTH CONTINGENCIES.—For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, amounts set aside and held at interest to satisfy obligations under contracts which do not contain permanent guarantees with respect to life, accident, or health contingencies shall not be included in reserves described in paragraph (1) or (3) of subsection (c).

"(g) BURIAL AND FUNERAL BENEFIT INSURANCE COMPANIES.—A burial or funeral benefit insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services shall not be taxable under this part but shall be taxable under section 821 or section 831.

26 USC 817.

"SEC. 817. TREATMENT OF VARIABLE CONTRACTS.

"(a) INCREASES AND DECREASES IN RESERVES.—For purposes of subsections (a) and (b) of section 807, the sum of the items described in section 807(c) taken into account as of the close of the taxable year with respect to any variable contract shall, under regulations prescribed by the Secretary, be adjusted—

Ante, p. 726.

"(1) by subtracting therefrom an amount equal to the sum of the amounts added from time to time (for the taxable year) to the reserves separately accounted for in accordance with subsection (c) by reason of appreciation in value of assets (whether or not the assets have been disposed of), and

"(2) by adding thereto an amount equal to the sum of the amounts subtracted from time to time (for the taxable year) from such reserves by reason of depreciation in value of assets (whether or not the assets have been disposed of).

The deduction allowable for items described in paragraphs (1) and (6) of section 805(a) with respect to variable contracts shall be reduced to the extent that the amount of such items is increased for the taxable year by appreciation (or increased to the extent that the amount of such items is decreased for the taxable year by depreciation) not reflected in adjustments under the preceding sentence.

Ante, p. 722.

"(b) ADJUSTMENT TO BASIS OF ASSETS HELD IN SEGREGATED ASSET ACCOUNT.—In the case of variable contracts, the basis of each asset in a segregated asset account shall (in addition to all other adjustments to basis) be—

"(1) increased by the amount of any appreciation in value, and

"(2) decreased by the amount of any depreciation in value, to the extent such appreciation and depreciation are from time to time reflected in the increases and decreases in reserves or other items referred to in subsection (a) with respect to such contracts.

"(c) SEPARATE ACCOUNTING.—For purposes of this part (other than section 809), a life insurance company which issues variable contracts shall separately account for the various income, exclusion, deduction, asset, reserve, and other liability items properly attributable to such variable contracts. For such items as are not accounted for directly, separate accounting shall be made—

Ante, p. 733.

"(1) in accordance with the method regularly employed by such company, if such method is reasonable, and

"(2) in all other cases, in accordance with regulations prescribed by the Secretary.

"(d) VARIABLE CONTRACT DEFINED.—For purposes of this part, the term 'variable contract' means a contract—

"(1) which provides for the allocation of all or part of the amounts received under the contract to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company,

"(2) which—

"(A) provides for the payment of annuities, or

"(B) is a life insurance contract, and

"(3) under which—

"(A) in the case of an annuity contract, the amounts paid in, or the amount paid out, reflect the investment return and the market value of the segregated asset account, or

"(B) in the case of a life insurance contract, the amount of the death benefit (or the period of coverage) is adjusted on the basis of the investment return and the market value of the segregated asset account.

If a contract ceases to reflect current investment return and current market value, such contract shall not be considered as meeting the requirements of paragraph (3) after such cessation.

"(e) PENSION PLAN CONTRACTS TREATED AS PAYING ANNUITY.—A pension plan contract which is not a life, accident, or health, property, casualty, or liability insurance contract shall be treated as a contract which provides for the payments of annuities for purposes of subsection (d).

"(f) OTHER SPECIAL RULES.—

"(1) LIFE INSURANCE RESERVES.—For purposes of subsection (b)(1)(A) of section 816, the reflection of the investment return and the market value of the segregated asset account shall be considered an assumed rate of interest.

Ante, p. 748.

"(2) ADDITIONAL SEPARATE COMPUTATIONS.—Under regulations prescribed by the Secretary, such additional separate computations shall be made, with respect to the items separately accounted for in accordance with subsection (c), as may be necessary to carry out the purposes of this section and this part.

"(g) VARIABLE ANNUITY CONTRACTS TREATED AS ANNUITY CONTRACTS.—For purposes of this part, the term 'annuity contract' includes a contract which provides for the payment of a variable annuity computed on the basis of—

"(1) recognized mortality tables, and

"(2)(A) the investment experience of a segregated asset account, or

"(B) the company-wide investment experience of the company.

Paragraph (2)(B) shall not apply to any company which issues contracts which are not variable contracts.

"(h) TREATMENT OF CERTAIN NONDIVERSIFIED CONTRACTS.—

"(1) IN GENERAL.—For purposes of subchapter L, section 72 (relating to annuities), and section 7702(a) (relating to definition of life insurance contract), a variable contract (other than a pension plan contract) which is otherwise described in this section and which is based on a segregated asset account shall not be treated as an annuity, endowment, or life insurance contract for any period (and any subsequent period) for which the investments made by such account are not, in accordance with regulations prescribed by the Secretary, adequately diversified. For purposes of this paragraph and paragraph (2), beneficial interests in a regulated investment company or in a trust shall not be treated as 1 investment if all of the beneficial interests in such company or trust are held by 1 or more segregated asset accounts of 1 or more insurance companies.

Post, p. 767.

"(2) SAFE HARBOR FOR DIVERSIFICATION.—A segregated asset account shall be treated as meeting the requirements of paragraph (1) for any quarter of a taxable year if as of the close of such quarter—

"(A) it meets the requirements of section 851(b)(4), and

"(B) no more than 55 percent of the value of the total assets of the account are assets described in section 851(b)(4)(A)(i).

"(3) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS INVESTING IN UNITED STATES OBLIGATIONS.—In the case of a segregated asset account with respect to variable life insurance contracts, paragraph (1) shall not apply in the case of securities issued by the United States Treasury which are owned by a regulated investment company or by a trust all the beneficial interests in which are held by 1 or more segregated asset accounts of the company issuing the contract.

"(4) INDEPENDENT INVESTMENT ADVISORS PERMITTED.—Nothing in this subsection shall be construed as prohibiting the use of independent investment advisors.

26 USC 818.

"SEC. 818. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) PENSION PLAN CONTRACTS.—For purposes of this part, the term 'pension plan contract' means any contract—

"(1) entered into with trusts which (as of the time the contracts were entered into) were deemed to be trusts described in section 401(a) and exempt from tax under section 501(a) (or trusts exempt from tax under section 165 of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws);

53 Stat. 67.

"(2) entered into under plans which (as of the time the contracts were entered into) were deemed to be plans described in section 403(a), or plans meeting the requirements of paragraphs (3), (4), (5), and (6) of section 165(a) of the Internal Revenue Code of 1939;

"(3) provided for employees of the life insurance company under a plan which, for the taxable year, meets the requirements of paragraphs (3), (4), (5), (6), (7), (8), (11), (12), (13), (14), (15), (16), (19), (20), and (22) of section 401(a);

"(4) purchased to provide retirement annuities for its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) (or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws), or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing;

53 Stat. 33.

"(5) entered into with trusts which (at the time the contracts were entered into) were individual retirement accounts described in section 408(a) or under contracts entered into with individual retirement annuities described in section 408(b); or

"(6) purchased by—

"(A) a governmental plan (within the meaning of section 414(d)), or

"(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A).

"(b) TREATMENT OF CAPITAL GAINS AND LOSSES, ETC.—In the case of a life insurance company—

"(1) in applying section 1231(a), the term 'property used in the trade or business' shall be treated as including only— *Post*, p. 944.

"(A) property used in carrying on an insurance business, of a character which is subject to the allowance for depreciation provided in section 167, held for more than 1 year, and real property used in carrying on an insurance business, held for more than 1 year, which is not described in section 1231(b)(1) (A), (B), or (C), and

"(B) property described in section 1231(b)(2), and

"(2) in applying section 1221(2), the reference to property used in trade or business shall be treated as including only property used in carrying on an insurance business.

"(c) GAIN ON PROPERTY HELD ON DECEMBER 31, 1958 AND CERTAIN SUBSTITUTED PROPERTY ACQUIRED AFTER 1958.—

"(1) PROPERTY HELD ON DECEMBER 31, 1958.—In the case of property held by the taxpayer on December 31, 1958, if—

"(A) the fair market value of such property on such date exceeds the adjusted basis for determining gain as of such date, and

"(B) the taxpayer has been a life insurance company at all times on and after December 31, 1958,

the gain on the sale or other disposition of such property shall be treated as an amount (not less than zero) equal to the amount by which the gain (determined without regard to this subsection) exceeds the difference between the fair market value on December 31, 1958, and the adjusted basis for determining gain as of such date.

"(2) CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 1958.—In the case of property acquired after December 31, 1958, and having a substituted basis (within the meaning of section 1016(b))—

"(A) for purposes of paragraph (1), such property shall be deemed held continuously by the taxpayer since the beginning of the holding period thereof, determined with reference to section 1223,

"(B) the fair market value and adjusted basis referred to in paragraph (1) shall be that of that property for which the holding period taken into account includes December 31, 1958,

"(C) paragraph (1) shall apply only if the property or properties the holding periods of which are taken into account were held only by life insurance companies after December 31, 1958, during the holding periods so taken into account,

"(D) the difference between the fair market value and adjusted basis referred to in paragraph (1) shall be reduced (to not less than zero) by the excess of (i) the gain that would have been recognized but for this subsection on all prior sales or dispositions after December 31, 1958, of properties referred to in subparagraph (C), over (ii) the gain which was recognized on such sales or other dispositions, and

"(E) the basis of such property shall be determined as if the gain which would have been recognized but for this subsection were recognized gain.

"(3) PROPERTY DEFINED.—For purposes of paragraphs (1) and (2), the term 'property' does not include insurance and annuity contracts and property described in paragraph (1) of section 1221.

"(d) INSURANCE OR ANNUITY CONTRACT INCLUDES CONTRACTS SUPPLEMENTARY THERETO.—For purposes of this part, the term 'insurance or annuity contract' includes any contract supplementary thereto.

"(e) SPECIAL RULE FOR CONSOLIDATED RETURNS.—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

"(f) ALLOCATION OF CERTAIN ITEMS FOR PURPOSES OF FOREIGN TAX CREDIT, ETC.—

"(1) IN GENERAL.—Under regulations, in applying sections 861, 862, and 863 to a life insurance company, the deduction for policyholder dividends (determined under section 808(c)), reserve adjustments under subsections (a) and (b) of section 807, and death benefits and other amounts described in section 805(a)(1) shall be treated as items which cannot definitely be allocated to an item or class of gross income.

Ante, p. 732.
Ante, p. 726.
Ante, p. 722.

"(2) ELECTION OF ALTERNATIVE ALLOCATION.—

"(A) IN GENERAL.—On or before September 15, 1985, any life insurance company may elect to treat items described in paragraph (1) as properly apportioned or allocated among items of gross income to the extent (and in the manner) prescribed in regulations.

"(B) ELECTION IRREVOCABLE.—Any election under subparagraph (A), once made, may be revoked only with the consent of the Secretary."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 72.

(1) Subclause (IV) of section 72(e)(5)(D)(i) is amended by striking out "section 805(d)(3)" and inserting in lieu thereof "section 818(a)(3)".

26 USC 80.

(2) Subsection (a) of section 80 (relating to restoration of value of certain securities) is amended by striking out "802" and inserting in lieu thereof "801".

26 USC 243.

(3)(A) Subparagraph (C) of section 243(b)(3) (relating to effect of election) is amended by striking out clause (iii), by adding "and" at the end of clause (ii), and by redesignating clause (iv) as clause (iii).

(B) Paragraph (6) of section 243(b) (relating to special rules for insurance companies) is amended by striking out "section 802" and inserting in lieu thereof "section 801".

26 USC 381.

(4) Subsection (d) of section 381 (relating to carryover in certain corporate acquisitions) is amended by striking out "section 812(f)" and inserting in lieu thereof "section 810".

26 USC 401.

(5) Paragraph (24) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out "section 805(d)(6)" and inserting in lieu thereof "section 818(a)(6)".

26 USC 453B.

(6)(A) Paragraph (1) of section 453B(e) (relating to life insurance companies) is amended by striking out "section 801(a)" and inserting in lieu thereof "section 816(a)".

(B) Paragraph (2) of section 453B(e) is amended to read as follows: 26 USC 453B.

"(2) SPECIAL RULE WHERE LIFE INSURANCE COMPANY ELECTS TO TREAT INCOME AS NOT RELATED TO INSURANCE BUSINESS.—Paragraph (1) shall not apply to any transfer or deemed transfer of an installment obligation if the life insurance company elects (at such time and in such manner as the Secretary may by regulations prescribe) to determine its life insurance company taxable income—

"(A) by returning the income on such installment obligation under the installment method prescribed in section 453, and

"(B) as if such income were an item attributable to a noninsurance business (as defined in section 806(c)(3))." *Ante*, p. 724.

(7) Paragraph (5) of section 542(b) (relating to certain dividend income received from a nonincludible life insurance company) is amended by striking out "section 802" and inserting in lieu thereof "section 801". 26 USC 542.

(8) Subsection (b) of section 594 (relating to alternative tax for mutual savings banks conducting life insurance business) is amended by striking out "section 801" and inserting in lieu thereof "section 816". 26 USC 594.

(9) Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out "section 801(b)" and inserting in lieu thereof "section 816(b) but determined as provided in section 807" and by striking out "section 801" and inserting in lieu thereof "section 816". 26 USC 832.

(10) Section 841 (relating to credit for foreign taxes) is amended— 26 USC 841.

(A) by striking out "section 802", each place it appears and inserting in lieu thereof "section 801", and

(B) by striking out "section 802(b)" and inserting in lieu thereof "section 801(b)".

(11)(A) Subsection (a) of section 844 (relating to special loss carryover rules) is amended— 26 USC 844.

(i) by striking out "section 812", and inserting in lieu thereof "section 810 (or the corresponding provisions of prior law),", and

(ii) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)".

(B) Subsection (b) of section 844 is amended—

(i) by striking out "section 812(a)" and inserting in lieu thereof "section 810(a)", and

(ii) by striking out "section 812(b)(1)(C)" in paragraph (2) and inserting in lieu thereof "section 810(b)(1)(C)".

(12) Section 891 (relating to doubling of rates of tax on citizens and corporations of certain foreign countries) is amended by striking out "802" and inserting in lieu thereof "801". 26 USC 891.

(13)(A) Subsection (b) of section 953 (relating to income from insurance of United States risks) is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively. 26 USC 953.

(B) Paragraph (2) of section 953(b), as redesignated by subparagraph (A), is amended to read as follows:

"(2) The following provisions of subchapter L shall not apply:

"(A) The special life insurance company deduction and the small life insurance company deduction.

Ante, p. 722.

"(B) Section 805(a)(5) (relating to operations loss deduction).

"(C) Section 832(c)(5) (relating to certain capital losses)."

Ante, p. 755.

(C) Paragraph (3) of section 953(b), as redesignated by subparagraph (A), is amended by—

(i) striking out "section 809(c)(1)" and inserting in lieu thereof "section 803(a)(1)", and

(ii) by striking out "section 809(c)(2)" and inserting in lieu thereof "section 803(a)(2)", and

(iii) by striking out "section 809(d)(2)" and inserting in lieu thereof "section 805(a)(2)".

(D) Paragraph (2) of section 953(a) is amended by striking out ", (2), and (3)" and inserting in lieu thereof "and (2)".

(E) Paragraph (4) of section 953(b), as redesignated by subparagraph (A), is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)".

26 USC 1016.

(14) Paragraph (17) of section 1016(a) is amended by striking out "section 818(b)" each place it appears and inserting in lieu thereof "section 811(b)".

26 USC 1035.

(15) Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "section 801" and inserting in lieu thereof "section 816".

26 USC 1201.

(16) Paragraph (1) of section 1201(b) (relating to cross references) is amended by striking out "section 802(a)(2)" and inserting in lieu thereof "section 801(a)(2)".

26 USC 1232A.

(17) Subparagraph (B) of section 1232A(c)(4) (relating to original issue discount) is amended by striking out "section 818(b)" and inserting in lieu thereof "section 811(b)".

26 USC 1351.

(18)(A) Paragraph (1) of section 1351(a) (relating to treatment of recoveries of foreign expropriation losses) is amended by striking out "802" each place it appears and inserting in lieu thereof "801".

(B) Paragraph (2) of section 1351(c) (relating to amount of recovery) is amended by striking out "section 810(c)" and inserting in lieu thereof "section 807(c)".

(C) Paragraph (3) of section 1351(i) (relating to adjustments for succeeding years) is amended by striking out "section 812" and inserting in lieu thereof "section 810".

26 USC 1503.

(19)(A) Subsection (c) of section 1503 (relating to special rules for application of certain losses against income of insurance companies taxed under section 802) is amended by striking out "section 802" each place it appears and inserting in lieu thereof "section 801".

(B) Paragraph (1) of section 1503(c) is amended by striking out the third sentence.

(C) The subsection heading of section 1503(c) is amended by striking out "SECTION 802" and inserting in lieu thereof "SECTION 801".

26 USC 1504.

(20) Subsections (b)(2), (c)(1), and (c)(2)(A) of section 1504 (defining affiliated group) are each amended by striking out "section 802" and inserting in lieu thereof "section 801".

26 USC 1561.

(21)(A) Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraphs (3) and (4), by adding "and" at the end of paragraph (1), and by striking out the comma

at the end of paragraph (2) and inserting in lieu thereof a period, and

(ii) by striking out "paragraphs (2), (3), and (4)" in the last sentence and inserting in lieu thereof "paragraph (2)".

(B) Subsection (b) of section 1561 is amended— 26 USC 1561.

(i) by striking out paragraphs (3) and (4) and by adding "and" at the end of paragraph (1), and

(ii) by striking out ", (2), (3), or (4)" and inserting in lieu thereof "or (2)".

(22) Subsections (a)(4) and (b)(2)(D) of section 1563 (defining controlled group of corporations) are each amended by striking out "section 802" and inserting in lieu thereof "section 801". 26 USC 1563.

(23) Paragraph (2) of section 4371 (relating to imposition of tax on policies issued by foreign insurers) is amended by striking out "section 819" and inserting in lieu thereof "section 813". 26 USC 4371.

(24)(A) Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6). 26 USC 6501.

(B) Subsection (k) of section 6501 (relating to reductions of policyholders surplus account of life insurance companies) is hereby repealed.

(25) Subsection (d) of section 6511 (relating to limitations on credit or refund) is amended by striking out paragraph (6) and by redesignating paragraph (7) as paragraph (6). 26 USC 6511.

(26) Subsection (d) of section 6601 (relating to interest on underpayments, etc.) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3). 26 USC 6601.

(27) Subsection (f) of section 6611 (relating to interest on overpayments) is amended by striking out paragraph (4). 26 USC 6611.

SEC. 212. CERTAIN REINSURANCE AGREEMENTS.

(a) IN GENERAL.—Part IV of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 845. CERTAIN REINSURANCE AGREEMENTS. 26 USC 845.

"(a) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 482) who are parties to a reinsurance agreement (or where one of the parties to a reinsurance agreement is, with respect to any contract covered by the agreement, in effect an agent of another party to such agreement or a conduit between related persons), the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement,

"(2) recharacterize any such items, or

"(3) make any other adjustment,

if he determines that such allocation, recharacterization, or adjustment is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.

"(b) REINSURANCE CONTRACT HAVING SIGNIFICANT TAX AVOIDANCE EFFECT.—If the Secretary determines that any reinsurance contract has a significant tax avoidance effect on any party to such contract, the Secretary may make proper adjustments with respect to such party to eliminate such tax avoidance effect (including treating such

contract with respect to such party as terminated on December 31 of each year and reinstated on January 1 of the next year)."

(b) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 845. Certain reinsurance agreements."

PART II—EFFECTIVE DATE; TRANSITIONAL RULES

Subpart A—Effective Date

26 USC 801 note. **SEC. 215. EFFECTIVE DATE.**

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1983.

Subpart B—Transitional Rules

26 USC 801 note. **SEC. 216. RESERVES COMPUTED ON NEW BASIS; FRESH START.**

(a) RECOMPUTATION OF RESERVES.—

(1) IN GENERAL.—As of the beginning of the first taxable year beginning after December 31, 1983, for purposes of subchapter L of the Internal Revenue Code of 1954 (other than section 816 thereof), the reserve for any contract shall be recomputed as if the amendments made by this subtitle had applied to such contract when it was issued.

26 USC 801.
Ante, p. 748.

(2) PREMIUMS EARNED.—For the first taxable year beginning after December 31, 1983, in determining "premiums earned on insurance contracts during the taxable year" as provided in section 832(b)(4) of the Internal Revenue Code of 1954, life insurance reserves which are included in unearned premiums on outstanding business at the end of the preceding taxable year shall be determined as provided in section 807 of the Internal Revenue Code of 1954, as amended by this subtitle, as though section 807 was applicable to such reserves in such preceding taxable year.

Ante, p. 726.

(3) ISSUANCE DATE FOR GROUP CONTRACTS.—For purposes of this subsection, the issuance date of any group contract shall be determined under section 807(e)(2) of the Internal Revenue Code of 1954 (as added by this subtitle), except that if such issuance date cannot be determined, the issuance date shall be determined on the basis prescribed by the Secretary of the Treasury or his delegate for purposes of this subsection.

(b) FRESH START.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of any insurance company, any change in the method of accounting (and any change in the method of computing reserves) between such company's first taxable year beginning after December 31, 1983, and the preceding taxable year which is required solely by the amendments made by this subtitle shall be treated as not being a change in the method of accounting (or change in the method of computing reserves) for purposes of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

(2) TREATMENT OF ADJUSTMENTS FROM YEARS BEFORE 1984.—

(A) ADJUSTMENTS ATTRIBUTABLE TO DECREASES IN RESERVES.—No adjustment under section 810(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) attributable to any

decrease in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in any taxable year beginning after 1983.

(B) ADJUSTMENTS ATTRIBUTABLE TO INCREASES IN RESERVES.—

(i) IN GENERAL.—Any adjustment under section 810(d) of the Internal Revenue Code of 1954 (as so in effect) attributable to an increase in reserves as a result of a change in a taxable year beginning before 1984 shall be taken into account in taxable years beginning after 1983 to the extent that—

(I) the amount of the adjustments which would be taken into account under such section in taxable years beginning after 1983 without regard to this subparagraph, exceeds

(II) the amount of any fresh start adjustment attributable to contracts for which there was such an increase in reserves as a result of such change.

(ii) FRESH START ADJUSTMENT.—For purposes of clause (i), the fresh start adjustment with respect to any contract is the excess (if any) of—

(I) the reserve attributable to such contract as of the close of the taxpayer's last taxable year beginning before January 1, 1984, over

(II) the reserve for such contract as of the beginning of the taxpayer's first taxable year beginning after 1983 as recomputed under subsection (a) of this section.

(C) RELATED INCOME INCLUSIONS NOT TAKEN INTO ACCOUNT TO THE EXTENT DEDUCTION DISALLOWED UNDER SUBPARAGRAPH (b).—No premium shall be included in income to the extent such premium is directly related to an increase in a reserve for which a deduction is disallowed by subparagraph (B).

(3) REINSURANCE TRANSACTIONS, AND RESERVE STRENGTHENING, AFTER SEPTEMBER 27, 1983.—

(A) IN GENERAL.—Paragraph (1) shall not apply (and section 807(f) of the Internal Revenue Code of 1954 as amended by this subtitle shall apply)— *Ante*, p. 726.

(i) to any reserve transferred pursuant to—

(I) a reinsurance agreement entered into after September 27, 1983, and before January 1, 1984, or

(II) a modification of a reinsurance agreement made after September 27, 1983, and before January 1, 1984, and

(ii) to any reserve strengthening reported for Federal income tax purposes after September 27, 1983, for a taxable year ending before January 1, 1984.

Clause (ii) shall not apply to the computation of reserves on any contract issued if such computation employs the reserve practice used for purposes of the most recent annual statement filed before September 27, 1983, for the type of contract with respect to which such reserves are set up.

(B) TREATMENT OF RESERVE ATTRIBUTABLE TO SECTION 818(c) ELECTION.—In the case of any reserve described in subparagraph (A), for purposes of section 807(f) of the Internal Revenue Code of 1954, any change in the treatment of

any contract to which an election under section 818(c) of such Code (as in effect on the day before the date of the enactment of this Act) applied shall be treated as a change in the basis for determining the amount of any reserve.

(C) 10-YEAR SPREAD INAPPLICABLE WHERE NO 10-YEAR SPREAD UNDER PRIOR LAW.—In the case of any item to which section 807(f) of such Code applies by reason of subparagraph (A) or (B), such item shall be taken into account for the first taxable year beginning after December 31, 1983 (in lieu of over the 10-year period otherwise provided in such section) unless the item was required to have been taken into account over a period of 10 taxable years under section 810(d) of such Code (as in effect on the day before the date of the enactment of this Act).

Ante, p. 726.

(D) DISALLOWANCE OF SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL LIFE INSURANCE COMPANY DEDUCTION.—Any amount included in income under section 807(f) of such Code by reason of subparagraph (A) or (B) (and any income attributable to expenses transferred in connection with the transfer of reserves described in subparagraph (A)) shall not be taken into account for purposes of determining the amount of special life insurance company deduction and the small life insurance company deduction.

(E) DISALLOWANCE OF DEDUCTIONS UNDER SECTION 809(d).—No deduction shall be allowed under paragraph (5) or (6) of section 809(d) of such Code (as in effect before the amendments made by this subtitle) with respect to any amount described in either such paragraph which is transferred in connection with the transfer of reserves described in subparagraph (A).

(4) ELECTIONS UNDER SECTION 818(c) AFTER SEPTEMBER 27, 1983, NOT TO TAKE EFFECT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any election after September 27, 1983, under section 818(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not take effect.

(B) EXCEPTION FOR CERTAIN CONTRACTS ISSUED UNDER PLAN OF INSURANCE FIRST FILED AFTER MARCH 1, 1982, AND BEFORE SEPTEMBER 28, 1983.—Subparagraph (A) shall not apply to any election under such section 818(c) if more than 95 percent of the reserves computed in accordance with such election are attributable to risks under life insurance contracts issued by the taxpayer under a plan of insurance first filed after March 1, 1982, and before September 28, 1983.

Ante, p. 752.

(5) RECAPTURE OF REINSURANCE AFTER DECEMBER 31, 1983.—If (A) insurance or annuity contracts in force on December 31, 1983, are subject to a conventional coinsurance agreement entered into after December 31, 1981, and before January 1, 1984, and (B) such contracts are recaptured by the reinsured in any taxable year beginning after December 31, 1983, then—

(i) if the amount of the reserves with respect to the recaptured contracts, computed at the date of recapture, that the reinsurer would have taken into account under section 810(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) exceeds the amount of the reserves with respect to the

recaptured contracts, computed at the date of recapture, taken into account by the reinsurer under section 807(c) of the Internal Revenue Code of 1954 (as amended by this subtitle), such excess (but not greater than the amount of such excess if computed on January 1, 1984) shall be taken into account by the reinsurer under the method described in section 807(f)(1)(B)(ii) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture, and

Ante, p. 726.

(ii) the amount, if any, taken into account by the reinsurer under clause (i) for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 shall be taken into account by the reinsured under the method described in section 807(f)(1)(B)(i) of the Internal Revenue Code of 1954 (as amended by this subtitle) commencing with the taxable year of recapture.

Ante, p. 720.

The excess described in clause (i) shall be reduced by any portion of such excess to which section 807(f) of the Internal Revenue Code of 1954 applies by reason of paragraph (3) of this subsection. For purposes of this paragraph, the term "reinsurer" refers to the taxpayer that held reserves with respect to the recaptured contracts as of the end of the taxable year preceding the first taxable year beginning after December 31, 1983, and the term "reinsured" refers to the taxpayer to which such reserves are ultimately transferred upon termination.

(c) ELECTION NOT TO HAVE RESERVES RECOMPUTED.—

(1) IN GENERAL.—If a qualified life insurance company makes an election under this paragraph—

(A) subsection (a) shall not apply to such company, and

(B) as of the beginning of the first taxable year beginning after December 31, 1983, and thereafter, the reserve for any contract issued before the first day of such taxable year by such company shall be the statutory reserve for such contract (within the meaning of section 809(b)(4)(B)(i) of the Internal Revenue Code of 1954).

Ante, p 733.

(2) ELECTION WITH RESPECT TO CONTRACTS ISSUED AFTER 1983 AND BEFORE 1989.—

(A) IN GENERAL.—If—

(i) a qualified life insurance company makes an election under paragraph (1), and

(ii) the tentative LICTI (within the meaning of section 806(c) of such Code) of such company for its first taxable year beginning after December 31, 1983, does not exceed $3,000,000,

Ante, p. 724.

such company may elect under this paragraph to have the reserve for any contract issued on or after the first day of such first taxable year and before January 1, 1989, be equal to the statutory reserve for such contract, adjusted as provided in subparagraph (B).

(B) ADJUSTMENT TO RESERVES.—If this paragraph applies to any contract, the statutory reserves for such contract shall be adjusted as provided under section 805(c)(1) of such Code (as in effect for taxable years beginning in 1982 and 1983), except that section 805(c)(1)(B)(ii) of such Code (as so in effect) shall be applied by substituting—

(i) the prevailing State assumed interest rate (within the meaning of section 807(c)(4) of such Code), for

Ante, p. 726.

(ii) the adjusted reserves rate.

(3) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of this subsection, the term "qualified life insurance company" means any life insurance company which, as of December 31, 1983, had assets of less than $100,000,000 (determined in the same manner as under section 806(b)(3) of such Code).

(4) SPECIAL RULES FOR CONTROLLED GROUPS.—For purposes of applying the dollar limitations of paragraphs (2) and (3), rules similar to the rules of section 806(d) of such Code shall apply.

Ante, p. 724.

(5) ELECTIONS.—Any election under paragraph (1) or (2)—

(A) shall be made at such time and in such manner as the Secretary of the Treasury may prescribe, and

(B) once made, shall be irrevocable.

SEC. 217. OTHER SPECIAL RULES.

26 USC 814 note.
Ante, p. 744.

(a) NEW SECTION 814 TREATED AS CONTINUATION OF SECTION 819A.—For purposes of section 814 of the Internal Revenue Code of 1954 (relating to contiguous country branches of domestic life insurance companies)—

(1) any election under section 819A of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as an election under such section 814, and

(2) any reference to a provision of such section 814 shall be treated as including a reference to the corresponding provision of such section 819A.

26 USC 453B note.
Ante, p. 755.

(b) TREATMENT OF ELECTIONS UNDER SECTION 453B(e)(2).—If an election is made under section 453B(e)(2) before January 1, 1984, with respect to any installment obligation, any income from such obligation shall be treated as attributable to a noninsurance business (as defined in section 806(c)(3) of the Internal Revenue Code of 1954).

Ante, p. 724.

26 USC 806 note.

(c) DETERMINATION OF TENTATIVE LICTI WHERE CORPORATION MADE CERTAIN ACQUISITIONS IN 1980, 1981, 1982, AND 1983.—If—

(1) a corporation domiciled or having its principal place of business in Alabama, Arkansas, Oklahoma, or Texas acquired the assets of 1 or more insurance companies after 1979 and before April 1, 1983, and

(2) the bases of such assets in the hands of the corporation were determined under section 334(b)(2) of the Internal Revenue Code of 1954 or such corporation made an election under section 338 of such Code with respect to such assets,

then the tentative LICTI of the corporation holding such assets for taxable years beginning after December 31, 1983, shall, for purposes of determining the amount of the special deductions under section 806 of such Code, be increased by the deduction allowable under chapter 1 of such Code for the amortization of the cost of insurance contracts acquired in such asset acquisition (and any portion of any operations loss deduction attributable to such amortization).

26 USC 845 note.

(d) EFFECTIVE DATE FOR NEW SECTION 845.—

(1) Subsection (a) of section 845 of the Internal Revenue Code of 1954 (as added by this title) shall apply with respect to any risk reinsured on or after September 27, 1983.

Ante, p. 757.

(2) Subsection (b) of section 845 of such Code (as so added) shall apply with respect to risks reinsured after December 31, 1984.

26 USC 801 note.

(e) TREATMENT OF CERTAIN COMPANIES OPERATING BOTH AS STOCK AND MUTUAL COMPANY.—If, during the 10-year period ending on

December 31, 1983, a company has, as authorized by the law of the State in which the company is domiciled, been operating as a mutual life insurance company with shareholders, such company shall be treated as a stock life insurance company.

(f) TREATMENT OF CERTAIN ASSESSMENT LIFE INSURANCE COMPANIES.— 26 USC 807 note.

(1) MORTALITY AND MORBIDITY TABLES.—In the case of a contract issued by an assessment life insurance company, the mortality and morbidity tables used in computing statutory reserves for such contract shall be used for purposes of paragraph (2)(C) of section 807(d) of the Internal Revenue Code of 1954 (as amended by this subtitle) if such tables were— *Ante*, p. 726.

(A) in use since 1965, and

(B) developed on the basis of the experience of assessment life insurance companies in the State in which such assessment life insurance company is domiciled.

(2) TREATMENT OF CERTAIN MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES.—In the case of any contract issued by a mutual assessment life insurance company which—

(A) has been in existence since 1965, and

(B) operates under chapter 13 or 14 of the Texas Insurance Code,

for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the amount of the life insurance reserves for such contract shall be equal to the amount taken into account with respect to such contract in determining statutory reserves. *Ante*, p. 720.

(3) STATUTORY RESERVES.—For purposes of this subsection, the term "statutory reserves" has the meaning given to such term by section 809(b)(4)(B) of such Code. *Ante*, p. 733.

(g) TREATMENT OF REINSURANCE AGREEMENTS REQUIRED BY NAIC.—Effective for taxable years beginning after December 31, 1981, and before January 1, 1984, subsections (c)(1)(F) and (d)(12) of section 809 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall not apply to dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of accident and health policies reinsured under a reinsurance agreement entered into before June 30, 1955, pursuant to the direction of the National Association of Insurance Commissioners and approved by the State insurance commissioner of the taxpayer's State of domicile. For purposes of subchapter L of chapter 1 of such Code (as in effect on the day before the date of the enactment of this Act) any such dividends shall be treated as dividends of the reinsurer and not the taxpayer. 26 USC 801 note.

(h) DETERMINATION OF ASSETS OF CONTROLLED GROUP FOR PURPOSES OF SMALL LIFE INSURANCE COMPANY DEDUCTION FOR 1984.— 26 USC 806 note.

(1) IN GENERAL.—For purposes of applying paragraph (2) of section 806(d) of the Internal Revenue Code of 1954 (relating to nonlife insurance members included for asset test) for the first taxable year beginning after December 31, 1983, the members of the controlled group referred to in such paragraph shall be treated as including only those members of such group which are described in paragraph (2) of this subsection if— *Ante*, p. 724.

(A) an election under section 1504(c)(2) of such Code is not in effect for the controlled group for such taxable year,

(B) during such taxable year, the controlled group does not include a member which is taxable under part I of

Ante, p. 720.

subchapter L of chapter 1 of such Code and which became a member of such group after September 27, 1983, and

(C) the sum of the contributions to capital received by members of the controlled group which are taxable under such part I during such taxable year from the members of the controlled group which are not taxable under such part does not exceed the aggregate dividends paid during such taxable year by the members of such group which are taxable under such part I.

(2) MEMBERS OF GROUP TAKEN INTO ACCOUNT.—For purposes of paragraph (1), the members of the controlled group which are described in this paragraph are—

(A) any financial institution to which section 585 or 593 of such Code applies,

(B) any lending or finance business (as defined by section 542(d)),

(C) any insurance company subject to tax imposed by subchapter L of chapter 1 of such Code, and

(D) any securities broker.

26 USC 816 note.

(i) SPECIAL ELECTION TO TREAT INDIVIDUAL NONCANCELLABLE ACCIDENT AND HEALTH CONTRACTS AS CANCELLABLE.—

(1) IN GENERAL.—A mutual life insurance company may elect to treat all individual noncancellable (or guaranteed renewable) accident and health insurance contracts as though they were cancellable for purposes of section 816 of subchapter L of chapter 1 of the Internal Revenue Code of 1954.

Ante, p. 748.

(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—

(A) TREATED AS MUTUAL LIFE INSURANCE COMPANY.—Any stock life insurance company which is a member of an affiliated group which has a common parent which made an election under paragraph (1), for purposes of part I of subchapter L of the Internal Revenue Code of 1954, such stock life insurance company shall be treated as though it were a mutual life insurance company.

Ante, p. 720.

(B) INCOME OF ELECTING PARENT TAKEN INTO ACCOUNT IN DETERMINING SMALL LIFE INSURANCE COMPANY DEDUCTION OF ANY SUBSIDIARY.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phase-out of small life insurance company deduction).

Ante, p. 724.

(3) ELECTION.—An election under paragraph (1) shall apply to the company's first taxable year beginning after December 31, 1983, and all taxable years thereafter.

(4) TIME AND MANNER.—An election under paragraph (1) shall be made—

(A) on the return of the taxpayer for its first taxable year beginning after December 31, 1983, and

(B) in such manner as the Secretary of the Treasury or his delegate may prescribe.

26 USC 809 note.

(j) REDUCTION IN EQUITY BASE FOR MUTUAL SUCCESSOR OF FRATERNAL BENEFIT SOCIETY.—In the case of any mutual life insurance company which—

(1) is the successor to a fraternal benefit society, and

(2) which assumed the surplus of such fraternal benefit society in 1950 or in March of 1961,

for purposes of section 809 of the Internal Revenue Code of 1954 (as amended by this subtitle), the equity base of such mutual life insurance company shall be reduced by the amount of the surplus so assumed plus earnings thereon, (i) for taxable years before 1984, at a 7 percent interest rate, and (ii) for taxable years 1984 and following, at the average mutual earnings rate for such year.

Ante, p. 733.

(k) SPECIAL RULE FOR CERTAIN DEBT-FINANCED ACQUISITION OF STOCK.—If— 26 USC 806 note.

(1) a life insurance company owns the stock of another corporation through a partnership of which it is a partner,

(2) the stock of the corporation was acquired on January 14, 1981, and

(3) such stock was acquired by debt financing,

then, for purposes of determining the special deductions under section 806 of the Internal Revenue Code of 1954 (as amended by this subtitle), the amount of tentative LICTI of such life insurance company shall be computed without taking into account any income, gain, loss, or deduction attributable to the ownership of such stock.

Ante, p. 724.

(l) TREATMENT OF LOSSES FROM CERTAIN GUARANTEED INTEREST CONTRACTS.— 26 USC 806 note.

(1) IN GENERAL.—For purposes of determining the amount of the special deductions under section 806 of the Internal Revenue Code of 1954 (as amended by this subtitle), for any taxable year beginning before January 1, 1988, the amount of tentative LICTI of any qualified life insurance company shall be computed without taking into account any income, gain, loss, or deduction attributable to a qualified GIC.

(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of this subsection, the term "qualified life insurance company" means any life insurance company if—

(A) the accrual of discount less amortization of premium for bonds and short-term investments (as shown in the first footnote to Exhibit 3 of its 1983 annual statement for life insurance companies approved by the National Association of Insurance Commissioners (but excluding separate accounts) filed in its State of domicile) exceeds $72,000,000 but does not exceed $73,000,000, and

(B) such life insurance company makes an election under this subsection on its return for its first taxable year beginning after December 31, 1983.

(3) QUALIFIED GIC.—The term "qualified GIC" means any group contract—

(A) which is issued before January 1, 1984,

(B) which specifies the contract maturity or renewal date,

(C) under which funds deposited by the contract holder plus interest guaranteed at the inception of the contract for the term of the contract and net of any specified expenses are paid as directed by the contract holder, and

(D) which is a pension plan contract (as defined in section 818(a) of the Internal Revenue Code of 1954).

Ante, p. 752.

(4) SCOPE OF ELECTION.—An election under this subsection shall apply to all qualified GIC's of a qualified life insurance company. Any such election, once made, shall be irrevocable.

(5) INCOME ON UNDERLYING ASSETS TAKEN INTO ACCOUNT.—In determining the amount of any income attributable to a quali-

fied GIC, income on any asset attributable to such contract (as determined in the manner provided by the Secretary of the Treasury or his delegate) shall be taken into account.

(6) LIMITATION ON TAX BENEFIT.—The amount of any reduction in tax for any taxable year by reason of this subsection for any qualified life insurance company (or controlled group within the meaning of section 806(d)(3) of the Internal Revenue Code of 1954) shall not exceed the applicable amount set forth in the following table:

Ante, p. 724.

In the case of taxable years beginning in:	The reduction may not exceed:
1984	$4,500,000
1985	$4,500,000
1986	$3,000,000
1987	$2,000,000

26 USC 806 note.

(m) SPECIAL RULE FOR CERTAIN INTERESTS IN OIL AND GAS PROPERTIES.—

(1) IN GENERAL.—For purposes of section 806 of the Internal Revenue Code of 1954, the ownership by a qualified life insurance company of any undivided interest in operating mineral interests with respect to any oil or gas properties held on December 31, 1983, shall be treated as an insurance business.

(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term "qualified life insurance company" means a mutual life insurance company which—

(A) was originally incorporated in March of 1857, and

(B) has a cost to such company (as of December 31, 1983) in the operating mineral interests described in paragraph (1) in excess of $250,000,000.

26 USC 807 note.

(n) SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—A company shall be treated as meeting the requirement of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1954, as amended by this Act, with respect to any noncancellable accident and health insurance contract for any taxable year if such company—

Ante, p. 726.

(1) uses the net level reserve method to compute its tax reserves under section 807 of such Code on such contracts for such taxable year,

(2) was using the net level reserve method to compute its statutory reserves on such contracts as of December 31, 1982, and

(3) has continuously used such method for computing such reserves on such contracts after December 31, 1982, and through such taxable year.

26 USC 6655 note.

SEC. 218. UNDERPAYMENTS OF ESTIMATED TAX FOR 1984.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated tax) with respect to any underpayment of an installment required to be paid before the date of the enactment of this Act to the extent—

(1) such underpayment was created or increased by any provision of this subtitle, and

(2) such underpayment is paid in full on or before the last date prescribed for payment of the first installment of estimated tax required to be paid after the date of the enactment of this Act.

SEC. 219. CLARIFICATION OF AUTHORITY TO REQUIRE CERTAIN INFORMATION. 26 USC 809 note.

Nothing in any provision of law shall be construed to prevent the Secretary of the Treasury or his delegate from requiring (from time to time) life insurance companies to provide such data with respect to taxable years beginning before January 1, 1984, as may be necessary to carry out the provisions of section 809 of such Code (as added by this title). *Ante*, p. 733.

Subtitle B—Taxation of Life Insurance Products

SEC. 221. DEFINITION OF LIFE INSURANCE CONTRACT.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7702. LIFE INSURANCE CONTRACT DEFINED. 26 USC 7702.

"(a) GENERAL RULE.—For purposes of this title, the term 'life insurance contract' means any contract which is a life insurance contract under the applicable law, but only if such contract—

"(1) meets the cash value accumulation test of subsection (b), or

"(2)(A) meets the guideline premium requirements of subsection (c), and

"(B) falls within the cash value corridor of subsection (d).

"(b) CASH VALUE ACCUMULATION TEST FOR SUBSECTION (a)(1).—

"(1) IN GENERAL.—A contract meets the cash value accumulation test of this subsection if, by the terms of the contract, the cash surrender value of such contract may not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

"(2) RULES FOR APPLYING PARAGRAPH (1).—Determinations under paragraph (1) shall be made—

"(A) on the basis of interest at the greater of an annual effective rate of 4 percent or the rate or rates guaranteed on issuance of the contract,

"(B) on the basis of the rules of subparagraph (B)(i) (and, in the case of qualified additional benefits, subparagraph (B)(ii)) of subsection (c)(3), and

"(C) by taking into account under subparagraphs (A) and (C) of subsection (e)(1) only current and future death benefits and qualified additional benefits.

"(c) GUIDELINE PREMIUM REQUIREMENTS.—For purposes of this section—

"(1) IN GENERAL.—A contract meets the guideline premium requirements of this subsection if the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time.

"(2) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(A) the guideline single premium, or

"(B) the sum of the guideline level premiums to such date.

"(3) GUIDELINE SINGLE PREMIUM.—

"(A) IN GENERAL.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract.

"(B) BASIS ON WHICH DETERMINATION IS MADE.—The determination under subparagraph (A) shall be based on—

"(i) the mortality charges specified in the contract (or, if none is specified, the mortality charges used in determining the statutory reserves for such contract),

"(ii) any charges (not taken into account under clause (i)) specified in the contract (the amount of any charge not so specified shall be treated as zero), and

"(iii) interest at the greater of an annual effective rate of 6 percent or the rate or rates guaranteed on issuance of the contract.

"(C) WHEN DETERMINATION MADE.—Except as provided in subsection (f)(7), the determination under subparagraph (A) shall be made as of the time the contract is issued.

"(4) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over a period not ending before the insured attains age 95, computed on the same basis as the guideline single premium, except that paragraph (3)(B)(iii) shall be applied by substituting '4 percent' for '6 percent'.

"(d) CASH VALUE CORRIDOR FOR PURPOSES OF SUBSECTION (a)(2)(B).—For purposes of this section—

"(1) IN GENERAL.—A contract falls within the cash value corridor of this subsection if the death benefit under the contract at any time is not less than the applicable percentage of the cash surrender value.

"(2) APPLICABLE PERCENTAGE.—

"In the case of an insured with an attained age as of the beginning of the contract year of:		The applicable percentage shall decrease by a ratable portion for each full year:	
More than:	But not more than:	From:	To:
0	40	250	250
40	45	250	215
45	50	215	185
50	55	185	150
55	60	150	130
60	65	130	120
65	70	120	115
70	75	115	105
75	90	105	105
90	95	105	100.

"(e) COMPUTATIONAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) the death benefit (and any qualified additional benefit) shall be deemed not to increase,

"(B) the maturity date, including the date on which any benefit described in subparagraph (C) is payable, shall be no earlier than the day on which the insured attains age 95, and no later than the day on which the insured attains age 100, and

"(C) the amount of any endowment benefit (or sum of endowment benefits, including any cash surrender value on the maturity date described in subparagraph (B)) shall be deemed not to exceed the least amount payable as a death benefit at any time under the contract.

"(2) LIMITED INCREASES IN DEATH BENEFIT PERMITTED.—Notwithstanding paragraph (1)(A)—

"(A) for purposes of computing the guideline level premium, an increase in the death benefit which is provided in the contract may be taken into account but only to the extent necessary to prevent a decrease in the excess of the death benefit over the cash surrender value of the contract, and

"(B) for purposes of the cash value accumulation test, the increase described in subparagraph (A) may be taken into account if the contract will meet such test at all times assuming that the net level reserve (determined as if level annual premiums were paid for the contract over a period not ending before the insured attains age 95) is substituted for the net single premium.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PREMIUMS PAID.—

"(A) IN GENERAL.—The term 'premiums paid' means the premiums paid under the contract less amounts (other than amounts includible in gross income) to which section 72(e) applies and less any other amounts received with respect to the contract which are specified in regulations.

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED TO POLICYHOLDER.—If, in order to comply with the requirements of subsection (a)(2)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) CASH VALUES.—

"(A) CASH SURRENDER VALUE.—The cash surrender value of any contract shall be its cash value determined without regard to any surrender charge, policy loan, or reasonable termination dividends.

"(B) NET SURRENDER VALUE.—The net surrender value of any contract shall be determined with regard to surrender charges but without regard to any policy loan.

"(3) DEATH BENEFIT.—The term 'death benefit' means the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefits).

"(4) FUTURE BENEFITS.—The term 'future benefits' means death benefits and endowment benefits.

"(5) QUALIFIED ADDITIONAL BENEFITS.—

"(A) IN GENERAL.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death or disability benefit,

"(iii) family term coverage,

"(iv) disability waiver benefit, or

"(v) other benefit prescribed under regulations.

"(B) TREATMENT OF QUALIFIED ADDITIONAL BENEFITS.—For purposes of this section, qualified additional benefits shall not be treated as future benefits under the contract, but the charges for such benefits shall be treated as future benefits.

"(C) TREATMENT OF OTHER ADDITIONAL BENEFITS.—In the case of any additional benefit which is not a qualified additional benefit—

"(i) such benefit shall not be treated as a future benefit, and

"(ii) any charge for such benefit which is not prefunded shall not be treated as a premium.

"(6) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of subsection (a)(2) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract on or before the end of the contract year (but only if the contract will have no cash surrender value at the end of such extension period).

"(7) ADJUSTMENTS.—

"(A) IN GENERAL.—In the event of a change in the future benefits or any qualified additional benefit (or in any other terms) under the contract which was not reflected in any previous determination made under this section, under regulations prescribed by the Secretary, there shall be proper adjustments in future determinations made under this section.

"(B) CERTAIN CHANGES TREATED AS EXCHANGE.—In the case of any change which reduces the future benefits under the contract, such change shall be treated as an exchange of the contract for another contract.

"(8) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(A) the requirements described in subsection (a) for any contract year were not satisfied due to reasonable error, and

"(B) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements.

"(9) SPECIAL RULE FOR VARIABLE LIFE INSURANCE CONTRACTS.—In the case of any contract which is a variable contract (as defined in section 817), the determination of whether such contract meets the requirements of subsection (a) shall be made whenever the death benefits under such contract change but not less frequently than once during each 12-month period.

Ante, p. 750.

"(g) TREATMENT OF CONTRACTS WHICH DO NOT MEET SUBSECTION (a) TEST.—

"(1) INCOME INCLUSION.—

"(A) IN GENERAL.—If at any time any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the income on the contract for any taxable year of

the policyholder shall be treated as ordinary income received or accrued by the policyholder during such year.

"(B) INCOME ON THE CONTRACT.—For purposes of this paragraph, the term 'income on the contract' means, with respect to any taxable year of the policyholder, the excess of—

"(i) the sum of—

"(I) the increase in the net surrender value of the contract during the taxable year, and

"(II) the cost of life insurance protection provided under the contract during the taxable year, over

"(ii) the amount of premiums paid under the contract during the taxable year reduced by any policyholder dividends received during such taxable year.

"(C) CONTRACTS WHICH CEASE TO MEET DEFINITION.—If, during any taxable year of the policyholder, a contract which is a life insurance contract under the applicable law ceases to meet the definition of life insurance contract under subsection (a), the income on the contract for all prior taxable years shall be treated as received or accrued during the taxable year in which such cessation occurs.

"(D) COST OF LIFE INSURANCE PROTECTION.—For purposes of this paragraph, the cost of life insurance protection provided under the contract shall be the lesser of—

"(i) the cost of individual insurance on the life of the insured as determined on the basis of uniform premiums (computed on the basis of 5-year age brackets) prescribed by the Secretary by regulations, or

"(ii) the mortality charge (if any) stated in the contract.

"(2) TREATMENT OF AMOUNT PAID ON DEATH OF INSURED.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), the excess of the amount paid by the reason of the death of the insured over the net surrender value of the contract shall be deemed to be paid under a life insurance contract for purposes of section 101 and subtitle B.

26 USC 2001.

"(3) CONTRACT CONTINUES TO BE TREATED AS INSURANCE CONTRACT.—If any contract which is a life insurance contract under the applicable law does not meet the definition of life insurance contract under subsection (a), such contract shall, notwithstanding such failure, be treated as an insurance contract for purposes of this title.

"(h) ENDOWMENT CONTRACTS RECEIVE SAME TREATMENT.—

"(1) IN GENERAL.—References in subsections (a) and (g) to a life insurance contract shall be treated as including references to a contract which is an endowment contract under the applicable law.

"(2) DEFINITION OF ENDOWMENT CONTRACT.—For purposes of this title (other than paragraph (1)), the term 'endowment contract' means a contract which is an endowment contract under the applicable law and which meets the requirements of subsection (a).

"(i) TRANSITIONAL RULE FOR CERTAIN 20-PAY CONTRACTS.—

"(1) IN GENERAL.—In the case of a qualified 20-pay contract, this section shall be applied by substituting '3 percent' for '4 percent' in subsection (b)(2).

"(2) QUALIFIED 20-PAY CONTRACT.—For purposes of paragraph (1), the term 'qualified 20-pay contract' means any contract which—

"(A) requires at least 20 nondecreasing annual premium payments, and

"(B) is issued pursuant to an existing plan of insurance.

"(3) EXISTING PLAN OF INSURANCE.—For purposes of this subsection, the term 'existing plan of insurance' means, with respect to any contract, any plan of insurance which was filed by the company issuing such contract in 1 or more States before September 28, 1983, and is on file in the appropriate State for such contract.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) 1-YEAR EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—

26 USC 101 note.

(1) IN GENERAL.—Paragraph (1) of section 266(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "January 1, 1984" and inserting in lieu thereof "January 1, 1985".

26 USC 101.

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 101(f) is amended by striking out "flexible premium life insurance contract" and inserting in lieu thereof "flexible premium life insurance contract issued before January 1, 1985".

(B) The subsection heading of subsection (f) of section 101 is amended by striking out "FLEXIBLE PREMIUM CONTRACTS" and inserting in lieu thereof "FLEXIBLE PREMIUM CONTRACTS ISSUED BEFORE JANUARY 1, 1985".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7702. Life insurance contract defined.".

26 USC 7702 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts issued after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN CONTRACTS ISSUED AFTER JUNE 30, 1984.—

(A) GENERAL RULE.—Except as otherwise provided in this paragraph, the amendments made by this section shall apply also to any contract issued after June 30, 1984, which provides an increasing death benefit and has premium funding more rapid that 10-year level premium payments.

(B) EXCEPTION FOR CERTAIN CONTRACTS.—Subparagraph (A) shall not apply to any contract if—

(i) such contract (whether or not a flexible premium contract) would meet the requirements of section 101(f) of the Internal Revenue Code of 1954,

(ii) such contract is not a flexible premium life insurance contract (within the meaning of section 101(f) of such Code) and would meet the requirements of section 7702 of such Code determined by—

(I) substituting "3 percent" for "4 percent" in section 7702(b)(2) of such Code, and

(II) treating subparagraph (B) of section 7702(e)(1) of such Code as if it read as follows: "the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95", or

Ante, p. 767.

(iii) under such contract—

(I) the premiums (including any policy fees) will be adjusted from time-to-time to reflect the level amount necessary (but not less than zero) at the time of such adjustment to provide a level death benefit assuming interest crediting and an annual effective interest rate of not less than 3 percent, or

(II) at the option of the insured, in lieu of an adjustment under subclause (I) there will be a comparable adjustment in the amount of the death benefit.

(C) CERTAIN CONTRACTS ISSUED BEFORE OCTOBER 1, 1984.—

(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting "September 30, 1984" for "June 30, 1984" in clause (i) thereof in the case of a contract—

(I) which would meet the requirements of section 7702 of such Code if "3 percent" were substituted for "4 percent" in section 7702(b)(2) of such Code, and the rate or rates guaranteed on issuance of the contract were determined without regard to any mortality charges, and

(II) the cash surrender value of which does not at any time exceed the net single premium which would have to be paid at such time to fund future benefits under the contract.

(ii) DEFINITIONS.—For purposes of clause (i)—

(I) IN GENERAL.—Except as provided in subclause (II), terms used in clause (i) shall have the same meanings as when used in section 7702 of such Code.

(II) NET SINGLE PREMIUM.—The term "net single premium" shall be determined by substituting "3 percent" for "4 percent" in section 7702(b)(2) of such Code, by using the 1958 standard ordinary mortality and morbidity tables of the National Association of Insurance Commissioners, and by assuming a level death benefit.

(3) TRANSITIONAL RULE FOR CERTAIN EXISTING PLANS OF INSURANCE.—A plan of insurance on file in 1 or more States before September 28, 1983, shall be treated for purposes of section 7702(i)(3) of such Code as a plan of insurance on file in 1 or more States before September 28, 1983, without regard to whether such plan of insurance is modified after September 28, 1983, to permit the crediting of excess interest or similar amounts annually and not monthly under contracts issued pursuant to such plan of insurance.

(4) EXTENSION OF FLEXIBLE PREMIUM CONTRACT PROVISIONS.—The amendments made by subsection (b) shall take effect on January 1, 1984.

(5) SPECIAL RULE FOR MASTER CONTRACT.—For purposes of this subsection, in the case of a master contract, the date taken into

account with respect to any insured shall be the first date on which such insured is covered under such contract.

SEC. 222. TREATMENT OF CERTAIN ANNUITY CONTRACTS.

26 USC 72.

(a) PENALTY ON PREMATURE DISTRIBUTIONS.—Paragraph (1) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

"(1) IMPOSITION OF PENALTY.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount which is includible in gross income."

(b) REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ENTIRE INTEREST IS DISTRIBUTED.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (s) and subsection (t) and by inserting after subsection (r) the following new subsection:

"(s) REQUIRED DISTRIBUTIONS WHERE HOLDER DIES BEFORE ENTIRE INTEREST IS DISTRIBUTED.—

"(1) IN GENERAL.—A contract shall not be treated as an annuity contract for purposes of this title unless it provides that—

"(A) if the holder of such contract dies on or after the annuity starting date and before the entire interest in such contract has been distributed, the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used as of the date of his death, and

"(B) if the holder of such contract dies before the annuity starting date, the entire interest in such contract will be distributed within 5 years after the death of such holder.

"(2) EXCEPTION FOR CERTAIN AMOUNTS PAYABLE OVER LIFE OF BENEFICIARY.—If—

"(A) any portion of the holder's interest is payable to (or for the benefit of) a designated beneficiary,

"(B) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

"(C) such distributions begin not later than 1 year after the date of the holder's death or such later date as the Secretary may by regulations prescribe,

then for purposes of paragraph (1), the portion referred to in subparagraph (A) shall be treated as distributed on the day on which such distributions begin.

"(3) SPECIAL RULE WHERE SURVIVING SPOUSE BENEFICIARY.—If the designated beneficiary referred to in paragraph (2)(A) is the surviving spouse of the holder of the contract, paragraphs (1) and (2) shall be applied by treating such spouse as the holder of such contract.

"(4) DESIGNATED BENEFICIARY.—For purposes of this subsection, the term 'designated beneficiary' means any individual designated a beneficiary by the holder of the contract."

26 USC 72 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after the day which is 6 months after

the date of the enactment of this Act in taxable years ending after such date.

(2) TRANSITIONAL RULES FOR CONTRACTS ISSUED BEFORE EFFECTIVE DATE.—In the case of any contract (other than a single premium contract) which is issued on or before the day which is 6 months after the date of the enactment of this Act, for purposes of section 72(q)(1)(A) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act), any investment in such contract which is made during any calendar year shall be treated as having been made on January 1 of such calendar year.

SEC. 223. GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) SECTION 79 EXTENDED TO FORMER EMPLOYEES.— 26 USC 79.

(1) Section 79 (relating to group-term insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

"(e) EMPLOYEE INCLUDES FORMER EMPLOYEE.—For purposes of this section, the term 'employee' includes a former employee."

(2) Paragraph (1) of section 79(b) is amended to read as follows:

"(1) the cost of group-term life insurance on the life of an individual which is provided under a policy carried directly or indirectly by an employer after such individual has terminated his employment with such employer and is disabled (within the meaning of section 72(m)(7)),".

(b) AMOUNT OF INCLUSION IN CASE OF DISCRIMINATORY PLANS.—Paragraph (1) of section 79(d) (relating to nondiscrimination requirements) is amended to read as follows:

"(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan—

"(A) subsection (a)(1) shall not apply with respect to any key employee, and

"(B) the cost of group-term life insurance on the life of any key employee shall be determined without regard to subsection (c)."

(c) CLARIFICATION OF COORDINATION WITH SECTION 83.—Subsection (e) of section 83 (relating to application of section) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", or", and by adding at the end thereof the following new paragraph: 26 USC 83.

"(5) the cost of group-term life insurance to which section 79 applies.".

(d) EFFECTIVE DATE.— 26 USC 79 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1983.

(2) INCLUSION OF FORMER EMPLOYEES IN THE CASE OF EXISTING GROUP-TERM INSURANCE PLANS.—

(A) IN GENERAL.—The amendments made by subsection (a) shall not apply—

(i) to any group-term life insurance plan of the employer in existence on January 1, 1984, or

(ii) to any group-term life insurance plan of the employer (or a successor employer) which is a comparable successor to a plan described in clause (i),

but only with respect to an individual who attained age 55 on or before January 1, 1984, and either was employed by such employer at any time during 1983 or retired from employment with such employer on or before January 1, 1984.

(B) SPECIAL RULE IN THE CASE OF DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—In the case of any plan which, after December 31, 1986, is a discriminatory group-term life insurance plan (as defined in section 79(d) of the Internal Revenue Code of 1954), subparagraph (A) shall not apply in the case of any individual retiring under such plan after December 31, 1986.

(C) BENEFITS TO CERTAIN RETIRED INDIVIDUALS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING WHETHER PLAN IS DISCRIMINATORY.—For purposes of determining whether after December 31, 1986, a plan described in subparagraph (A) meets the requirements of section 79(d) of the Internal Revenue Code of 1954 with respect to group-term life insurance for former employees, coverage provided to employees who retired on or before December 31, 1986, shall not be taken into account.

SEC. 224. TREATMENT OF CERTAIN EXCHANGES OF INSURANCE POLICIES.

26 USC 1035.

(a) GENERAL RULE.—Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "a life insurance company as defined in section 801" and inserting in lieu thereof "an insurance company subject to tax under subchapter L".

26 USC 1035 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all exchanges whether before, on, or after the date of the enactment of this Act.

Subtitle C—Studies

26 USC 801 note.

SEC. 231. STUDIES.

(a) REVENUE REPORTS.—Not later than July 1, 1985, and July 1 of each calendar year thereafter, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

Ante, p. 720.

(1) the aggregate amount of revenue received under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 for the most recent taxable years for which data are available,

26 USC 1 note.

(2) a comparison between the amount of such revenue and the amount anticipated by reason of changes made by the Tax Equity and Fiscal Responsibility Act of 1982 or the Life Insurance Tax Act of 1984, and

(3) the reasons for any difference between such aggregate revenues and anticipated revenues.

(b) REPORT WITH RESPECT TO SEGMENT BALANCE, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury (in consultation with the Joint Committee on Taxation, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate) shall conduct a full and complete study of the operation of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1954 during 1984, 1985, and 1986. Such study shall also include an analysis of life

insurance products and the taxation thereof. Such study shall also include an analysis of whether part I of such subchapter L operates as a disincentive to growing companies.

(2) ITEMS TO BE INCLUDED.—The study conducted under paragraph (1) shall include—

(A) an analysis of the portion of the taxes paid by mutual life insurance companies and stock life insurance companies, and

(B) any other data considered relevant by either stock life insurance companies or mutual life insurance companies in determining appropriate segment balance, such as the respective amounts of the following items held by each segment of the industry—

(i) equity,

(ii) life insurance reserves,

(iii) other types of reserves,

(iv) dividends paid to policyholders and shareholders,

(v) pension business,

(vi) total assets, and

(vii) gross receipts.

Such report shall also include an analysis of the extent to which taxes paid by stockholders of life insurance companies shall be included in analyzing segment balance.

(3) REPORTS.—

(A) INTERIM REPORTS.—The Secretary of the Treasury shall submit interim reports on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1986, 1987, and 1988.

(B) FINAL REPORT.—Not later than January 1, 1989, the Secretary of the Treasury shall submit a final report on the study conducted under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(c) AUTHORITY TO REQUIRE DATA.—The Secretary of the Treasury shall have authority to require reporting of such data with respect to life insurance companies and their products as may be necessary to carry out the purposes of this section.

TITLE III—REVISION OF PRIVATE FOUNDATION PROVISIONS

SEC. 301. LIMITATIONS ON DEDUCTION FOR CONTRIBUTIONS TO PRIVATE FOUNDATIONS.

(a) INCREASE IN PERCENTAGE LIMITATION FOR INDIVIDUALS.—

(1) IN GENERAL.—Clause (i) of section 170(b)(1)(B) (relating to percentage limitations for individuals) is amended by striking out "20 percent" and inserting in lieu thereof "30 percent". 26 USC 170.

(2) CARRYOVER OF EXCESS CONTRIBUTIONS.—Subparagraph (B) of section 170(b)(1) is amended by adding at the end thereof the following new sentence:

"If the aggregate of such contributions exceeds the limitation of the preceding sentence, such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution (to which subparagraph (A)

does not apply) in each of the 5 succeeding taxable years in order of time."

(b) DEDUCTION ALLOWED FOR FULL FAIR MARKET VALUE OF CERTAIN STOCK CONTRIBUTED TO PRIVATE FOUNDATIONS.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

26 USC 170.

"(5) SPECIAL RULE FOR CONTRIBUTIONS OF STOCK FOR WHICH MARKET QUOTATIONS ARE READILY AVAILABLE.—

"(A) IN GENERAL.—Subparagraph (B)(ii) of paragraph (1) shall not apply to any contribution of qualified appreciated stock.

"(B) QUALIFIED APPRECIATED STOCK.—Except as provided in subparagraph (C), for purposes of this paragraph, the term 'qualified appreciated stock' means any stock of a corporation—

"(i) for which (as of the date of the contribution) market quotations are readily available on an established securities market, and

"(ii) which is capital gain property (as defined in subsection (b)(1)(C)(iv)).

"(C) DONOR MAY NOT CONTRIBUTE MORE THAN 10 PERCENT OF STOCK OF CORPORATION.—

"(i) IN GENERAL.—In the case of any donor, the term 'qualified appreciated stock' shall not include any stock of a corporation contributed by the donor in a contribution to which paragraph (1)(B)(ii) applies (determined without regard to this paragraph) to the extent that the amount of the stock so contributed (when increased by the aggregate amount of all prior such contributions by the donor of stock in such corporation) exceeds 10 percent (in value) of all of the outstanding stock of such corporation.

"(ii) SPECIAL RULE.—For purposes of clause (i), an individual shall be treated as making all contributions made by any member of his family (as defined in section 267(c)(4)).

"(D) TERMINATION.—This paragraph shall not apply to contributions made after December 31, 1994."

(c) 20-PERCENT LIMITATION RETAINED FOR CONTRIBUTIONS OF CAPITAL GAIN PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of section 170(b) (relating to percentage limitations for individuals) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS OF CAPITAL GAIN PROPERTY TO ORGANIZATIONS NOT DESCRIBED IN SUBPARAGRAPH (A).—

"(i) IN GENERAL.—In the case of charitable contributions (other than charitable contributions to which subparagraph (A) applies) of capital gain property, the total amount of such contributions of such property taken into account under subsection (a) for any taxable year shall not exceed the lesser of—

"(I) 20 percent of the taxpayer's contribution base for the taxable year, or

"(II) the excess of 30 percent of the taxpayer's contribution base for the taxable year over the amount of the contributions of capital gain property to which subparagraph (C) applies.

For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions.

"(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time."

(2) TECHNICAL AMENDMENTS.—

(A) Clause (vii) of section 170(b)(1)(A) is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (E)". 26 USC 170.

(B) The subparagraph heading and clause (i) of subparagraph (C) of section 170(b)(1) are amended to read as follows:

"(C) SPECIAL LIMITATION WITH RESPECT TO CONTRIBUTIONS DESCRIBED IN SUBPARAGRAPH (A) OF CERTAIN CAPITAL GAIN PROPERTY.—

"(i) In the case of charitable contributions described in subparagraph (A) of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer's contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this subparagraph applies shall be taken into account after all other charitable contributions (other than charitable contributions to which subparagraph (D) applies)."

(C) Subparagraph (B) of section 170(e)(1) is amended by striking out "subsection (b)(1)(D)" and inserting in lieu thereof "subsection (b)(1)(E)".

(d) EFFECTIVE DATES.— 26 USC 170 note.

(1) SUBSECTIONS (a) AND (c).—The amendments made by subsections (a) and (c) shall apply to contributions made in taxable years ending after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to contributions made after the date of the enactment of this Act in taxable years ending after such date.

SEC. 302. EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS FROM EXCISE TAX ON INVESTMENT INCOME.

(a) GENERAL RULE.—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection: 26 USC 4940.

"(d) EXEMPTION FOR CERTAIN OPERATING FOUNDATIONS.—

"(1) IN GENERAL.—No tax shall be imposed by this section on any private foundation which is an exempt operating foundation for the taxable year.

"(2) EXEMPT OPERATING FOUNDATION.—For purposes of this subsection, the term 'exempt operating foundation' means, with respect to any taxable year, any private foundation if—

"(A) such foundation is an operating foundation (as defined in section 4942(j)(3)),

"(B) such foundation has been publicly supported for at least 10 taxable years,

"(C) at all times during the taxable year, the governing body of such foundation—

"(i) consists of individuals at least 75 percent of whom are not disqualified individuals, and

"(ii) is broadly representative of the general public, and

"(D) at no time during the taxable year does such foundation have an officer who is a disqualified individual.

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

"(A) PUBLICLY SUPPORTED.—A private foundation is publicly supported for a taxable year if it meets the requirements of section 170(b)(1)(A)(vi) or 509(a)(2) for such taxable year.

"(B) DISQUALIFIED INDIVIDUAL.—The term 'disqualified individual' means, with respect to any private foundation, an individual who is—

"(i) a substantial contributor to the foundation,

"(ii) an owner of more than 20 percent of—

"(I) the total combined voting power of a corporation,

"(II) the profits interest of a partnership, or

"(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor to the foundation, or

"(iii) a member of the family of any individual described in clause (i) or (ii).

"(C) SUBSTANTIAL CONTRIBUTOR.—The term 'substantial contributor' means a person who is described in section 507(d)(2).

"(D) FAMILY.—The term 'family' has the meaning given to such term by section 4946(d).

Post, p. 784.

"(E) CONSTRUCTIVE OWNERSHIP.—The rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of subparagraph (B)(ii)."

(b) REQUIREMENT OF EXPENDITURE RESPONSIBILITY NOT TO APPLY TO CERTAIN OPERATING FOUNDATIONS.—Paragraph (4) of section 4945(d) (defining taxable expenditure) is amended to read as follows:

26 USC 4945.

"(4) as a grant to an organization unless—

"(A) such organization is described in paragraph (1), (2), or (3) of section 509(a) or is an exempt operating foundation (as defined in section 4940(d)(2)), or

Ante, p. 779.

"(B) the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or".

26 USC 4940. note.

(c) EFFECTIVE DATE.—

(1) FOR SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

(2) FOR SUBSECTION (b).—The amendment made by subsection (b) shall apply to grants made after December 31, 1984, in taxable years ending after such date. 26 USC 4945 note.

(3) CERTAIN EXISTING FOUNDATIONS.—A foundation which was an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1954) as of January 1, 1983, shall be treated as meeting the requirements of section 4940(d)(2)(B) of such Code (as added by subsection (a)). 26 USC 4940 note.

Ante, p. 779.

SEC. 303. REDUCTION IN EXCISE TAX ON INVESTMENT INCOME WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.

(a) GENERAL RULE.—Section 4940 (relating to excise tax based on investment income) is amended by adding at the end thereof the following new subsection: 26 USC 4940.

"(e) REDUCTION IN TAX WHERE PRIVATE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any private foundation which meets the requirements of paragraph (2) for any taxable year, subsection (a) shall be applied with respect to such taxable year by substituting '1 percent' for '2 percent'.

"(2) REQUIREMENTS.—A private foundation meets the requirements of this paragraph for any taxable year if—

"(A) the amount of the qualifying distributions made by the private foundation during such taxable year equals or exceeds the sum of—

"(i) an amount equal to the assets of such foundation for such taxable year multiplied by the average percentage payout for the base period, plus

"(ii) 1 percent of the net investment income of such foundation for such taxable year, and

"(B) the average percentage payout for the base period equals or exceeds 5 percent.

In the case of an operating foundation (as defined in section 4942(j)(3)), subparagraph (B) shall be applied by substituting '3⅓ percent' for '5 percent'.

"(3) AVERAGE PERCENTAGE PAYOUT FOR BASE PERIOD.—For purposes of this subsection—

"(A) IN GENERAL.—The average percentage payout for the base period is the average of the percentage payouts for taxable years in the base period.

"(B) PERCENTAGE PAYOUT.—The term 'percentage payout' means, with respect to any taxable year, the percentage determined by dividing—

"(i) the amount of the qualifying distributions made by the private foundation during the taxable year, by

"(ii) the assets of the private foundation for the taxable year.

"(C) SPECIAL RULE WHERE TAX REDUCED UNDER THIS SUBSECTION.—For purposes of this paragraph, if the amount of the tax imposed by this section for any taxable year in the base period is reduced by reason of this subsection, the amount of the qualifying distributions made by the private foundation during such year shall be reduced by the amount of such reduction in tax.

"(4) BASE PERIOD.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'base period' means, with respect to any taxable year, the 5 taxable years preceding such taxable year.

"(B) NEW PRIVATE FOUNDATIONS, ETC.—If an organization has not been a private foundation throughout the base period referred to in subparagraph (A), the base period shall consist of the taxable years during which such foundation has been in existence.

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

"(A) QUALIFYING DISTRIBUTION.—The term 'qualifying distribution' has the meaning given such term by section 4942(g).

"(B) ASSETS.—The assets of a private foundation for any taxable year shall be treated as equal to the excess determined under section 4942(e)(1).

"(6) TREATMENT OF SUCCESSOR ORGANIZATIONS, ETC.—In the case of—

"(A) a private foundation which is a successor to another private foundation, this subsection shall be applied with respect to such successor by taking into account the experience of such other foundation, and

"(B) a merger, reorganization, or division of a private foundation, this subsection shall be applied under regulations prescribed by the Secretary."

26 USC 4940 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984.

SEC. 304. AMENDMENT TO TAXES ON FAILURE TO DISTRIBUTE INCOME.

(a) LIMIT ON AMOUNT OF CERTAIN ADMINISTRATIVE EXPENSES TAKEN INTO ACCOUNT AS QUALIFYING DISTRIBUTIONS.—

26 USC 4942.

(1) Subsection (g) of section 4942 (defining qualified distributions) is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATION ON ADMINISTRATIVE EXPENSES ALLOCABLE TO MAKING OF CONTRIBUTIONS, GIFTS, AND GRANTS.—

"(A) IN GENERAL.—The amount of the grant administrative expenses paid during any taxable year which may be taken into account as qualifying distributions shall not exceed the excess (if any) of—

"(i) .65 percent of the sum of the net assets of the private foundation for such taxable year and the immediately preceding 2 taxable years, over

"(ii) the aggregate amount of grant administrative expenses paid during the 2 preceding taxable years which were taken into account as qualifying distributions.

"(B) GRANT ADMINISTRATIVE EXPENSES.—For purposes of this paragraph, the term 'grant administrative expenses' means any administrative expenses which are allocable to the making of qualified grants.

"(C) QUALIFIED GRANTS.—For purposes of this paragraph, the term 'qualified grant' means any contribution, gift, or grant which is a qualifying distribution.

"(D) NET ASSET.—For purposes of this paragraph, the term 'net assets' means, with respect to any taxable year, the excess determined under subsection (e)(1) for such taxable year.

"(E) TRANSITIONAL RULE.—In the case of any preceding taxable year which begins before January 1, 1985, the amount of the grant administrative expenses taken into account under subparagraph (A)(ii) shall not exceed .65 percent of the net assets of the private foundation for such taxable year.

"(F) TERMINATION.—This paragraph shall not apply to taxable years beginning after December 31, 1990."

(2) Subparagraph (A) of section 4942(g)(1) (defining qualifying distribution) is amended by striking out "including administrative expenses" and inserting in lieu thereof "including that portion of reasonable and necessary administrative expenses". 26 USC 4942.

(b) REQUIRED DISTRIBUTION INCREASED BY AMOUNT OF CERTAIN REPAYMENTS, ETC.—Paragraph (1) of section 4942(d) (defining distributable amount) is amended to read as follows:

"(1) the sum of the minimum investment return plus the amounts described in subsection (f)(2)(C), reduced by".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984. 26 USC 4942 note.

SEC. 305. ABATEMENT OF FIRST TIER TAXES IN CERTAIN CASES.

(a) GENERAL RULE.—Subchapter C of chapter 42 (relating to abatement of second tier taxes) is amended by redesignating section 4962 as section 4963 and by inserting after section 4961 the following new section: 26 USC 4963.

"SEC. 4962. ABATEMENT OF PRIVATE FOUNDATION FIRST TIER TAXES IN CERTAIN CASES. 26 USC 4962.

"(a) GENERAL RULE.—If it is established to the satisfaction of the Secretary that—

"(1) a taxable event was due to reasonable cause and not to willful neglect, and

"(2) such event was corrected within the correction period for such event,

then any private foundation first tier tax imposed with respect to such event (including interest) shall not be assessed and, if assessed, the assessment shall be abated and, if collected, shall be credited or refunded as an overpayment.

"(b) PRIVATE FOUNDATION FIRST TIER TAX.—For purposes of this section, the term 'private foundation first tier tax' means any first tier tax imposed by subchapter A of chapter 42, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing)." 26 USC 4940.

(b) CONFORMING AMENDMENTS.— 26 USC prec. 4961.

(1) The heading of subchapter C of chapter 42 is amended to read as follows:

"Subchapter C—Abatement of First and Second Tier Taxes in Certain Cases".

(2) The table of sections for subchapter C of chapter 42 is amended by striking out the item relating to section 4962 and inserting in lieu thereof the following:

"Sec. 4962. Abatement of private foundation first tier taxes in certain cases.
"Sec. 4963. Definitions."

(3) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"SUBCHAPTER C. Abatement of first and second tier taxes in certain cases."

26 USC 4942, 6213, 6503.

(4) Sections 4942(g)(2)(C), 6213(e), and 6503(g) are each amended by striking out "section 4962(e)" and inserting in lieu thereof "section 4963(e)".

26 USC 4962 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events occurring after December 31, 1984.

SEC. 306. MISCELLANEOUS AMENDMENTS.

26 USC 4946.

(a) DEFINITION OF FAMILY MEMBER.—Subsection (d) of section 4946 (defining members of family) is amended to read as follows:

"(d) MEMBERS OF FAMILY.—For purposes of subsection (a)(1), the family of any individual shall include only his spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren."

26 USC 6104.

(b) REQUIREMENT THAT ANNUAL NOTICE INCLUDE TELEPHONE NUMBER OF THE PRIVATE FOUNDATION.—Subsection (d) of section 6104 (relating to public inspection of private foundations' annual returns) is amended by striking out "shall state the address of the private foundation's principal office" and inserting in lieu thereof "shall state the address and the telephone number of the private foundation's principal office".

26 USC 4946 note.

(c) EFFECTIVE DATES.—The amendments made by this subsection shall take effect on January 1, 1985.

SEC. 307. 5-YEAR EXTENSION OF REQUIREMENT TO DISPOSE OF CERTAIN EXCESS HOLDINGS ATTRIBUTABLE TO LARGE GIFTS AND BEQUESTS.

26 USC 4943.

(a) GENERAL RULE.—Subsection (c) of section 4943 (relating to taxes on excess business holdings) is amended by adding at the end thereof the following new paragraph:

"(7) 5-YEAR EXTENSION OF PERIOD TO DISPOSE OF CERTAIN LARGE GIFTS AND BEQUESTS.—The Secretary may extend for an additional 5-year period the period under paragraph (6) for disposing of excess business holdings in the case of an unusually large gift or bequest of diverse business holdings or holdings with complex corporate structures if—

"(A) the foundation establishes that—

"(i) diligent efforts to dispose of such holdings have been made within the initial 5-year period, and

"(ii) disposition within the initial 5-year period has not been possible (except at a price substantially below fair market value) by reason of such size and complexity or diversity of such holdings,

"(B) before the close of the initial 5-year period—

"(i) the private foundation submits to the Secretary a plan for disposing of all of the excess business holdings involved in the extension, and

"(ii) the private foundation submits the plan described in clause (i) to the Attorney General (or other appropriate State official) having administrative or supervisory authority or responsibility with respect to the foundation's disposition of the excess business holdings involved and submits to the Secretary any response received by the private foundation from the

Attorney General (or other appropriate State official) to such plan during such 5-year period, and

"(C) the Secretary determines that such plan can reasonably be expected to be carried out before the close of the extension period."

(b) EFFECTIVE DATE.— 26 USC 4943 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to business holdings with respect to which the 5-year period described in section 4943(c)(6) of the Internal Revenue Code of 1954 ends on or after November 1, 1983.

(2) TRANSITIONAL RULE.—Any plan submitted to the Secretary of the Treasury or his delegate on or before the 60th day after the date of the enactment of this Act shall be treated as submitted before the close of the initial 5-year period referred to in section 4943(c)(7)(B) of the Internal Revenue Code of 1954 (as added by subsection (a)). *Ante*, p. 784.

SEC. 308. DECREASES ATTRIBUTABLE TO STOCK ISSUANCES NOT TO REDUCE PERMITTED PERCENTAGE OF HOLDINGS WHERE DECREASE IS 2 PERCENT OR LESS.

(a) GENERAL RULE.—The second sentence of clause (ii) of section 4943(c)(4)(A) (relating to present holdings) is amended to read as follows: 26 USC 4943.

"For purposes of the preceding sentence, any decrease in percentage holdings attributable to issuances of stock (or to issuances of stock coupled with redemptions of stock) shall be disregarded so long as—

"(I) the net percentage decrease disregarded under this sentence does not exceed 2 percent, and

"(II) the number of shares held by the foundation is not affected by any such issuance or redemption."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to increases and decreases occurring after the date of the enactment of this Act. 26 USC 4943 note.

SEC. 309. AGGREGATION OF STOCK HOLDINGS OF PRIVATE FOUNDATION AND DISQUALIFIED PERSONS IN APPLYING 95 PERCENT OWNERSHIP TEST.

(a) GENERAL RULE.—Clause (i) of section 4943(c)(4)(B) (relating to present holdings) is amended by striking out "the private foundation has" and inserting in lieu thereof "the private foundation and all disqualified persons have". 26 USC 4943.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 101(b) of the Tax Reform Act of 1969. 26 USC 4943 note.

26 USC prec. 4940, 4940–4948.

SEC. 310. 5-YEAR PERIOD TO DISPOSE OF EXCESS HOLDINGS RESULTING FROM CERTAIN ACQUISITIONS BY DISQUALIFIED PERSONS.

(a) GENERAL RULE.—Paragraph (6) of section 4943(c) (relating to 5-year period to dispose of gifts, bequests, etc.) is amended by adding at the end thereof the following new sentence: 26 USC 4943.

"In any case where an acquisition by a disqualified person would result in a substitution under clause (i) or (ii) of subparagraph (D) of paragraph (4), the preceding sentence shall be applied with respect to such acquisition as if it did not contain

the phrase 'or by a disqualified person' in the material preceding subparagraph (A)."

26 USC 4943 note.

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

SEC. 311. THE CONDUCTING OF CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.

26 USC 513 note.

(a) GENERAL RULE.—For purposes of section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business), the term "unrelated trade or business" does not include any trade or business which consists of conducting any game of chance if—

(1) such game of chance is conducted by a nonprofit organization,

(2) the conducting of such game by such organization does not violate any State or local law, and

(3) as of October 5, 1983—

(A) there was a State law in effect which permitted the conducting of such game of chance by such nonprofit organization, but

(B) the conducting of such game of chance by organizations which were not nonprofit organizations would have violated such law.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to games of chance conducted after June 30, 1981, in taxable years ending after such date.

SEC. 312. TAX ON SELF-DEALING NOT TO APPLY TO CERTAIN STOCK PURCHASES.

26 USC 4941 note.

(a) GENERAL RULE.—Section 4941 of the Internal Revenue Code of 1954 (relating to taxes on self-dealing) shall not apply to the purchase during 1978 of stock from a private foundation (and to any note issued in connection with such purchase) if—

(1) consideration for such purchase equaled or exceeded the fair market value of such stock,

(2) the purchaser of such stock did not make any contribution to such foundation at any time during the 5-year period ending on the date of such purchase,

(3) the aggregate contributions to such foundation by the purchaser before such date were less than $10,000 and less than 2 percent of the total contributions received by the foundation as of such date, and

(4) such purchase was pursuant to the settlement of litigation involving the purchaser.

(b) STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law, refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 313. PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR AFTER 10 YEARS WITH NO CONNECTION TO FOUNDATION.

26 USC 507.

(a) GENERAL RULE.—Paragraph (2) of section 507(d) (defining substantial contributor) is amended by adding at the end thereof the following new subparagraph:

"(C) PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR IN CERTAIN CASES.—

"(i) IN GENERAL.—A person shall cease to be treated as a substantial contributor with respect to any private foundation as of the close of any taxable year of such foundation if—

"(I) during the 10-year period ending at the close of such taxable year such person (and all related persons) have not made any contribution to such private foundation,

"(II) at no time during such 10-year period was such person (or any related person) a foundation manager of such private foundation, and

"(III) the aggregate contributions made by such person (and related persons) are determined by the Secretary to be insignificant when compared to the aggregate amount of contributions to such foundation by one other person.

For purposes of subclause (III), appreciation on contributions while held by the foundation shall be taken into account.

"(ii) RELATED PERSON.—For purposes of clause (i), the term 'related person' means, with respect to any person, any other person who would be a disqualified person (within the meaning of section 4946) by reason of his relationship to such person. In the case of a contributor which is a corporation, the term also includes any officer or director of such corporation."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984. 26 USC 507 note.

SEC. 314. TECHNICAL AMENDMENTS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1954.—

(1) Subparagraph (B) of section 4942(a)(2) (relating to taxes on failure to distribute income) is amended by striking out "subsection (j)(4)" and inserting in lieu thereof "subsection (j)(2)". 26 USC 4942.

(2) Paragraph (1) of section 4942(f) (defining adjusted net income) is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (j)".

(3) Paragraph (3) of section 6501(n) (relating to special rule for chapter 42 and similar taxes) is amended by striking out "section 4942(g)(2)(B)(i)(II)" and inserting in lieu thereof "section 4942(g)(2)(B)(ii)". *Ante*, p. 698.

(4) The amendments made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 4942 note.

(b) AMENDMENT OF 1969 TAX REFORM ACT.—

(1) Subparagraph (A) of section 101(l)(4) of the Tax Reform Act of 1969 is amended by striking out "by substituting '51 percent' for '50 percent' " and inserting in lieu thereof "as if it did not contain the phrase ', but in no event shall the percentage so substituted be more than 50 percent' ". 26 USC 4940 note.

(2) The amendment made by paragraph (1) shall apply as if included in section 101(l)(4) of the Tax Reform Act of 1969. 26 USC 4940 note.

(c) EXCEPTION TO DEFINITION OF DISQUALIFIED PERSONS.—

(1) Subsection (d) of section 4943 (relating to definitions and special rules with respect to taxes on excess business holdings) 26 USC 4943.

is amended by adding at the end thereof the following new paragraph:

"(4) DISQUALIFIED PERSON.—The term 'disqualified person' (as defined in section 4946(a)) does not include a plan described in section 4975(e)(7) with respect to the holdings of a private foundation described in paragraphs (4) and (5) of subsection (c).".

26 USC 4943 note.

(2) The amendment made by paragraph (1) shall apply with respect to taxable years beginning after the date of the enactment of this Act.

TITLE IV—TAX SIMPLIFICATION

Subtitle A—Revision and Simplification of Estimated Income Tax for Individuals

SEC. 411. REVISION OF PENALTY FOR FAILURE TO PAY ESTIMATED INCOME TAX.

26 USC 6654.

Section 6654 (relating to addition to the tax for failure by individual to pay estimated income tax) is amended to read as follows:

"SEC. 6654. FAILURE BY INDIVIDUAL TO PAY ESTIMATED INCOME TAX.

"(a) ADDITION TO THE TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by an individual, there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined by applying—

26 USC 1 *et seq.*
26 USC 1401 *et seq.*

"(1) the applicable annual rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

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

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

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 4th month following the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this section—

"(1) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:.	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	January 15 of the following taxable year.

"(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

"(1) AMOUNT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of any required installment shall be 25 percent of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 80 percent of the tax shown on the return for the taxable year (or, if no return is filed, 80 percent of the tax for such year), or

"(ii) 100 percent of the tax shown on the return of the individual for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months or if the individual did not file a return for such preceding taxable year.

"(2) LOWER REQUIRED INSTALLMENT WHERE ANNUALIZED INCOME INSTALLMENT IS LESS THAN AMOUNT DETERMINED UNDER PARAGRAPH (1).—

"(A) IN GENERAL.—In the case of any required installment, if the individual establishes that the annualized income installment is less than the amount determined under paragraph (1)—

"(i) the amount of such required installment shall be the annualized income installment, and

"(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause).

"(B) DETERMINATION OF ANNUALIZED INCOME INSTALLMENT.—In the case of any required installment, the annualized income installment is the excess (if any) of—

"(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and adjusted self-employment income for months in the taxable year ending before the due date for the installment, over

"(ii) the aggregate amount of any prior required installments for the taxable year.

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) ANNUALIZATION.—The taxable income, alternative minimum taxable income, and adjusted self-employment income shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(ii) APPLICABLE PERCENTAGE.—

"In the case of the following required installments:	The applicable percentage is:
1st	20
2nd	40
3rd	60
4th	80.

"(iii) ADJUSTED SELF-EMPLOYMENT INCOME.—The term 'adjusted self-employment income' means self-employment income (as defined in section 1402(b)); except that section 1402(b) shall be applied by placing wages (within the meaning of section 1402(b)) for months in the taxable year ending before the due date for the installment on an annualized basis consistent with clause (i).

"(e) EXCEPTIONS.—

"(1) WHERE TAX IS SMALL AMOUNT.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax), reduced by the credit allowable under section 31, is less than $500.

"(2) WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No addition to tax shall be imposed under subsection (a) for any taxable year if—

"(A) the preceding taxable year was a taxable year of 12 months,

"(B) the individual did not have any liability for tax for the preceding taxable year, and

"(C) the individual was a citizen or resident of the United States throughout the preceding taxable year.

"(3) WAIVER IN CERTAIN CASES.—

"(A) IN GENERAL.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience.

"(B) NEWLY RETIRED OR DISABLED INDIVIDUALS.—No addition to tax shall be imposed under subsection (a) with respect to any underpayment if the Secretary determines that—

"(i) the taxpayer—

"(I) retired after having attained age 62, or

"(II) became disabled,

in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year, and

"(ii) such underpayment was due to reasonable cause and not to willful neglect.

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of this section, the term 'tax' means—

"(1) the tax imposed by chapter 1, plus

"(2) the tax imposed by chapter 2, minus

"(3) the sum of—

"(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

26 USC 1 *et seq.*
26 USC 1401 *et seq.*

Post, p. 826.

"(B) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).

"(g) APPLICATION OF SECTION IN CASE OF TAX WITHHELD ON WAGES.—

"(1) IN GENERAL.—For purposes of applying this section, the amount of the credit allowed under section 31 for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each due date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

"(2) SEPARATE APPLICATION.—The taxpayer may apply paragraph (1) separately with respect to—

"(A) wage withholding, and

"(B) all other amounts withheld for which credit is allowed under section 31.

"(h) SPECIAL RULE WHERE RETURN FILED ON OR BEFORE JANUARY 31.—If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no addition to tax shall be imposed under subsection (a) with respect to any underpayment of the 4th required installment for the taxable year.

"(i) SPECIAL RULES FOR FARMERS AND FISHERMEN.—For purposes of this section—

"(1) IN GENERAL.—If an individual is a farmer or fisherman for any taxable year—

"(A) there shall be only 1 required installment for the taxable year,

"(B) the due date for such installment shall be January 15 of the following taxable year,

"(C) the amount of such installment shall be equal to the required annual payment (determined under subsection (d)(1)(B) by substituting '66⅔ percent' for '80 percent', and

"(D) subsection (h) shall be applied—

"(i) by substituting 'March 1' for 'January 31', and

"(ii) by treating the required installment described in subparagraph (A) of this paragraph as the 4th required installment.

"(2) FARMER OR FISHERMAN DEFINED.—An individual is a farmer or fisherman for any taxable year if—

"(A) the individual's gross income from farming or fishing (including oyster farming) for the taxable year is at least 66⅔ percent of the total gross income from all sources for the taxable year, or

"(B) such individual's gross income from farming or fishing (including oyster farming) shown on the return of the individual for the preceding taxable year is at least 66⅔ percent of the total gross income from all sources shown on such return.

"(j) FISCAL YEARS AND SHORT YEARS.—

"(1) FISCAL YEARS.—In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

"(2) SHORT TAXABLE YEAR.—This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(k) ESTATES AND TRUSTS.—This section shall not apply to any estate or trust.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

SEC. 412. REPEAL OF REQUIREMENT OF DECLARATIONS, ETC.

(a) GENERAL RULE.—The following provisions are hereby repealed:

26 USC 6015. (1) Section 6015 (relating to declaration of estimated income tax by individuals).

26 USC 6073. (2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals).

26 USC 6153. (3) Section 6153 (relating to installment payments of estimated income tax by individuals).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 871. (1) Subsection (g) of section 871 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

26 USC 1403. (2) Subsection (b) of section 1403 is amended by striking out paragraph (3).

26 USC 6012. (3) Paragraph (2) of section 6012(b) is amended by striking out "or section 6015(a)".

26 USC 6020. (4) Paragraph (1) of section 6020(b) is amended by striking out "(other than a declaration of estimated tax required under section 6015)".

26 USC 6201. (5) Paragraph (1) of section 6201(b) is amended to read as follows:

"(1) ESTIMATED INCOME TAX.—No unpaid amount of estimated income tax required to be paid under section 6154 or 6654 shall be assessed."

Ante, p. 788.

26 USC 6362. (6) Paragraph (5) of section 6362(e) is amended by striking out "and section 6015 and other provisions relating to declarations of estimated income" and inserting in lieu thereof "and provisions relating to estimated income tax".

26 USC 6601. (7) Subsection (h) of section 6601 is amended to read as follows:

"(h) EXCEPTION AS TO ESTIMATED TAX.—This section shall not apply to any failure to pay any estimated tax required to be paid by section 6154 or 6654."

Ante, p. 788.

26 USC 6651. (8) Subsection (d) of section 6651 is amended to read as follows:

"(d) EXCEPTION FOR ESTIMATED TAX.—This section shall not apply to any failure to pay any estimated tax required to be paid by section 6154 or 6654."

Ante, p. 788.

26 USC 7203. (9) Section 7203 is amended by striking out "(other than a return required under the authority of section 6015)".

26 USC 7216. (10) Subsection (a) of section 7216 is amended—

(A) by striking out "or declarations or amended declarations of estimated tax under section 6015,", and

(B) by striking out "return or declaration" each place it appears and inserting in lieu thereof "return".

26 USC 7701. (11) Paragraph (34) of section 7701(a) is hereby repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by striking out the item relating to section 6015.

(2) The table of sections for part V of subchapter A of chapter 61 is amended by striking out the item relating to section 6073.

(3) The table of sections for subchapter A of chapter 62 is amended by striking out the item relating to section 6153.

SEC. 413. CREDITING OF INCOME TAX OVERPAYMENT AGAINST ESTIMATED TAX LIABILITY.

The application of the Internal Revenue Code of 1954 with respect to the crediting of a prior year overpayment of income tax against the estimated tax shall be determined— 26 USC 1 *et seq.*

(1) without regard to Revenue Ruling 83-111 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling); and

(2) with full regard to the rules (including Revenue Ruling 77-475) before Revenue Ruling 83-111.

SEC. 414. EFFECTIVE DATES.

(a) SECTIONS 411 AND 412.— 26 USC 6654 note.

(1) IN GENERAL.—The amendments made by sections 411 and 412 shall apply with respect to taxable years beginning after December 31, 1984. *Ante*, pp. 788, 792.

(2) WAIVER AUTHORITY.—The provisions of paragraph (3) of section 6654(e) of the Internal Revenue Code of 1954 (as amended by section 411) shall also apply with respect to underpayments for taxable years beginning in 1984. *Ante*, p. 788.

(b) SECTION 413.—The provisions of section 413 shall take effect on January 1, 1984. *Supra.*

Subtitle B—Domestic Relations

SEC. 421. TREATMENT OF TRANSFERS OF PROPERTY BETWEEN SPOUSES OR INCIDENT TO DIVORCE.

(a) GENERAL RULE.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1041. TRANSFERS OF PROPERTY BETWEEN SPOUSES OR INCIDENT TO DIVORCE. 26 USC 1041.

"(a) GENERAL RULE.—No gain or loss shall be recognized on a transfer of property from an individual to (or in trust for the benefit of)—

"(1) a spouse, or

"(2) a former spouse, but only if the transfer is incident to the divorce.

"(b) TRANSFER TREATED AS GIFT; TRANSFEREE HAS TRANSFEROR'S BASIS.—In the case of any transfer of property described in subsection (a)—

"(1) for purposes of this subtitle, the property shall be treated as acquired by the transferee by gift, and

"(2) the basis of the transferee in the property shall be the adjusted basis of the transferor.

"(c) INCIDENT TO DIVORCE.—For purposes of subsection (a)(2), a transfer of property is incident to the divorce if such transfer—

"(1) occurs within 1 year after the date on which the marriage ceases, or

"(2) is related to the cessation of the marriage.

"(d) SPECIAL RULE WHERE SPOUSE IS NONRESIDENT ALIEN.—Paragraph (1) of subsection (a) shall not apply if the spouse of the individual making the transfer is a nonresident alien."

(b) TECHNICAL AMENDMENTS.—

26 USC 72. (1) REPEAL OF SECTION 72(k).—Subsection (k) of section 72 (relating to payments in discharge of alimony) is hereby repealed.

26 USC 101. (2) REPEAL OF SECTION 101(e).—Subsection (e) of section 101 (relating to alimony, etc., payments) is hereby repealed.

26 USC 453B. (3) COORDINATION WITH SECTION 453B.—Section 453B (relating to gain or loss on disposition of installment obligations) is amended by adding at the end thereof the following new subsection:

"(g) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

Ante, p. 793.

"(1) subsection (a) of this section shall not apply, and

"(2) the same tax treatment with respect to the transferred installment obligation shall apply to the transferee as would have applied to the transferor."

26 USC 1001. (4) TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interest) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1041".

26 USC 1015. (5) COORDINATION WITH SECTION 1015.—Section 1015 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following new subsection:

"(e) GIFTS BETWEEN SPOUSES.—In the case of any property acquired by gift in a transfer described in section 1041(a), the basis of such property in the hands of the transferee shall be determined under section 1041(b)(2) and not this section."

Ante, p. 793.

(6) COORDINATION WITH SECTION 1239.—

Ante, p. 708.

(A) Subsection (b) of section 1239, as amended by this Act, is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

26 USC 453.

(B) Subparagraph (C) of section 453(h)(1) (relating to special rule where obligor and shareholder are related persons) is amended by striking out "the obligor of any installment obligation and the shareholder are related persons" and inserting in lieu thereof "the obligor of any installment obligation and the shareholder are married to each other or are related persons".

(C) The subsection heading for section 453(g) is amended by striking out "SPOUSE OR".

26 USC 47. (7) COORDINATION WITH SECTION 47.—Section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

Ante, p. 793.

"(1) subsection (a) of this section shall not apply, and

"(2) the same tax treatment under this section with respect to the transferred property shall apply to the transferee as would have applied to the transferor."

(c) CLERICAL AMENDMENT.—The table of sections for such part III is amended by adding at the end thereof the following:

"Sec. 1041. Transfers of property between spouses or incident to divorce."

(d) EFFECTIVE DATES.— 26 USC 1041 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO TRANSFERS AFTER 1983.—If both spouses or former spouses make an election under this paragraph, the amendments made by this section shall apply to all transfers made by such spouses (or former spouses) after December 31, 1983.

(3) EXCEPTION FOR TRANSFERS PURSUANT TO EXISTING DECREES.—Except in the case of an election under paragraph (2), the amendments made by this section shall not apply to transfers under any instrument in effect on or before the date of the enactment of this Act unless both spouses (or former spouses) elect to have such amendments apply to transfers under such instrument.

(4) ELECTION.—Any election under paragraph (2) or (3) shall be made in such manner, at such time, and subject to such conditions, as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 422. TAX TREATMENT OF ALIMONY AND SEPARATE MAINTENANCE PAYMENTS.

(a) GENERAL RULE.—Section 71 (relating to alimony and separate maintenance payments) is amended to read as follows: 26 USC 71.

"SEC. 71. ALIMONY AND SEPARATE MAINTENANCE PAYMENTS.

"(a) GENERAL RULE.—Gross income includes amounts received as alimony or separate maintenance payments.

"(b) ALIMONY OR SEPARATE MAINTENANCE PAYMENTS DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'alimony or separate maintenance payment' means any payment in cash if—

"(A) such payment is received by (or on behalf of) a spouse under a divorce or separation instrument,

"(B) the divorce or separation instrument does not designate such payment as a payment which is not includible in gross income under this section and not allowable as a deduction under section 215, *Post*, p. 797.

"(C) in the case of an individual legally separated from his spouse under a decree of divorce or of separate maintenance, the payee spouse and the payor spouse are not members of the same household at the time such payment is made, and

"(D) there is no liability to make any such payment for any period after the death of the payee spouse and there is no liability to make any payment (in cash or property) as a substitute for such payments after the death of the payee spouse (and the divorce or separation instrument states that there is no such liability).

"(2) DIVORCE OR SEPARATION INSTRUMENT.—The term 'divorce or separation instrument' means—

"(A) a decree of divorce or separate maintenance or a written instrument incident to such a decree,

"(B) a written separation agreement, or

"(C) a decree (not described in subparagraph (A)) requiring a spouse to make payments for the support or maintenance of the other spouse.

"(c) PAYMENTS TO SUPPORT CHILDREN.—

"(1) IN GENERAL.—Subsection (a) shall not apply to that part of any payment which the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) as a sum which is payable for the support of children of the payor spouse.

"(2) TREATMENT OF CERTAIN REDUCTIONS RELATED TO CONTINGENCIES INVOLVING CHILD.—For purposes of paragraph (1), if any amount specified in the instrument will be reduced—

"(A) on the happening of a contingency specified in the instrument relating to a child (such as attaining a specified age, marrying, dying, leaving school, or a similar contingency), or

"(B) at a time which can clearly be associated with a contingency of a kind specified in paragraph (1),

an amount equal to the amount of such reduction will be treated as an amount fixed as payable for the support of children of the payor spouse.

"(3) SPECIAL RULE WHERE PAYMENT IS LESS THAN AMOUNT SPECIFIED IN INSTRUMENT.—For purposes of this subsection, if any payment is less than the amount specified in the instrument, then so much of such payment as does not exceed the sum payable for support shall be considered a payment for such support.

"(d) SPOUSE.—For purposes of this section, the term 'spouse' includes a former spouse.

Post, p. 797.

"(e) EXCEPTION FOR JOINT RETURNS.—This section and section 215 shall not apply if the spouses make a joint return with each other.

"(f) SPECIAL RULES TO PREVENT EXCESS FRONT-LOADING OF ALIMONY PAYMENTS.—

"(1) REQUIREMENT THAT PAYMENTS BE FOR MORE THAN 6 YEARS.—Alimony or separate maintenance payments (in excess of $10,000 during any calendar year) paid by the payor spouse to the payee spouse shall not be treated as alimony or separate maintenance payments unless such payments are to be made by the payor spouse to the payee spouse in each of the 6 post-separation years (not taking into account any termination contingent on the death of either spouse or the remarriage of the payee spouse).

"(2) RECOMPUTATION WHERE PAYMENTS DECREASE BY MORE THAN $10,000.—If there is an excess amount determined under paragraph (3) for any computation year—

"(A) the payor spouse shall include such excess amount in gross income for the payor spouse's taxable year beginning in the computation year, and

"(B) the payee spouse shall be allowed a deduction in computing adjusted gross income for such excess amount for the payee spouse's taxable year beginning in the computation year.

"(3) DETERMINATION OF EXCESS AMOUNT.—The excess amount determined under this paragraph for any computation year is the sum of—

"(A) the excess (if any) of—

"(i) the amount of alimony or separate maintenance payments paid by the payor spouse during the immediately preceding post-separation year, over

"(ii) the amount of the alimony or separate maintenance payments paid by the payor spouse during the computation year increased by $10,000, plus

"(B) a like excess for each of the other preceding post-separation years.

In determining the amount of the alimony or separate maintenance payments paid by the payor spouse during any preceding post-separation year, the amount paid during such year shall be reduced by any excess previously determined in respect of such year under this paragraph.

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

"(A) POST-SEPARATION YEAR.—The term 'post-separation year' means any calendar year in the 6 calendar year period beginning with the first calendar year in which the payor spouse paid to the payee spouse alimony or separate maintenance payments to which this section applies.

"(B) COMPUTATION YEAR.—The term 'computation year' means the post-separation year for which the excess under paragraph (3) is being determined.

"(5) EXCEPTIONS.—

"(A) WHERE PAYMENTS CEASE BY REASON OF DEATH OR REMARRIAGE.—Paragraph (2) shall not apply to any post-separation year (and subsequent post-separation years) if—

"(i) either spouse dies before the close of such post-separation year or the payee spouse remarries before the close of such post-separation year, and

"(ii) the alimony or separate maintenance payments cease by reason of such death or remarriage.

"(B) SUPPORT PAYMENTS.—For purposes of this subsection, the term 'alimony or separate maintenance payment' shall not include any payment received under a decree described in subsection (b)(2)(C).

"(C) FLUCTUATING PAYMENTS NOT WITHIN CONTROL OF PAYOR SPOUSE.—For purposes of this subsection, the term 'alimony or separate maintenance payment' shall not include any payment to the extent it is made pursuant to a continuing liability (over a period of not less than 6 years) to pay a fixed portion of the income from a business or property or from compensation for employment or self-employment."

(b) AMENDMENT OF SECTION 215.—Section 215 (relating to deduction for alimony, etc., payments) is amended to read as follows: 26 USC 215.

"SEC. 215. ALIMONY, ETC., PAYMENTS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to the alimony or separate maintenance payments paid during such individual's taxable year.

"(b) ALIMONY OR SEPARATE MAINTENANCE PAYMENTS DEFINED.—For purposes of this section, the term 'alimony or separate maintenance payment' means any alimony or separate maintenance payment (as defined in section 71(b)) which is includible in the gross income of the recipient under section 71. *Ante*, p. 795.

"(c) REQUIREMENT OF IDENTIFICATION NUMBER.—The Secretary may prescribe regulations under which—

"(1) any individual receiving alimony or separate maintenance payments is required to furnish such individual's taxpayer identification number to the individual making such payments, and

"(2) the individual making such payments is required to include such taxpayer identification number on such individual's return for the taxable year in which such payments are made.

"(d) COORDINATION WITH SECTION 682.—No deduction shall be allowed under this section with respect to any payment if, by reason of section 682 (relating to income of alimony trusts), the amount thereof is not includible in such individual's gross income."

(c) PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBER.—Section 6676 (relating to failure to supply identifying number) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

26 USC 6676.

"(c) PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBER UNDER SECTION 215.—If any person who is required by regulations prescribed under section 215—

Ante, p. 797.

"(1) to furnish his taxpayer identification number to another person, or

"(2) to include on his return the taxpayer identification number of another person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of $50 for each such failure."

(d) TECHNICAL AMENDMENTS.—

26 USC 219.

(1) Subparagraph (B) of section 219(b)(4) (relating to certain divorced individuals) is amended by striking out all that follows "gross income" and inserting in lieu thereof "under section 71 (relating to alimony and separate maintenance payments) by reason of a payment under a decree of divorce or separate maintenance or a written instrument incident to such a decree."

26 USC 682.

(2) Subsection (b) of section 682 (relating to income of an estate or trust in case of divorce, etc.) is amended—

(A) by striking out "or section 71", and

(B) by striking out the last sentence.

26 USC 7701.

(3) Paragraph (17) of section 7701(a) (defining husband and wife) is amended by striking out "71, 152(b)(4), 215, and 682" and inserting in lieu thereof "152(b)(4) and 682".

26 USC 71 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to divorce or separation instruments (as defined in section 71(b)(2) of the Internal Revenue Code of 1954, as amended by this section) executed after December 31, 1984.

Ante, p. 795.

(2) MODIFICATIONS OF INSTRUMENTS EXECUTED BEFORE JANUARY 1, 1985.—The amendments made by this section shall also apply to any divorce or separation instrument (as so defined) executed before January 1, 1985, but modified on or after such date if the modification expressly provides that the amendments made by this section shall apply to such modification.

(3) REQUIREMENT OF IDENTIFICATION NUMBER.—Section 215(c) of the Internal Revenue Code of 1954 (as amended by subsection

Ante, p. 797.

(b)) and the amendments made by subsection (c) shall apply to payments made after December 31, 1984.

SEC. 423. DEPENDENCY EXEMPTION IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.

(a) GENERAL RULE.—Subsection (e) of section 152 (relating to support test in case of child of divorced parents, etc.) is amended to read as follows: 26 USC 152.

"(e) SUPPORT TEST IN CASE OF CHILD OF DIVORCED PARENTS, ETC.—

"(1) CUSTODIAL PARENT GETS EXEMPTION.—Except as otherwise provided in this subsection, if—

"(A) a child (as defined in section 151(e)(3)) receives over half of his support during the calendar year from his parents—

"(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

"(ii) who are separated under a written separation agreement, or

"(iii) who live apart at all times during the last 6 months of the calendar year, and

"(B) such child is in the custody of one or both of his parents for more than one-half of the calendar year,

such child shall be treated, for purposes of subsection (a), as receiving over half of his support during the calendar year from the parent having custody for a greater portion of the calendar year (hereinafter in this subsection referred to as the 'custodial parent').

"(2) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—A child of parents described in paragraph (1) shall be treated as having received over half of his support during a calendar year from the noncustodial parent if—

"(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

"(B) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

For purposes of this subsection, the term 'noncustodial parent' means the parent who is not the custodial parent.

"(3) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This subsection shall not apply in any case where over half of the support of the child is treated as having been received from a taxpayer under the provisions of subsection (c).

"(4) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

"(A) IN GENERAL.—A child of parents described in paragraph (1) shall be treated as having received over half his support during a calendar year from the noncustodial parent if—

"(i) a qualified pre-1985 instrument between the parents applicable to the taxable year beginning in such calendar year provides that the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, and

"(ii) the noncustodial parent provides at least $600 for the support of such child during such calendar year.

For purposes of this subparagraph, amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

"(B) QUALIFIED PRE-1985 INSTRUMENT.—For purposes of this paragraph, the term 'qualified pre-1985 instrument' means any decree of divorce or separate maintenance or written agreement—

"(i) which is executed before January 1, 1985,

"(ii) which on such date contains the provision described in subparagraph (A)(i), and

"(iii) which is not modified on or after such date in a modification which expressly provides that this paragraph shall not apply to such decree or agreement.

"(5) SPECIAL RULE FOR SUPPORT RECEIVED FROM NEW SPOUSE OF PARENT.—For purposes of this subsection, in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

"(6) CROSS REFERENCE.—

"For provision treating child as dependent of both parents for purposes of medical expense deduction, see section 213(d)(4)."

(b) TREATMENT AS DEPENDENT OF BOTH PARENTS FOR MEDICAL EXPENSE DEDUCTION.—

26 USC 213. *Post*, p. 847.

(1) Subsection (d) of section 213 (relating to definitions) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

Ante, p. 799.

"(4) 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."

26 USC 105.

(2) Subsection (b) of section 105 is amended by adding at the end thereof the following new sentence: "Any child to whom section 152(e) applies shall be treated as a dependent of both parents for purposes of this subsection."

(3) Paragraph (6) of section 213(d) (as redesignated by paragraph (1)) is amended by striking out "the limitations of paragraph (4)" and inserting in lieu thereof "the limitations of paragraph (5)".

(c) TREATMENT OF CERTAIN MARRIED INDIVIDUALS LIVING APART.—

26 USC 143.

(1) Subsection (b) of section 143 (relating to certain married individuals living apart) is amended to read as follows:

"(b) CERTAIN MARRIED INDIVIDUALS LIVING APART.—For purposes of those provisions of this title which refer to this subsection, if—

"(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 151(e)(3)) with respect to whom such individual is entitled to a deduction for the taxable year under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e)),

Ante, p. 799.

"(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

"(3) during the last 6 months of the taxable year, such individual's spouse is not a member of such household,

such individual shall not be considered as married."

(2) Subparagraph (A) of section 2(b)(1) (defining head of household) is amended— 26 USC 2.

(A) by striking out "which constitutes for such taxable year" and inserting in lieu thereof "which constitutes for more than one-half of such taxable year", and

(B) by striking out "under section 151" in clause (i) and inserting in lieu thereof "under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e))".

(3) Paragraph (1) of section 43(c) (defining eligible individual) is amended— 26 USC 43. *Post*, p. 826.

(A) by inserting after "section 151(e)(3))" in subparagraph (A)(i) the following: "or would be so entitled but for paragraph (2) or (4) of section 152(e)", and

(B) by striking out "the child has the same principal place of abode as the individual" in subparagraph (B) and inserting in lieu thereof "the child has the same principal place of abode as the individual for more than one-half of the taxable year".

(4) Paragraph (5) of section 44A(f) (relating to special dependency test in case of divorced parents, etc.) is amended to read as follows: 26 USC 44A. *Post*, p. 826.

"(5) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If—

"(A) paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, and *Ante*, p. 799.

"(B) such child is under the age of 15 or is physically or mentally incapable of caring for himself,

in the case of any taxable year beginning in such calendar year, such child shall be treated as a qualifying individual described in subparagraph (A) or (B) of subsection (c)(1) (whichever is appropriate) with respect to the custodial parent (within the meaning of section 152(e)(1)), and shall not be treated as a qualifying individual with respect to the noncustodial parent."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984. 26 USC 2 note.

SEC. 424. INNOCENT SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.

(a) GENERAL RULE.—Subsection (e) of section 6013 (relating to spouse relieved of liability in certain cases) is amended to read as follows: 26 USC 6013.

"(e) SPOUSE RELIEVED OF LIABILITY IN CERTAIN CASES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) a joint return has been made under this section for a taxable year,

"(B) on such return there is a substantial understatement of tax attributable to grossly erroneous items of one spouse,

"(C) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such substantial understatement, and

"(D) taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for the deficiency in tax for such taxable year attributable to such substantial understatement,

then the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such substantial understatement.

"(2) GROSSLY ERRONEOUS ITEMS.—For purposes of this subsection, the term 'grossly erroneous items' means, with respect to any spouse—

"(A) any item of gross income attributable to such spouse which is omitted from gross income, and

"(B) any claim of a deduction, credit, or basis by such spouse in an amount for which there is no basis in fact or law.

"(3) SUBSTANTIAL UNDERSTATEMENT.—For purposes of this subsection, the term 'substantial understatement' means any understatement (as defined in section 6661(b)(2)(A)) which exceeds $500.

"(4) UNDERSTATEMENT MUST EXCEED SPECIFIED PERCENTAGE OF SPOUSE'S INCOME.—

"(A) ADJUSTED GROSS INCOME OF $20,000 OR LESS.—If the spouse's adjusted gross income for the preadjustment year is $20,000 or less, this subsection shall apply only if the liability described in paragraph (1) is greater than 10 percent of such adjusted gross income.

"(B) ADJUSTED GROSS INCOME OF MORE THAN $20,000.—If the spouse's adjusted gross income for the preadjustment year is more than $20,000, subparagraph (A) shall be applied by substituting '25 percent' for '10 percent'.

"(C) PREADJUSTMENT YEAR.—For purposes of this paragraph, the term 'preadjustment year' means the most recent taxable year of the spouse ending before the date the deficiency notice is mailed.

"(D) COMPUTATION OF SPOUSE'S ADJUSTED GROSS INCOME.—If the spouse is married to another spouse at the close of the preadjustment year, the spouse's adjusted gross income shall include the income of the new spouse (whether or not they file a joint return).

"(E) EXCEPTION FOR OMISSIONS FROM GROSS INCOME.—This paragraph shall not apply to any liability attributable to the omission of an item from gross income.

"(5) SPECIAL RULE FOR COMMUNITY PROPERTY INCOME.—For purposes of this subsection, the determination of the spouse to whom items of gross income (other than gross income from property) are attributable shall be made without regard to community property laws."

(b) TREATMENT OF COMMUNITY INCOME.—

26 USC 66.

(1) IN GENERAL.—Section 66 (relating to treatment of community income where spouses live apart) is amended by redesignating subsection (b) as subsection (d) and by inserting after subsection (a) the following new subsections:

"(b) SECRETARY MAY DISREGARD COMMUNITY PROPERTY LAWS WHERE SPOUSE NOT NOTIFIED OF COMMUNITY INCOME.— The Secretary may disallow the benefits of any community property law to any taxpayer with respect to any income if such taxpayer acted as if solely entitled to such income and failed to notify the taxpayer's spouse before the due date (including extensions) for filing the return for the taxable year in which the income was derived of the nature and amount of such income.

"(c) SPOUSE RELIEVED OF LIABILITY IN CERTAIN OTHER CASES.—Under regulations prescribed by the Secretary, if—

"(1) an individual does not file a joint return for any taxable year,

"(2) such individual does not include in gross income for such taxable year an item of community income properly includible therein which, in accordance with the rules contained in section 879(a), would be treated as the income of the other spouse,

"(3) the individual establishes that he or she did not know of, and had no reason to know of, such item of community income, and

"(4) taking into account all facts and circumstances, it is inequitable to include such item of community income in such individual's gross income,

then, for purposes of this title, such item of community income shall be included in the gross income of the other spouse (and not in the gross income of the individual)."

(2) CLERICAL AMENDMENTS.—

(A) The section heading of section 66 is amended by striking out "WHERE SPOUSES LIVE APART". 26 USC 66.

(B) The subsection heading of subsection (a) of section 66 is amended by striking out "GENERAL RULE" and inserting in lieu thereof "TREATMENT OF COMMUNITY INCOME WHERE SPOUSES LIVE APART".

(C) The table of sections for part I of subchapter B of chapter 1 is amended by striking out "where spouses live apart" in the item relating to section 66.

(c) EFFECTIVE DATES.— 26 USC 6013 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply to all taxable years to which the Internal Revenue Code of 1954 applies. Corresponding provisions shall be deemed to be included in the Internal Revenue Code of 1939 and shall apply to all taxable years to which such Code applies. 26 USC 1 *et seq.* 53 Stat. 1.

(2) AUTHORITY TO DISREGARD COMMUNITY PROPERTY LAWS.—Subsection (b) of section 66 of the Internal Revenue Code of 1954, as added by subsection (b), shall apply to taxable years beginning after December 31, 1984. *Ante*, p. 802.

SEC. 425. TREATMENT OF CERTAIN PROPERTY SETTLEMENTS FOR PURPOSES OF ESTATE AND GIFT TAXES.

(a) DEDUCTION ALLOWED AGAINST ESTATE TAX FOR TRANSFERS SATISFYING SECTION 2516.—

(1) IN GENERAL.—Subsection (b) of section 2043 (relating to transfers for insufficient consideration) is amended to read as follows: 26 USC 2043.

"(b) MARITAL RIGHTS NOT TREATED AS CONSIDERATION.—

"(1) IN GENERAL.—For purposes of this chapter, a relinquishment or promised relinquishment of dower or curtesy, or of a statutory estate created in lieu of dower or curtesy, or of other marital rights in the decedent's property or estate, shall not be considered to any extent a consideration 'in money or money's worth'.

"(2) EXCEPTION.—For purposes of section 2053 (relating to expenses, indebtedness, and taxes), a transfer of property which satisfies the requirements of paragraph (1) of section 2516 (relating to certain property settlements) shall be considered to be

made for an adequate and full consideration in money or money's worth."

26 USC 2053.

(2) CROSS REFERENCE.—Subsection (e) of section 2053 (relating to deduction for expenses, indebtedness, and taxes) is amended to read as follows:

"(e) MARITAL RIGHTS.—

Ante, p. 803.

"For provisions treating certain relinquishments of marital rights as consideration in money or money's worth, see section 2043(b)(2)."

(b) SECTION 2516 EXTENDED TO AGREEMENTS ENTERED INTO WITHIN 1 YEAR AFTER DIVORCE.—Section 2516 (relating to certain property settlements) is amended by striking out so much of such section as precedes paragraph (1) thereof and inserting in lieu thereof the following:

"Where a husband and wife enter into a written agreement relative to their marital and property rights and divorce occurs within the 3-year period beginning on the date 1 year before such agreement is entered into (whether or not such agreement is approved by the divorce decree), any transfers of property or interests in property made pursuant to such agreement—".

(c) EFFECTIVE DATES.—

26 USC 2043 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to estates of decedents dying after the date of the enactment of this Act.

26 USC 2516 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to transfers after the date of the enactment of this Act.

SEC. 426. INCOME FROM SHELTERED WORKSHOPS NOT TAKEN INTO ACCOUNT IN DETERMINING DEPENDENCY EXEMPTION.

26 USC 151.

(a) IN GENERAL.—Subsection (e) of section 151 (relating to additional personal exemption for dependents) is amended by adding at the end thereof the following new paragraph:

"(5) CERTAIN INCOME OF HANDICAPPED DEPENDENTS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1)(A), the gross income of an individual who is permanently and totally disabled shall not include income attributable to services performed by the individual at a sheltered workshop if—

"(i) the availability of medical care at such workshop is the principal reason for his presence there, and

"(ii) the income arises solely from activities at such workshop which are incident to such medical care.

"(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

"(i) which provides special instruction or training designed to alleviate the disability of the individual, and

"(ii) which is operated by—

"(I) an organization described in section 501(c)(3) and exempt from tax under section 501(a), or

"(II) a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

"(C) PERMANENT AND TOTAL DISABILITY DEFINED.—An individual shall be treated as permanently and totally disabled

for purposes of this paragraph if such individual would be so treated under paragraph (3) of section 37(e)." 97 Stat. 85.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1984. *Post*, p. 826. 26 USC 151 note.

Subtitle C—Revision of At-Risk Rules

SEC. 431. REVISION OF INVESTMENT CREDIT AT-RISK RULES.

(a) IN GENERAL.—So much of paragraph (8) of section 46(c) (relating to limitation to amount at risk) as precedes subparagraph (F) thereof is amended to read as follows: 26 USC 46.

"(8) CERTAIN NONRECOURSE FINANCING EXCLUDED FROM CREDIT BASE.—

"(A) LIMITATION.—The credit base of any property to which this paragraph applies shall be reduced by the nonqualified nonrecourse financing with respect to such property (as of the close of the taxable year in which placed in service).

"(B) PROPERTY TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any property which—

"(i) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and

"(ii) is used in connection with an activity with respect to which any loss is subject to limitation under section 465.

"(C) CREDIT BASE DEFINED.—For purposes of this paragraph, the term 'credit base' means—

"(i) in the case of new section 38 property, the basis of the property, or *Post*, p. 827.

"(ii) in the case of used section 38 property, the cost of such property.

"(D) NONQUALIFIED NONRECOURSE FINANCING.—

"(i) IN GENERAL.—For purposes of this paragraph and paragraph (9), the term 'nonqualified nonrecourse financing' means any nonrecourse financing which is not qualified commercial financing.

"(ii) QUALIFIED COMMERCIAL FINANCING.—For purposes of this paragraph, the term 'qualified commercial financing' means any financing with respect to any property if—

"(I) such property is acquired by the taxpayer from a person who is not a related person,

"(II) the amount of the nonrecourse financing with respect to such property does not exceed 80 percent of the credit base of such property, and

"(III) such financing is borrowed from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government.

Such term shall not include any convertible debt.

"(iii) NONRECOURSE FINANCING.—For purposes of this subparagraph, the term 'nonrecourse financing' includes—

"(I) any amount with respect to which the taxpayer is protected against loss through guarantees,

stop-loss agreements, or other similar arrangements, and

"(II) except to the extent provided in regulations, any amount borrowed from a person who has an interest (other than as a creditor) in the activity in which the property is used or from a related person to a person (other than the taxpayer) having such an interest.

In the case of amounts borrowed by a corporation from a shareholder, subclause (II) shall not apply to an interest as a shareholder.

"(iv) QUALIFIED PERSON.—For purposes of this paragraph, the term 'qualified person' means any person which is actively and regularly engaged in the business of lending money and which is not—

"(I) a related person with respect to the taxpayer,

"(II) a person from which the taxpayer acquired the property (or a related person to such person), or

"(III) a person who receives a fee with respect to the taxpayer's investment in the property (or a related person to such person).

"(v) RELATED PERSON.—For purposes of clause (i), the term 'related person' has the meaning given such term by section 168(e)(4). Except as otherwise provided in regulations prescribed by the Secretary, the determination of whether a person is a related person shall be made as of the close of the taxable year in which the property is placed in service.

"(E) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of this paragraph and paragraph (9)—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, in the case of any partnership or S corporation, the determination of whether a partner's or shareholder's allocable share of any financing is nonqualified nonrecourse financing shall be made at the partner or shareholder level.

"(ii) SPECIAL RULE FOR CERTAIN RECOURSE FINANCING OF S CORPORATION.—A shareholder of an S corporation shall be treated as liable for his allocable share of any financing provided by a qualified person to such corporation if—

"(I) such financing is recourse financing (determined at the corporate level), and

"(II) such financing is provided with respect to qualified business property of such corporation.

"(iii) QUALIFIED BUSINESS PROPERTY.—For purposes of clause (ii), the term 'qualified business property' means any property if—

"(I) such property is used by the corporation in the active conduct of a trade or business,

"(II) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time employees who were not owner-employees (as defined in section 465(c)(7)(E)(i)) and substantially all the services of

Post, p. 811.

whom were services directly related to such trade or business, and

"(III) during the entire 12-month period ending on the last day of such taxable year, such corporation had at least 1 full-time employee substantially all of the services of whom were in the active management of the trade or business.

Such term shall not include any master sound recording or other tangible or intangible asset associated with literary, artistic, or musical properties.

"(iv) DETERMINATION OF ALLOCABLE SHARE.—The determination of any partner's or shareholder's allocable share of any financing shall be made in the same manner as the credit allowable by section 38 with respect to such property."

Post, p. 827.

(b) TREATMENT OF SUBSEQUENT INCREASES AND DECREASES IN NONQUALIFIED NONRECOURSE FINANCING.—

(1) SUBSEQUENT DECREASES.—Paragraph (9) of section 46(c) (relating to subsequent increases in the taxpayer's amount at risk with respect to the property) is amended to read as follows:

26 USC 46.

"(9) SUBSEQUENT DECREASES IN NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO THE PROPERTY.—

"(A) IN GENERAL.—If, at the close of a taxable year following the taxable year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be taken into account as additional qualified investment in such property in accordance with subparagraph (C).

"(B) CERTAIN TRANSACTIONS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, nonqualified nonrecourse financing shall not be treated as decreased through the surrender or other use of property financed by nonqualified nonrecourse financing.

"(C) MANNER IN WHICH TAKEN INTO ACCOUNT.—

"(i) CREDIT DETERMINED BY REFERENCE TO TAXABLE YEAR PROPERTY PLACED IN SERVICE.—For purposes of determining the amount of credit allowable under section 38 and the amount of credit subject to the early disposition or cessation rules under section 47, any increase in a taxpayer's qualified investment in property by reason of this paragraph shall be deemed to be additional qualified investment made by the taxpayer in the year in which the property referred to in subparagraph (A) was first placed in service.

"(ii) CREDIT ALLOWED FOR YEAR OF DECREASE IN NONQUALIFIED NONRECOURSE FINANCING.—Any credit allowable under this subpart for any increase in qualified investment by reason of this paragraph shall be treated as earned during the taxable year of the decrease in the amount of nonqualified nonrecourse financing."

(2) SUBSEQUENT INCREASES.—So much of subsection (d) of section 47 (relating to property ceasing to be at risk) as precedes paragraph (3) thereof is amended to read as follows:

26 USC 47.

"(d) INCREASES IN NONQUALIFIED NONRECOURSE FINANCING.—

"(1) IN GENERAL.—If, as of the close of the taxable year, there is a net increase with respect to the taxpayer in the amount of

nonqualified nonrecourse financing (within the meaning of section 46(c)(8)) with respect to any property to which section 46(c)(8) applied, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from reducing the qualified investment taken into account with respect to such property by the amount of such net increase.

"(2) TRANSFERS OF DEBT MORE THAN 1 YEAR AFTER INITIAL BORROWING NOT TREATED AS INCREASING NONQUALIFIED NONRECOURSE FINANCING.—For purposes of paragraph (1), the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8)(D)) with respect to the taxpayer shall not be treated as increased by reason of a transfer of (or agreement to transfer) any evidence of an indebtedness if such transfer occurs (or such agreement is entered into) more than 1 year after the date such indebtedness was incurred."

Ante, p. 805.

(c) CLARIFICATION OF COORDINATION OF SECTION 48(d) WITH AT-RISK RULES.—Subsection (d) of section 48 (relating to certain leased property) is amended by adding at the end thereof the following new paragraph:

26 USC 48.

"(6) COORDINATION WITH AT-RISK RULES.—

"(A) EXTENSION OF AT-RISK RULES TO CERTAIN LESSORS.—

"(i) IN GENERAL.—If—

"(I) a lessor makes an election under this subsection with respect to any at-risk property leased to an at-risk lessee, and

"(II) but for this clause, section 46(c)(8) would not apply to such property in the hands of the lessor,

section 46(c)(8) shall apply to the lessor with respect to such property.

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

"(I) if the lessor manufactured or produced the property,

"(II) if the property has a readily ascertainable fair market value, or

"(III) in circumstances which the Secretary determines by regulations to be circumstances where the application of clause (i) is not necessary to carry out the purposes of section 46(c)(8).

"(B) REQUIREMENT THAT LESSOR BE AT RISK.—In the case of any property which, in the hands of the lessor, is property to which section 46(c)(8) applies, the amount of the credit allowable to the lessee under section 38 with respect to such property by reason of an election under this subsection shall at no time exceed the credit which would have been allowable to the lessor with respect to such property (determined without regard to section 46(e)(3)) if—

Post, p. 827.

"(i) the lessor's basis in such property were equal to the lessee acquisition amount, and

"(ii) no election had been made under this subsection.

"(C) LESSEE SUBJECT TO AT-RISK LIMITATIONS.—

"(i) IN GENERAL.—In the case of any lease where—

"(I) the lessee is an at-risk lessee,

"(II) the property is at-risk property, and

"(III) the at-risk percentage is less than the required percentage,

any credit allowable under section 38 to the lessee by reason of an election under this subsection (hereinafter in this paragraph referred to as the 'total credit') shall be allowable only as provided in subparagraph (D). *Post*, p. 827.

"(ii) AT-RISK PERCENTAGE.—For purposes of this paragraph, the term 'at-risk percentage' means the percentage obtained by dividing—

"(I) the present value (as of the time the lease is entered into) of the aggregate lease at-risk payments, by

"(II) the lessee acquisition amount.

For purposes of subclause (I), the present value shall be determined by using a discount rate equal to the rate in effect under section 6621 as of the time the lease is entered into.

"(iii) REQUIRED PERCENTAGE.—For purposes of clause (i)(III), the term 'required percentage' means the sum of—

"(I) 2 times the sum of the percentages applicable to the property under section 46(a), plus *Post*, p. 834.

"(II) 10 percent.

In the case of 3-year property, such term means 60 percent of the required percentage determined under the preceding sentence.

"(iv) LESSEE ACQUISITION AMOUNT.—For purposes of this paragraph, the term 'lessee acquisition amount' means the amount for which the lessee is treated as having acquired the property by reason of an election under this subsection.

"(v) LEASE AT-RISK PAYMENT.—For purposes of this paragraph, the term 'lease at-risk payment' means any rental payment—

"(I) which the lessee is required to make under the lease in all events, and

"(II) with respect to which the lessee is not protected against loss through nonrecourse financing, guarantees, stop-loss agreements, or other similar arrangements.

"(D) YEAR FOR WHICH CREDIT ALLOWABLE.—

"(i) IN GENERAL.—Except as provided in clause (ii), in any case to which subparagraph (C)(i) applies, the portion of the total credit allowable for any taxable year shall be an amount which bears the same ratio to such total credit as—

"(I) the aggregate rental payments made by the lessee under the lease during such taxable year, bears to

"(II) the lessee acquisition amount.

"(ii) REMAINING AMOUNT ALLOWABLE FOR YEAR IN WHICH AGGREGATE RENTAL PAYMENTS EXCEED REQUIRED PERCENTAGE OF ACQUISITION AMOUNT.—The total credit (to the extent not allowable for a preceding taxable year) shall be allowable for the first taxable year as of the close of which the aggregate rental payments made by the lessee under the lease equal or exceed the required percentage (as defined in subparagraph (C)(iii)) of the lessee acquisition amount.

"(E) DEFINITION OF AT-RISK LESSEE AND AT-RISK PROPERTY.—For purposes of this paragraph—

"(i) AT-RISK LESSEE.—The term 'at-risk lessee' means any lessee who is a taxpayer described in section 465(a)(1).

"(ii) AT-RISK PROPERTY.—The term 'at-risk property' means any property used by an at-risk lessee in connection with an activity with respect to which any loss is subject to limitation under section 465.

"(F) SPECIAL RULES FOR SUBPARAGRAPHS (C) AND (D).—

"(i) SUBPARAGRAPHS (C) AND (D) APPLY IN LIEU OF OTHER AT-RISK RULES.—In the case of any election under this subsection, paragraphs (8) and (9) of section 46(c) and subsection (d) of section 47 shall only apply with respect to the lessor.

Ante, p. 807.

"(ii) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of subparagraphs (C) and (D), rules similar to the rules of subparagraph (E) of section 46(c)(8) shall apply.

Ante, p. 805.

"(iii) SUBSEQUENT REDUCTIONS IN AT-RISK AMOUNT.—Under regulations prescribed by the Secretary, the principles of subsection (d) of section 47 shall apply for purposes of subparagraphs (C) and (D).

"(G) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations—

"(i) providing for such adjustments as may be appropriate where expenses connected with the lease are borne by the lessor, and

"(ii) providing the extent to which contingencies in the lease will be disregarded."

(d) TECHNICAL AMENDMENTS.—

26 USC 46.

(1) Clause (i) of section 46(c)(8)(F) (relating to special rule for certain energy property) is amended to read as follows:

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to qualified energy property."

(2) Subclause (III) of section 46(c)(8)(F)(ii) (defining qualified energy property) is amended to read as follows:

"(III) as of the close of the taxable year in which the property is placed in service, not more than 75 percent of the basis of such property is attributable to nonqualified nonrecourse financing, and".

(3) Subclause (IV) of section 46(c)(8)(F)(ii) is amended by striking out "nonrecourse financing (other than financing described in section 46(c)(8)(B)(ii))" and inserting in lieu thereof "nonqualified nonrecourse financing".

26 USC 47.

(4) Subparagraph (A) of section 47(d)(3) is amended by striking out "ceasing to be at risk" and inserting in lieu thereof "increasing the amount of nonqualified nonrecourse financing (within the meaning of section 46(c)(8))".

(5) Clause (i) of section 47(d)(3)(B) is amended by striking out "other than a loan described in section 46(c)(8)(B)(ii)".

26 USC 46 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date; except that such amendments shall not apply to any property to which

the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981 do not apply. 26 USC 46, 47.

(2) AMENDMENTS MAY BE ELECTED RETROACTIVELY.—At the election of the taxpayer, the amendments made by this section shall apply as if included in the amendments made by section 211(f) of the Economic Recovery Tax Act of 1981. Any election made under the preceding sentence shall apply to all property of the taxpayer to which the amendments made by such section 211(f) apply and shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 432. EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS FROM AT-RISK RULES, ETC.

(a) EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS FROM AT-RISK RULES.—Subsection (c) of section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new paragraph: 26 USC 465.

"(7) EXCLUSION OF ACTIVE BUSINESSES OF QUALIFIED C CORPORATIONS.—

"(A) IN GENERAL.—In the case of a taxpayer which is a qualified C corporation—

"(i) each qualifying business carried on by such taxpayer shall be treated as a separate activity, and

"(ii) subsection (a) shall not apply to losses from such business.

"(B) QUALIFIED C CORPORATION.—For purposes of subparagraph (A), the term 'qualified C corporation' means any corporation described in subparagraph (B) of subsection (a)(1) which is not—

"(i) a personal holding company (as defined in section 542(a)),

"(ii) a foreign personal holding company (as defined in section 552(a)), or

"(iii) a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2)).

"(C) QUALIFYING BUSINESS.—For purposes of this paragraph, the term 'qualifying business' means any active business if—

"(i) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 1 full-time employee substantially all the services of whom were in the active management of such business,

"(ii) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time, nonowner employees substantially all of the services of whom were services directly related to such business,

"(iii) the amount of the deductions attributable to such business which are allowable to the taxpayer solely by reason of sections 162 and 404 for the taxable year exceeds 15 percent of the gross income from such business for such year, and

"(iv) such business is not an excluded business.

"(D) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (C).—

"(i) PARTNERSHIPS IN WHICH TAXPAYER IS A QUALIFIED CORPORATE PARTNER.—In the case of an active business of a partnership, if—

"(I) the taxpayer is a qualified corporate partner in the partnership, and

"(II) during the entire 12-month period ending on the last day of the partnership's taxable year, there was at least 1 full-time employee of the partnership (or of a qualified corporate partner) substantially all the services of whom were in the active management of such business,

then the taxpayer's proportionate share (determined on the basis of its profits interest) of the activities of the partnership in such business shall be treated as activities of the taxpayer (and clause (i) of subparagraph (C) shall not apply in determining whether such business is a qualifying business of the taxpayer).

"(ii) QUALIFIED CORPORATE PARTNER.—For purposes of clause (i), the term 'qualified corporate partner' means any corporation if—

"(I) such corporation is a general partner in the partnership,

"(II) such corporation has an interest of 10 percent or more in the profits and losses of the partnership, and

"(III) such corporation has contributed property to the partnership in an amount not less than the lesser of $500,000 or 10 percent of the net worth of the corporation.

For purposes of subclause (III), any contribution of property other than money shall be taken into account at its fair market value.

"(iii) DEDUCTION FOR OWNER EMPLOYEE COMPENSATION NOT TAKEN INTO ACCOUNT.—For purposes of clause (iii) of subparagraph (C), there shall not be taken into account any deduction in respect of compensation for personal services rendered by any employee (other than a non-owner employee) of the taxpayer or any member of such employee's family (within the meaning of section 318(a)(1)).

"(iv) SPECIAL RULE FOR BANKS.—For purposes of clause (iii) of subparagraph (C), in the case of a bank (as defined in section 581) or a financial institution to which section 591 applies—

"(I) gross income shall be determined without regard to the exclusion of interest from gross income under section 103, and

"(II) in addition to the deductions described in such clause, there shall also be taken into account the amount of the deductions which are allowable for amounts paid or credited to the accounts of depositors or holders of accounts as dividends or interest on their deposits or withdrawable accounts under section 163 or 591.

"(v) SPECIAL RULE FOR LIFE INSURANCE COMPANIES.—

"(I) IN GENERAL.—Clause (iii) of subparagraph (C) shall not apply to any insurance business of a qualified life insurance company.

"(II) INSURANCE BUSINESS.—For purposes of subclause (I), the term 'insurance business' means any business which is not a noninsurance business (within the meaning of section 806(c)(3)).

Ante, p. 724.

"(III) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of subclause (I), the term 'qualified life insurance company' means any company which would be a life insurance company as defined in section 816 if unearned premiums were not taken into account under subsections (a)(2) and (c)(2) of section 816.

Ante, p. 748.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) NON-OWNER EMPLOYEE.—The term 'non-owner employee' means any employee who does not own, at any time during the taxable year, more than 5 percent in value of the outstanding stock of the taxpayer. For purposes of the preceding sentence, section 318 shall apply, except that '5 percent' shall be substituted for '50 percent' in section 318(a)(2)(C).

"(ii) EXCLUDED BUSINESS.—The term 'excluded business' means—

"(I) equipment leasing (as defined in paragraph (6)), and

"(II) any business involving the use, exploitation, sale, lease, or other disposition of master sound recordings, motion picture films, video tapes, or tangible or intangible assets associated with literary, artistic, musical, or similar properties.

"(iii) SPECIAL RULES RELATING TO COMMUNICATIONS INDUSTRY, ETC.—

"(I) BUSINESS NOT EXCLUDED WHERE TAXPAYER NOT COMPLETELY AT RISK.—A business involving the use, exploitation, sale, lease, or other disposition of property described in subclause (II) of clause (ii) shall not constitute an excluded business by reason of such subclause if the taxpayer is at risk with respect to all amounts paid or incurred (or chargeable to capital account) in such business.

"(II) CERTAIN LICENSED BUSINESSES NOT EXCLUDED.—For purposes of subclause (II) of clause (ii), the provision of radio, television, cable television, or similar services pursuant to a license or franchise granted by the Federal Communications Commission or any other Federal, State, or local authority shall not constitute an excluded business by reason of such subclause.

"(F) AFFILIATED GROUP TREATED AS 1 TAXPAYER.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in subparagraph (G), the component members of an affiliated group of corporations shall be treated as a single taxpayer.

"(ii) AFFILIATED GROUP OF CORPORATIONS.—The term 'affiliated group of corporations' means an affiliated

Ante, p. 577.

group (as defined in section 1504(a)) which files or is required to file consolidated income tax returns.

"(iii) COMPONENT MEMBER.—The term 'component member' means an includible corporation (as defined in section 1504) which is a member of the affiliated group.

"(G) LOSS OF 1 MEMBER OF AFFILIATED GROUP MAY NOT OFFSET INCOME OF PERSONAL HOLDING COMPANY OR PERSONAL SERVICE CORPORATION.—Nothing in this paragraph shall permit any loss of a member of an affiliated group to be used as an offset against the income of any other member of such group which is a personal holding company (as defined in section 542(a)) or a personal service corporation (as defined in section 269A(b) but determined by substituting '5 percent' for '10 percent' in section 269A(b)(2))."

(b) ACTIVITIES TREATED AS SEPARATE ACTIVITIES BY STATUTE MAY BE AGGREGATED WHERE TAXPAYER ACTIVELY PARTICIPATES IN THE MANAGEMENT OF EACH ACTIVITY.—Paragraph (2) of section 465(c) (relating to activities to which risk applies) is amended to read as follows:

26 USC 465.

"(2) SEPARATE ACTIVITIES.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a taxpayer's activity with respect to each—

"(i) film or video tape,

"(ii) section 1245 property which is leased or held for leasing,

"(iii) farm,

"(iv) oil and gas property (as defined under section 614), or

"(v) geothermal property (as defined under section 614),

shall be treated as a separate activity.

"(B) AGGREGATION RULES.—

"(i) SPECIAL RULE FOR LEASES OF SECTION 1245 PROPERTY BY PARTNERSHIPS OR S CORPORATIONS.—In the case of any partnership or S corporation, all activities with respect to section 1245 properties which—

"(I) are leased or held for lease, and

"(II) are placed in service in any taxable year of the partnership or S corporation,

shall be treated as a single activity.

"(ii) OTHER AGGREGATION RULES.—Rules similar to the rules of subparagraphs (B) and (C) of paragraph (3) shall apply for purposes of this paragraph."

(c) CORPORATIONS CONSIDERED AT RISK WITH RESPECT TO AMOUNTS BORROWED FROM SHAREHOLDERS, ETC.—Paragraph (3) of section 465(b) (relating to certain borrowed amounts excluded) is amended to read as follows:

"(3) CERTAIN BORROWED AMOUNTS EXCLUDED.—

"(A) IN GENERAL.—Except to the extent provided in regulations, for purposes of paragraph (1)(B), amounts borrowed shall not be considered to be at risk with respect to an activity if such amounts are borrowed from any person who has an interest in such activity or from a related person to a person (other than the taxpayer) having such an interest.

"(B) EXCEPTIONS.—

"(i) INTEREST AS CREDITOR.—Subparagraph (A) shall not apply to an interest as a creditor in the activity.

"(ii) INTEREST AS SHAREHOLDER WITH RESPECT TO AMOUNTS BORROWED BY CORPORATION.—In the case of amounts borrowed by a corporation from a shareholder, subparagraph (A) shall not apply to an interest as a shareholder.

"(C) RELATED PERSON DEFINED.—For purposes of subparagraph (A), the term 'related person' has the meaning given such term by section 168(e)(4)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983; except that any loss from an activity described in section 465(c)(7)(A) of the Internal Revenue Code of 1954 (as amended by this section) which (but for the amendments made by this section) would have been treated as a deduction for the taxpayer's first taxable year beginning after December 31, 1983, under section 465(a)(2) of such Code shall be allowed as a deduction for such first taxable year notwithstanding such amendments.

26 USC 465 note.

Ante, p. 811.

Subtitle D—Miscellaneous Treasury Administrative Provisions

PART I—PROVISIONS NOT RELATING TO DISTILLED SPIRITS TAX

SEC. 441. SIMPLIFICATION OF CERTAIN REPORTING REQUIREMENTS.

26 USC 936 note.

(a) REPORT ON POSSESSIONS CORPORATIONS.—The Secretary of the Treasury shall, for the calendar year 1981 and each second calendar year thereafter, submit a report to the Congress within 24 months following the close of such calendar year setting forth an analysis of the operation and effect of sections 936 and 934(b) of the Internal Revenue Code of 1954.

(b) HIGH INCOME TAXPAYER REPORT.—

(1) Section 2123 of the Tax Reform Act of 1976 is amended to read as follows:

26 USC 56 note.

"SEC. 2123. HIGH INCOME TAXPAYER REPORT.

"The Secretary of the Treasury shall publish annually information on the amount of tax paid by individual taxpayers with high total incomes. Total income for this purpose is to be calculated and set forth by adding to adjusted gross income any items of tax preference excluded from, or deducted in arriving at, adjusted gross income, and by subtracting any investment expenses incurred in the production of such income to the extent of the investment income. These data are to include the number of such individuals with total income over $200,000 who owe no Federal income tax (after credits) and the deductions, exclusions, or credits used by them to avoid tax."

(2) The amendment made by paragraph (1) shall apply to information published after the date of the enactment of this Act.

26 USC 56 note.

(c) INTERNATIONAL BOYCOTT REPORTS.—

(1) Section 1067 of the Tax Reform Act of 1976 is amended to read as follows:

26 USC 999 note.

"SEC. 1067. REPORTS BY THE SECRETARY.

"(a) GENERAL RULE.—As soon after the close of each 4-year period as the data become available, the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth for such 4-year period—

"(1) the number of reports filed under section 999(a) of the Internal Revenue Code of 1954 for taxable years ending with or within each calendar year in such 4-year period,

"(2) the number of such reports with respect to each such calendar year on which the taxpayer indicated international boycott participation or cooperation (within the meaning of section 999(b)(3) of such Code), and

"(3) a detailed description of the manner in which the provisions of such Code relating to international boycott activity have been administered during such 4-year period.

"(b) 4-YEAR PERIOD.—For purposes of subsection (a), the term '4-year period' means the period consisting of 4 calendar years beginning with calendar year 1982 and each subsequent fourth calendar year."

26 USC 999 note.

(2) The amendment made by paragraph (1) shall apply to reports for periods after December 31, 1981.

SEC. 442. REMOVAL OF $1,000,000 LIMITATION ON WORKING CAPITAL FUND.

The last sentence of section 322(a) of title 31, United States Code (placing a $1,000,000 limitation on the working capital fund for the Department of the Treasury), is hereby repealed.

SEC. 443. INCREASE IN LIMITATION ON REVOLVING FUND FOR REDEMPTION OF REAL PROPERTY.

26 USC 7810.

Subsection (a) of section 7810 (relating to revolving fund for redemption of real property) is amended by striking out "$1,000,000" and inserting in lieu thereof "$10,000,000".

SEC. 444. REMOVAL OF $1,000,000 LIMITATION ON SPECIAL AUTHORITY TO DISPOSE OF OBLIGATIONS.

Subsection (b) of section 324 of title 31, United States Code (relating to disposing and extending the maturity of obligations), is amended by striking out the last sentence.

SEC. 445. SECRETARY OF THE TREASURY AUTHORIZED TO ACCEPT GIFTS AND BEQUESTS.

Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury. Property accepted under this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

"(2) For purposes of the Federal income, estate, and gift taxes, property accepted under paragraph (1) shall be considered as a gift or bequest to or for the use of the United States.

"(3) The Secretary of the Treasury may invest and reinvest the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Income accruing from the securities, and from any other property accepted under paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed on order of the Secretary of the Treasury for purposes as nearly as possible in accordance with the terms of the gifts or bequests.

"(4) The Secretary of the Treasury shall, not less frequently than annually, make a public disclosure of the amount (and sources) of the gifts and bequests received under this subsection, and the purposes for which amounts in the separate fund established under this subsection are expended."

SEC. 446. EXTENSION OF PERIOD FOR COURT REVIEW OF JEOPARDY ASSESSMENT WHERE PROMPT SERVICE NOT MADE ON THE UNITED STATES.

(a) GENERAL RULE.—Paragraph (2) of section 7429(b) (relating to judicial review) is amended by adding at the end thereof the following new sentence: 26 USC 7429.

"If the court determines that proper service was not made on the United States within 5 days after the date of the commencement of the action, the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions commenced after the date of the enactment of this Act. 26 USC 7429 note.

SEC. 447. EXTENSION OF PERIOD DURING WHICH ADDITIONAL TAX SHOWN ON AMENDED RETURN MAY BE ASSESSED.

(a) GENERAL RULE.—Subsection (c) of section 6501 (relating to exceptions) is amended by adding at the end thereof the following new paragraph: *Ante*, p. 757.

"(7) SPECIAL RULE FOR CERTAIN AMENDED RETURNS.—Where, within the 60-day period ending on the day on which the time prescribed in this section for the assessment of any tax imposed by subtitle A for any taxable year would otherwise expire, the Secretary receives a written document signed by the taxpayer showing that the taxpayer owes an additional amount of such tax for such taxable year, the period for the assessment of such additional amount shall not expire before the day 60 days after the day on which the Secretary receives such document."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to documents received by the Secretary of the Treasury (or his delegate) after the date of the enactment of this Act. 26 USC 6501 note.

SEC. 448. TREATMENT OF CERTAIN GUARANTEED DRAFTS ISSUED BY FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—Paragraph (2) of section 6311(b) (relating to liability of banks and others) is amended— 26 USC 6311.

(1) by striking out "or cashier's check" and inserting in lieu thereof "or cashier's check (or other guaranteed draft)",

(2) by striking out "the amount of such check" and inserting in lieu thereof "the amount of such check (or draft)",

(3) by striking out "the bank or trust company" and inserting in lieu thereof "the financial institution", and

(4) by striking out "such bank" each place it appears and inserting in lieu thereof "such financial institution".

26 USC 6311 note.

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

SEC. 449. DISCLOSURE OF WINDFALL PROFIT TAX INFORMATION TO STATE TAX OFFICIALS.

26 USC 6103.

(a) GENERAL RULE.—Paragraph (1) of section 6103(d) (relating to disclosure to State tax officials) is amended by striking out "44, 51" and inserting in lieu thereof "44, 45, 51".

26 USC 6103 note.

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

SEC. 450. FINANCIAL REPORTING OF INVESTMENT TAX CREDITS.

26 USC 38 note.

(a) IN GENERAL—Paragraph (1) of section 101(c) of the Revenue Act of 1971 (85 Stat. 499) (relating to accounting for investment credit in certain financial reports and reports to Federal agencies) is amended—

(1) by inserting "and" at the end of subparagraph (A),

(2) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(3) by striking out subparagraph (C).

26 USC 38 note.
26 USC 1 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Revenue Act of 1971.

PART II—PROVISIONS RELATING TO DISTILLED SPIRITS

SEC. 451. REPEAL OF OCCUPATIONAL TAX ON MANUFACTURERS OF STILLS AND CONDENSERS; NOTICES OF MANUFACTURE AND SET UP OF STILLS.

(a) IN GENERAL.—Subpart C of part II of subchapter A of chapter 51 (relating to manufacturers of stills) is amended to read as follows:

"Subpart C—Manufacturers of Stills

"Sec. 5101. Notice of manufacture of still; notice of set up of still.
"Sec. 5102. Definition of manufacturer of stills.

26 USC 5101.

"SEC. 5101. NOTICE OF MANUFACTURE OF STILL; NOTICE OF SET UP OF STILL.

"(a) NOTICE REQUIREMENTS.—

"(1) NOTICE OF MANUFACTURE OF STILL.—The Secretary may, pursuant to regulations, require any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, to give written notice, before the still, boiler, or other vessel is removed from the place of manufacture, setting forth by whom it is to be used, its capacity, and the time of removal from the place of manufacture.

"(2) NOTICE OF SET UP OF STILL.—The Secretary may, pursuant to regulations, require that no still, boiler, or other vessel be set up without the manufacturer of the still, boiler, or other vessel first giving written notice to the Secretary of that purpose.

"(b) PENALTIES, ETC.—

"(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687. *Infra.*

"(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see section 5601(a)(1) and 5615(1).

"SEC. 5102. DEFINITION OF MANUFACTURER OF STILLS. 26 USC 5102.

"Any person who manufactures any still or condenser to be used in distilling shall be deemed a manufacturer of stills."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 5179(b) (relating to registration of stills) is amended to read as follows: 26 USC 5179.

"(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2)." *Ante*, p. 818.

(2) Paragraph (2) of section 5615 (relating to property subject to forfeiture) is amended to read as follows: 26 USC 5615.

"(2) DISTILLING APPARATUS REMOVED WITHOUT NOTICE OR SET UP WITHOUT NOTICE.—Any still, boiler, or other vessel to be used for the purpose of distilling—

"(A) which is removed without notice having been given when required by section 5101(a)(1), or *Ante*, p. 818.

"(B) which is set up without notice having been given when required by section 5101(a)(2); and".

(3) Subsection (a) of section 5691 (relating to penalties for nonpayment of special taxes relating to liquors) is amended by striking out "limited retail dealer, or manufacturer of stills" and inserting in lieu thereof "or limited retail dealer". 26 USC 5691.

SEC. 452. ALLOWANCE OF DRAWBACK CLAIMS EVEN WHERE CERTAIN REQUIREMENTS NOT MET.

Section 5134 (relating to drawback) is amended by adding at the end thereof the following new subsection: 26 USC 5134.

"(c) ALLOWANCE OF DRAWBACK EVEN WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—No claim for drawback under this section shall be denied in the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder upon the claimant's establishing to the satisfaction of the Secretary that distilled spirits on which the tax has been paid or determined were in fact used in the manufacture or production of medicines, medicinal preparations, food products, flavors, or flavoring extracts, which were unfit for beverage purposes.

"(2) PENALTY.—

"(A) IN GENERAL.—In the case of a failure to comply with any requirement imposed under this subpart or any rule or regulation issued thereunder, the claimant shall be liable for a penalty of $1,000 for each failure to comply unless it is shown that the failure to comply was due to reasonable cause.

"(B) PENALTY MAY NOT EXCEED AMOUNT OF CLAIM.—The aggregate amount of the penalties imposed under subparagraph (A) for failures described in paragraph (1) in respect of any claim shall not exceed the amount of such claim (determined without regard to subparagraph (A)).

"(3) PENALTY TREATED AS TAX.—The penalty imposed by paragraph (2) shall be assessed, collected, and paid in the same manner as taxes, as provided in section 6662(a)."

SEC. 453. DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.

26 USC 6103.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO ADMINISTRATORS OF STATE ALCOHOL LAWS.—Notwithstanding any other provision of this section, the Secretary may disclose—

"(A) the name and address of any person who is qualified to produce alcohol for fuel use under section 5181, and

"(B) the location of any premises to be used by such person in producing alcohol for fuel,

to any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for administration of State alcohol laws solely for use in the administration of such laws."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 6103(p)(3) (relating to records of inspection and disclosure) is amended by striking out "(5), or (7)" and inserting in lieu thereof "(5), (7), (8), or (9)".

(2) The material preceding subparagraph (A) of paragraph (4) of section 6103(p) is amended by striking out "or (7)" and inserting in lieu thereof "(7), (8), or (9)".

(3) Clause (i) of section 6103(p)(4)(F) is amended by striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), (8), or (9)".

26 USC 7213.

(4) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "or (8)" and inserting in lieu thereof "(8), or (9)".

26 USC 6103.

(5) Section 127(a)(1) of Public Law 96-249 is amended by striking out "Subsection (i)" and inserting in lieu thereof "Subsection (l)".

26 USC 6103.
94 Stat. 468.

(6) The paragraph (7) of section 6103(l) added by Public Law 96-265 is hereby redesignated as paragraph (8).

SEC. 454. REPEAL OF STAMP REQUIREMENT FOR DISTILLED SPIRITS.

26 USC 5205.

(a) IN GENERAL.—Section 5205 (relating to stamps) is hereby repealed.

26 USC 5301.

(b) BOTTLES MUST HAVE OTHER ANTITAMPERING CLOSURE.—Section 5301 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CLOSURES.—The immediate container of distilled spirits withdrawn from bonded premises, or from customs custody, on determination of tax shall bear a closure or other device which is designed so as to require breaking in order to gain access to the contents of such container. The preceding sentence shall not apply to containers of bulk distilled spirits."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 5062.

(1) The second sentence of section 5062(b) (relating to drawback in case of exportation) is amended by striking out "stamped or restamped, and".

26 USC 5066.

(2) Paragraph (2) of section 5066(a) (relating to bottled distilled spirits eligible for export with benefit of drawback) is amended

by striking out "stamped or restamped, and marked," and inserting in lieu thereof "marked".

(3) Subsection (b) of section 5116 (relating to cross references) is amended to read as follows: 26 USC 5116.

"(b) CROSS REFERENCE.—

"For provisions relating to containers of distilled spirits, see section 5206."

(4) Subsection (c) of section 5204 (relating to gauging) is amended— 26 USC 5204.

(A) by striking out "STAMPING," in the heading, and

(B) by striking out "stamping," in the text.

(5)(A) Section 5206 (relating to containers) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection: 26 USC 5206.

"(d) EFFACEMENT OF MARKS AND BRANDS ON EMPTIED CONTAINERS.—Every person who empties, or causes to be emptied, any container of distilled spirits bearing any mark or brand required by law (or regulations pursuant thereto) shall at the time of emptying such container efface and obliterate such mark or brand; except that the Secretary may, by regulations, waive any requirement of this subsection where he determines that no jeopardy to the revenue will be involved."

(B) Subsection (f) of section 5206, as redesignated by subparagraph (A), is amended by adding at the end thereof the following new paragraphs:

"(3) For provisions relating to the marking and branding of containers of distilled spirits by proprietors, see section 5204(c).

"(4) For penalties and forfeitures relating to marks and brands, see sections 5604 and 5613." *Infra.*

(6) Paragraph (4) of section 5207(a) (relating to records and reports) is amended by striking out subparagraph (D), by adding "and" at the end of subparagraph (B), and by striking out ", and" at the end of subparagraph (C) and inserting in lieu thereof a period. 26 USC 5207.

(7) Subsection (c) of section 5215 (relating to return of tax determined distilled spirits to bonded premises) is amended— 26 USC 5215.

(A) by striking out "RESTAMPING" in the heading and inserting in lieu thereof "RECLOSING", and

(B) by striking out "restamping" in the text and inserting in lieu thereof "reclosing".

(8) Section 5235 (relating to bottling of alcohol for industrial purposes) is amended by striking out "stamped," in the first sentence and by striking out the second sentence. 26 USC 5235.

(9) Subsection (c) of section 5301 (relating to regulation of traffic in containers of distilled spirits) is amended— 26 USC 5301.

(A) by striking out "stamping" in paragraphs (1) and (3) and inserting in lieu thereof "tax determination", and

(B) by striking out ", if the liquor bottles are to be again stamped under the provisions of this chapter".

(10) Subsection (a) of section 5555 (relating to records, statements, and returns) is amended by striking out "or for the affixing of any stamp required to be affixed by this chapter,". 26 USC 5555.

(11)(A) Section 5604 (relating to penalties relating to stamps, marks, brands, and containers) is amended to read as follows: 26 USC 5604.

"SEC. 5604. PENALTIES RELATING TO MARKS, BRANDS, AND CONTAINERS.

"(a) IN GENERAL.—Any person who shall—

"(1) transport, possess, buy, sell, or transfer any distilled spirits unless the immediate container bears the type of closure or other device required by section 5301(d),

Ante, p. 820.

"(2) with intent to defraud the United States, empty a container bearing the closure or other device required by section 5301(d) without breaking such closure or other device,

"(3) empty, or cause to be emptied, any distilled spirits from an immediate container bearing any mark or brand required by law without effacing and obliterating such mark or brand as required by section 5206(d),

Ante, p. 821.

"(4) place any distilled spirits in any bottle, or reuse any bottle for the purpose of containing distilled spirits, which has once been filled and fitted with a closure or other device under the provisions of this chapter, without removing and destroying such closure or other device,

"(5) willfully and unlawfully remove, change, or deface any mark, brand, label, or seal affixed to any case of distilled spirits, or to any bottle contained therein,

"(6) with intent to defraud the United States, purchase, sell, receive with intent to transport, or transport any empty cask or package having thereon any mark or brand required by law to be affixed to any cask or package containing distilled spirits, or

"(7) change or alter any mark or brand on any cask or package containing distilled spirits, or put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or fraudulently use any cask or package having any inspection mark thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected,

shall be fined not more than $10,000 or imprisoned not more than 5 years, or both, for each such offense.

"(b) CROSS REFERENCES.—

"For provisions relating to the authority of internal revenue officers to enforce provisions of this section, see sections 5203, 5557, and 7608."

(B) The table of sections for part I of subchapter J of chapter 51 is amended by striking out the item relating to section 5604 and inserting in lieu thereof the following:

"Sec. 5604. Penalties relating to marks, brands, and containers."

26 USC 5613.

(12)(A) Subsection (b) of section 5613 (relating to forfeiture of distilled spirits not stamped, marked, or branded as required by law) is amended to read as follows:

"(b) CONTAINERS WITHOUT CLOSURES.—All distilled spirits found in any container which is required by this chapter to bear a closure or other device and which does not bear a closure or other device in compliance with this chapter shall be forfeited to the United States."

(B) The section heading of section 5613 is amended by striking out "**STAMPED**" and inserting in lieu thereof "**CLOSED**".

(C) The item relating to section 5613 in the table of sections for part I of subchapter J of chapter 51 is amended by striking out "stamped" and inserting in lieu thereof "closed".

26 USC 6801.

(13) Subsection (b) of section 6801 (relating to authority for establishment, alteration, and distribution) is amended by strik-

ing out "several stamp taxes;" and all that follows and inserting in lieu thereof "several stamp taxes."

(14) The table of sections for part I of subchapter C of chapter 51 is amended by striking out the item relating to section 5205.

SEC. 455. COOKING WINE MAY BE FORTIFIED USING DISTILLED SPIRITS.

(a) IN GENERAL.—Subsection (a) of section 5214 (relating to withdrawal of distilled spirits from bonded premises free of tax or without payment of tax) is amended by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph: 26 USC 5214.

"(13) without payment of tax for use on bonded wine cellar premises in the production of wine or wine products which will be rendered unfit for beverage use and removed pursuant to section 5362(d)."

(b) LIABILITY FOR TAX.—

(1) Paragraph (1) of section 5005(e) (relating to withdrawals without payment of tax) is amended by striking out "or (10)" and inserting in lieu thereof "(10), or (13)". 26 USC 5005.

(2) Paragraph (2) of section 5005(e) is amended by inserting "used in the production of nonbeverage wine or wine products," after "used in the production of wine,".

(c) TECHNICAL AMENDMENT.—Section 5354 (relating to bonds for bonded wine cellars) is amended by striking out "wine spirits" each place it appears and inserting in lieu thereof "distilled spirits". 26 USC 5354.

SEC. 456. EFFECTIVE DATES. 26 USC 5101 note.

(a) IN GENERAL.—Except as otherwise provided in this section the amendments made by this part shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

(b) REPEAL OF STAMP REQUIREMENT.—The amendments made by section 454 shall take effect on July 1, 1985. *Ante*, p. 820.

(c) FORTIFICATION OF COOKING WINE.—The amendments made by section 455 shall take effect on the date of the enactment of this Act. *Supra*.

Subtitle E—Tax Court Provisions

SEC. 461. INCREASE IN JURISDICTIONAL LIMIT FOR SMALL CASES.

(a) INCREASE IN JURISDICTIONAL LIMIT FOR SMALL TAX CASES.—

(1) IN GENERAL.—Subsection (a) of section 7463 (relating to disputes involving $5,000 or less) is amended by striking out "$5,000" each place it appears and inserting in lieu thereof "$10,000". 26 USC 7463.

(2) CLERICAL AMENDMENTS.—

(A) The section heading for section 7463 is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

(B) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "$5,000" in the item relating to section 7463 and inserting in lieu thereof "$10,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 7463 note.

SEC. 462. ANNUITIES TO SURVIVORS OF TAX COURT JUDGES.

26 USC 7448.

(a) ENTITLEMENT TO ANNUITY.—Subsection (h) of section 7448 (relating to entitlement to annuity) is amended—

(1) by striking out "$900 per year divided by the number of such children or $360 per year," in paragraph (2) and inserting in lieu thereof "$4,644 per year divided by the number of such children or $1,548 per year,"; and

(2) by striking out "$480 per year" in paragraph (3) and inserting in lieu thereof "$5,580 per year divided by the number of such children or $1,860 per year, whichever is lesser".

26 USC 7448 note.

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply to annuities payable with respect to months beginning after the date of the enactment of this Act.

SEC. 463. PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.

26 USC 7456.

(a) IN GENERAL.—Subsection (d) of section 7456 (relating to proceedings which may be assigned to commissioners) is amended to read as follows:

"(d) PROCEEDINGS WHICH MAY BE ASSIGNED TO COMMISSIONERS.—The chief judge may assign—

"(1) any declaratory judgment proceeding,

"(2) any proceeding under section 7463,

"(3) any proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds $10,000; and

"(4) any other proceeding which the chief judge may designate,

to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any proceeding described in paragraph (1), (2), or (3), subject to such conditions and review as the court may provide."

26 USC 7456 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted as part of the Miscellaneous Revenue Act of 1982.

26 USC 1 note.

SEC. 464. SPECIAL TRIAL JUDGES.

26 USC 7456.

(a) IN GENERAL.—Subsection (a) of section 7456 (relating to administration of oaths and procurement of testimony) is amended by striking out "commissioner" each place it appears and inserting in lieu thereof "special trial judge".

(b) APPOINTMENT AND COMPENSATION.—Subsection (c) of section 7456 (relating to commissioners) is amended—

(1) by striking out "COMMISSIONERS" in the heading and inserting in lieu thereof "SPECIAL TRIAL JUDGES";

(2) by striking out "commissioners" and inserting in lieu thereof "special trial judges"; and

(3) by striking out "commissioner" and inserting in lieu thereof "special trial judge".

Supra.

(c) PROCEEDINGS WHICH MAY BE ASSIGNED TO SPECIAL TRIAL JUDGES.—Subsection (d) of section 7456 (relating to proceedings which may be assigned to commissioners), as amended by section 463, is amended—

(1) by striking out "COMMISSIONERS" in the heading and inserting in lieu thereof "SPECIAL TRIAL JUDGES";

(2) by striking out "commissioners" and inserting in lieu thereof "special trial judges"; and

(3) by striking out "commissioner" and inserting in lieu thereof "special trial judge".

(d) CONFORMING AMENDMENT.—Subsection (c) of section 7471 (cross reference relating to compensation and travel and subsistence allowances of commissioners) is amended by striking out "COMMISSIONERS" in the heading and inserting in lieu thereof "SPECIAL TRIAL JUDGES", and by striking out "commissioners" and inserting in lieu thereof "special trial judges". 26 USC 7471.

(e) EFFECTIVE DATE.— 26 USC 7456 note.

(1) The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Any reference in any law to a commissioner of the Tax Court shall be treated as a reference to a special trial judge of the Tax Court.

SEC. 465. PUBLICITY OF TAX COURT PROCEEDINGS.

(a) IN GENERAL.—Section 7461 (relating to publicity of proceedings) is amended to read as follows: 26 USC 7461.

"SEC. 7461. PUBLICITY OF PROCEEDINGS.

"(a) GENERAL RULE.—Except as provided in subsection (b), all reports of the Tax Court and all evidence received by the Tax Court and its divisions, including a transcript of the stenographic report of the hearings, shall be public records open to the inspection of the public.

"(b) EXCEPTIONS.—

"(1) TRADE SECRETS OR OTHER CONFIDENTIAL INFORMATION.—The Tax Court may make any provision which is necessary to prevent the disclosure of trade secrets or other confidential information, including a provision that any document or information be placed under seal to be opened only as directed by the court.

"(2) EVIDENCE, ETC.—After the decision of the Tax Court in any proceeding has become final, the Tax Court may, upon motion of the taxpayer or the Secretary, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence before the Tax Court or any division; or the Tax Court may, on its own motion, make such other disposition thereof as it deems advisable."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 7461 note.

Subtitle F—Simplification of Income Tax Credits

SEC. 471. CREDITS GROUPED TOGETHER IN MORE LOGICAL ORDER.

(a) CREDITS DIVIDED INTO 4 CATEGORIES.—The table of subparts for part IV of subchapter A of chapter 1 (relating to credits against tax) is amended to read as follows:

"Subpart A. Nonrefundable personal credits.
"Subpart B. Foreign tax credit, etc.
"Subpart C. Refundable credits.
"Subpart D. Business-related credits."

(b) EXISTING CREDITS ASSIGNED TO APPROPRIATE CATEGORY.—Part IV of subchapter A of chapter 1 is amended by striking out the

heading and table of sections for subpart A and inserting in lieu thereof the following:

"Subpart A—Nonrefundable Personal Credits

"Sec. 21. Expenses for household and dependent care services necessary for gainful employment.
"Sec. 22. Credit for the elderly and the permanently and totally disabled.
"Sec. 23. Residential energy credit.
"Sec. 24. Contributions to candidates for public office.
"Sec. 25. Limitation based on tax liability; definition of tax liability.

"Subpart B—Foreign Tax Credit, Etc.

"Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit.
"Sec. 28. Clinical testing expenses for certain drugs for rare diseases or conditions.
"Sec. 29. Credit for producing fuel from a nonconventional source.
"Sec. 30. Credit for increasing research activities.

"Subpart C—Refundable Credits

"Sec. 31. Tax withheld on wages.
"Sec. 32. Earned income.
"Sec. 33. Tax withheld at source on nonresident aliens and foreign corporations.
"Sec. 34. Certain uses of gasoline and special fuels.
"Sec. 35. Overpayments of tax.

"Subpart D—Business Related Credits

"Sec. 38. General business credit.
"Sec. 39. Carryback and carryforward of unused credits.
"Sec. 40. Alcohol used as fuel.
"Sec. 41. Employee stock ownership credit."

(c) SECTIONS MOVED TO APPROPRIATE PLACE IN PART IV.—

26 USC 21 *et seq.*

(1) DESIGNATION.—The following sections of such part IV are henceforth to be designated in accordance with the following table:

Old section number:	New section number:	New subpart designation:
44A	21	A
37	22	A
44C	23	A
41	24	A
33	27	B
44H	28	B
44D	29	B
44F	30	B
31	31	C
43	32	C
32	33	C
39	34	C
45	35	C
44E	40	D
44G	41	D

(2) PLACED IN APPROPRIATE SUBPARTS.—Each section for which paragraph (1) provides a new section number is hereby moved to the appropriate place in the appropriate subpart of such part IV.

SEC. 472. UNIFORM LIMITATION ON PERSONAL NONREFUNDABLE CREDITS.

Subpart A of part IV of subchapter A of chapter 1 is amended by adding after section 24 the following new section:

"SEC. 25. LIMITATION BASED ON TAX LIABILITY; DEFINITION OF TAX LIABILITY. 26 USC 25. *Post*, p. 905.

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the taxpayer's tax liability for such taxable year.

"(b) TAX LIABILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'tax liability' means the tax imposed by this chapter for the taxable year.

"(2) EXCEPTION FOR CERTAIN TAXES.—For purposes of paragraph (1), any tax imposed by any of the following provisions shall not be treated as tax imposed by this chapter:

"(A) section 56 (relating to corporate minimum tax),

"(B) subsection (m)(5)(B), (o)(2), or (q) of section 72 (relating to additional tax on certain distributions),

"(C) section 408(f) (relating to additional tax on income from certain retirement accounts),

"(D) section 531 (relating to accumulated earnings tax),

"(E) section 541 (relating to personal holding company tax),

"(F) section 1351(d)(1) (relating to recoveries of foreign expropriation losses),

"(G) section 1374 (relating to tax on certain capital gains of S corporations), and

"(H) section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts).

"(c) SIMILAR RULE FOR ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.—

"For treatment of tax imposed by section 55 as not imposed by this chapter, see section 55(c)."

SEC. 473. UNIFORM CARRYOVER PROVISIONS FOR BUSINESS-RELATED CREDITS.

Subpart D of part IV of subchapter A of chapter 1 is amended by inserting before section 40 the following new sections:

"SEC. 38. GENERAL BUSINESS CREDIT. 26 USC 38. *Post*, p. 833.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the business credit carryforwards carried to such taxable year,

"(2) the amount of the current year business credit, plus

"(3) the business credit carrybacks carried to such taxable year.

"(b) CURRENT YEAR BUSINESS CREDIT.—For purposes of this subpart, the amount of the current year business credit is the sum of the following credits determined for the taxable year:

"(1) the investment credit determined under section 46(a), *Post*, p. 834.

"(2) the targeted jobs credit determined under section 51(a), *Post*, p. 837.

"(3) the alcohol fuels credit determined under section 40(a), *Ante*, p. 826. plus

"(4) the employee stock ownership credit determined under section 41(a).

Ante, p. 826.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the sum of—

"(A) so much of the taxpayer's net tax liability for the taxable year as does not exceed $25,000, plus

"(B) 85 percent of so much of the taxpayer's net tax liability for the taxable year as exceeds $25,000.

"(2) NET TAX LIABILITY.—For purposes of paragraph (1), the term 'net tax liability' means the tax liability (as defined in section 25(b)), reduced by the sum of the credits allowable under subparts A and B of this part.

Ante, p. 827.

"(3) SPECIAL RULES.—

"(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (1) shall be $12,500 in lieu of $25,000. This subparagraph shall not apply if the spouse of the taxpayer has no business credit carryforward or carryback to, and has no current year business credit for, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) CONTROLLED GROUPS.—In the case of a controlled group, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning given to such term by section 1563(a).

"(C) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of a person described in subparagraph (A) or (B) of section 46(e)(1), the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall equal such person's ratable share (as determined under section 46(e)(2)) of such amount.

"(D) ESTATES AND TRUSTS.—In the case of an estate or trust, the $25,000 amount specified under subparagraphs (A) and (B) of paragraph (1) shall be reduced to an amount which bears the same ratio to $25,000 as the portion of the income of the estate or trust which is not allocated to beneficiaries bears to the total income of the estate or trust.

"(d) SPECIAL RULES FOR CERTAIN REGULATED COMPANIES.—In the case of any taxpayer to which section 46(f) applies, for purposes of sections 46(f), 47(a), 196(a), and 404(i) and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under section 40(a), 41(a), 46(a), or 51(a) are used in a taxable year or as a carryback or carryforward, the order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b).

Post, pp. 840, 842.

Post, p. 832; *ante*, p. 826; *post*, pp. 834, 837.

26 USC 39.
Ante, p. 826.

"SEC. 39. CARRYBACK AND CARRYFORWARD OF UNUSED CREDITS.

"(a) IN GENERAL.—

"(1) 3-YEAR CARRYBACK AND 15-YEAR CARRYFORWARD.—If the sum of the business credit carryforwards to the taxable year plus the amount of the current year business credit for the

taxable year exceeds the amount of the limitation imposed by subsection (c) of section 38 for such taxable year (hereinafter in this section referred to as the 'unused credit year'), such excess (to the extent attributable to the amount of the current year business credit) shall be— *Ante*, p. 827.

"(A) a business credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(B) a business credit carryforward to each of the 15 taxable years following the unused credit year,

and, subject to the limitations imposed by subsections (b) and (c), shall be taken into account under the provisions of section 38(a) in the manner provided in section 38(a).

"(2) AMOUNT CARRIED TO EACH YEAR.—

"(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) AMOUNT CARRIED TO OTHER 17 YEARS.—The amount of the unused credit for the unused credit year shall be carried to each of the other 17 taxable years to the extent that such unused credit may not be taken into account under section 38(a) for a prior taxable year because of the limitations of subsections (b) and (c).

"(b) LIMITATION ON CARRYBACKS.—The amount of the unused credit which may be taken into account under section 38(a)(3) for any preceding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of—

"(1) the amounts determined under paragraphs (1) and (2) of section 38(a) for such taxable year, plus

"(2) the amounts which (by reason of this section) are carried back to such taxable year and are attributable to taxable years preceding the unused credit year.

"(c) LIMITATION ON CARRYFORWARDS.—The amount of the unused credit which may be taken into account under section 38(a)(1) for any succeeding taxable year shall not exceed the amount by which the limitation imposed by section 38(c) for such taxable year exceeds the sum of the amounts which, by reason of this section, are carried to such taxable year and are attributable to taxable years preceding the unused credit year.

"(d) TRANSITIONAL RULES.—

"(1) CARRYFORWARDS.—

"(A) IN GENERAL.—Any carryforward from an unused credit year under section 46, 50A, 53, 44E, or 44G which has not expired before the beginning of the first taxable year beginning after December 31, 1983, shall be aggregated with other such carryforwards from such unused credit year and shall be a business credit carryforward to each taxable year beginning after December 31, 1983, which is 1 of the first 15 taxable years after such unused credit year. *Post*, p. 838; *ante*, p. 826.

"(B) AMOUNT CARRIED FORWARD.—The amount carried forward under subparagraph (A) to any taxable year shall be properly reduced for any amount allowable as a credit with respect to such carryforward for any taxable year before the year to which it is being carried.

"(2) CARRYBACKS.—In determining the amount allowable as a credit for any taxable year beginning before January 1, 1984, as

the result of the carryback of a general business tax credit from a taxable year beginning after December 31, 1983—

"(A) paragraph (1) of subsection (b) shall be applied as if it read as follows:

" '(1) the sum of the credits allowable for such taxable year under sections 38, 40, 44B, 44E, and 44G (as in effect before enactment of the Tax Reform Act of 1984), plus', and

Ante, p. 494.
Ante, p. 827.

"(B) for purposes of section 38(c) the net tax liability for such taxable year shall be the tax liability (as so defined in section 25(b)) reduced by the sum of the credits allowable for such taxable year under sections 33, 37, 41, 44A, 44C, 44D, 44F, and 44H (as so in effect)."

Ante, p. 827.

SEC. 474. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO OLD AND NEW PROVISIONS.—Whenever in this section reference is made to an old or new section or other provision, the reference is to the provision before (in the case of "old") or after (in the case of "new") the changes made by section 471 of this Act.

Ante, p. 825.

(b) OLD SECTION 21.—

26 USC 15, 21.

(1) REDESIGNATION.—Old section 21 (relating to effect of changes) is redesignated as section 15.

26 USC 441.
26 USC 6013.

(2) CONFORMING AMENDMENTS.—Sections 441(f)(2)(A) and 6013(c) are each amended by striking out "21" and inserting in lieu thereof "15".

(3) TABLE OF SECTIONS.—The table of sections for part III of subchapter A of chapter 1 is amended by striking out the item relating to section 21 and inserting in lieu thereof the following:

"Sec. 15. Effect of changes."

26 USC 21.
Ante, p. 826.

(c) NEW SECTION 21.—New section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended—

(1) by striking out subsection (b) and by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively,

(2) by striking out "subsection (c)(1)" in subsection (a) and inserting in lieu thereof "subsection (b)(1)",

(3) by striking out "subsection (c)(2)" in subsection (a) and inserting in lieu thereof "subsection (b)(2)",

(4) by striking out "subsection (c)(1)(C)" in paragraph (2) of subsection (d) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)(C)",

(5) by striking out "subsection (d)(1)" in subparagraph (A) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof, "subsection (c)(1)",

(6) by striking out "subsection (d)(2)" in subparagraph (B) of subsection (d)(2) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (c)(2)", and

(7) by striking out "subsection (c)(1)" in subsection (e)(5) (as redesignated by paragraph (1)) and inserting in lieu thereof "subsection (b)(1)".

26 USC 22.
Ante, p. 826.

(d) NEW SECTION 22.—New Section 22 (relating to the credit for the elderly and the permanently and totally disabled) is amended—

(1) by striking out "Section 37 amount" each place it appears in the text and inserting in lieu thereof "section 22 amount",

(2) by striking out the heading of subsection (c) and inserting in lieu thereof "(c) SECTION 22 AMOUNT.—", and

(3) by amending subsection (d) to read as follows:

"(d) ADJUSTED GROSS INCOME LIMITATION.—If the adjusted gross income of the taxpayer exceeds—

"(1) $7,500 in the case of a single individual,

"(2) $10,000 in the case of a joint return, or

"(3) $5,000 in the case of a married individual filing a separate return,

the section 22 amount shall be reduced by one-half of the excess of the adjusted gross income over $7,500, $10,000, or $5,000, as the case may be."

(e) NEW SECTION 23.—Subsection (b) of new section 23 (relating to residential energy credit) is amended by striking out paragraphs (5) and (6) and inserting in lieu thereof the following: 26 USC 23. *Ante*, p. 826.

"(5) CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 25(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year. *Ante*, p. 827.

"(B) NO CARRYFORWARD TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987."

(f) NEW SECTION 24.—Subsection (b) of new section 24 (relating to contributions to candidates for political office) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2). 26 USC 24. *Ante*, p. 826.

(g) NEW SECTION 28.— 26 USC 28. *Ante*, p. 826.

(1) New section 28 is amended—

(A) by striking out "section 44F" each place it appears and inserting in lieu thereof "section 30", and

(B) by striking out "section 44F(b)" in subsection (c)(2) and inserting in lieu thereof "section 30(b)," and

(C) by striking out "section 44F(f)" in subsection (d)(4) and inserting in lieu thereof "section 30(f)".

(2) Paragraph (2) of new section 28(d) is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and section 27." *Ante*, p. 827. *Ante*, pp. 825, 826.

(h) NEW SECTION 29.—Paragraph (5) of new section 29(b) (relating to credit for producing fuel from a nonconventional source) is amended to read as follows: 26 USC 29. *Ante*, p. 826.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27 and 28."

(i) NEW SECTION 30.— 26 USC 30. *Ante*, p. 826.

(1) New section 30 (relating to credit for increasing research activities) is amended—

(A) by striking out "in computing the credit under section 40 or 44B" in subsection (b)(2)(D)(iii) and inserting in lieu

thereof "in determining the targeted jobs credit under section 51(a)", and

(B) by amending subparagraph (A) of subsection (g)(1) to read as follows:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the credit allowed by subsection (a) for any taxable year shall not exceed the taxpayer's tax liability for the taxable year (as defined in section 25(b)), reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29."

Ante, p. 827.
Ante, pp. 825, 826.

(2) NEW SECTION 30 TREATED AS CONTINUATION OF OLD SECTION 44F.—For purposes of determining—

26 USC 30 note.

(A) whether any excess credit under old section 44F for a taxable year beginning before January 1, 1984, is allowable as a carryover under new section 30, and

Ante, p. 826.

(B) the period during which new section 30 is in effect, new section 30 shall be treated as a continuation of old section 44F (and shall apply only to the extent old section 44F would have applied).

(j) NEW SECTION 33.—New section 33 (relating to tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds) is amended to read as follows:

26 USC 33.
Ante, p. 826.

"SEC. 33. TAX WITHHELD AT SOURCE ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"There shall be allowed as a credit against the tax imposed by this subtitle the amount of tax withheld at source under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and on foreign corporations)."

26 USC 1441.

(k) NEW SECTION 40.—New section 40 (relating to alcohol used as fuel) is amended—

26 USC 40.
Ante, p. 826.
Post, p. 833.

(1) by amending subsection (a) to read as follows:

Ante, p. 827.

"(a) GENERAL RULE.—For purposes of section 38, the alcohol fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the alcohol mixture credit, plus

"(2) the alcohol credit.",

(2) by striking out "the credit allowable under this section" in subsection (c) and inserting in lieu thereof "the credit determined under this section",

(3) by striking out "credit was allowable" each place it appears in paragraph (3) of subsection (d) and inserting in lieu thereof "credit was determined",

(4) by striking out subsection (e) and redesignating subsection (f) as subsection (e),

(5) by amending paragraph (2) of subsection (e) (as redesignated by paragraph (4)) to read as follows:

"(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after December 31, 1994.", and

Ante, p. 828.

(6) by adding at the end thereof the following new subsection:

"(f) ELECTION TO HAVE ALCOHOL FUELS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe."

(l) NEW SECTION 41.—New section 41 (relating to employee stock ownership plan) is amended— 26 USC 41. *Ante*, p. 826.

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) AMOUNT OF CREDIT.—In the case of a corporation which elects to have this section apply for the taxable year and which meets the requirements of subsection (c)(1), for purposes of section 38, the amount of the employee stock ownership credit determined under this section for the taxable year is an amount equal to the amount of the credit determined under paragraph (2) for such taxable year.", *Ante*, p. 827.

(2) by amending subsection (b) to read as follows:

"(b) CERTAIN REGULATED COMPANIES.—No credit attributable to compensation taken into account for the ratemaking purposes involved shall be determined under this section with respect to a taxpayer if—

"(1) the taxpayer's cost of service for ratemaking purposes or in its regulated books of account is reduced by reason of any portion of such credit which results from the transfer of employer securities or cash to a tax credit employee stock ownership plan which meets the requirements of section 409; *Post*, p. 852.

"(2) the base to which the taxpayer's rate of return for ratemaking purposes is applied is reduced by reason of any portion of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan; or

"(3) any portion of the amount of such credit which results from a transfer described in paragraph (1) to such employee stock ownership plan is treated for ratemaking purposes in any way other than as though it had been contributed by the taxpayer's common shareholders.

Under regulations prescribed by the Secretary, rules similar to the rules of paragraphs (4) and (7) of section 46(f) shall apply for purposes of the preceding sentence.", and

(3) by striking out "the credit allowed under this section" in subsection (c)(3) and inserting in lieu thereof "the credit determined under this section".

(m) REPEAL OF CERTAIN OLD PROVISIONS.—

(1) Old sections 38, 40, 44, and 44B are hereby repealed. 26 USC 38, 40, 44, 44B.

(2) Old subpart C of part IV of subchapter A of chapter 1 is hereby repealed. 26 USC 50A, 50B.

(n) REDESIGNATION OF OLD SUBPARTS.—

(1) Old subparts B and D of part IV of subchapter A of chapter 1 are redesignated as subparts E and F, respectively.

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 (as so redesignated) is amended to read as follows:

"Subpart F—Rules for Computing Targeted Jobs Credit".

(3) The table of subparts for such part IV (as amended by subsection (a) of section 471) is amended by adding at the end thereof the following:

"Subpart E. Rules for computing credit for investment in certain depreciable property.

"Subpart F. Rules for computing targeted jobs credit."

(o) INVESTMENT TAX CREDIT.—

26 USC 46.

(1) Section 46 (relating to amount of investment tax credit) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

Ante, p. 827.

"(a) AMOUNT OF INVESTMENT CREDIT.—For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be an amount equal to the sum of the following percentages of the qualified investment (as determined under subsections (c) and (d)):

"(1) the regular percentage,

"(2) in the case of energy property, the energy percentage, and

"(3) in the case of that portion of the basis of any property which is attributable to qualified rehabilitation expenditures, the rehabilitation percentage.

"(b) DETERMINATION OF PERCENTAGES.—For purposes of subsection (a)—

"(1) REGULAR PERCENTAGE.—The regular percentage is 10 percent.

"(2) ENERGY PERCENTAGE.—

"(A) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

"Column A—Description	Column B—Percentage	Column C—Period	
In the case of:	The energy percentage is:	For the period: Beginning on:	And ending on:
(i) GENERAL RULE.—Property not described in any of the following provisions of this column.	10 percent	Oct. 1, 1978	Dec. 31, 1982
(ii) SOLAR WIND, OR GEOTHERMAL PROPERTY.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(vii).	A. 10 percent B. 15 percent	Oct. 1, 1978 Jan. 1, 1980	Dec. 31, 1979 Dec. 31, 1985
(iii) OCEAN THERMAL PROPERTY.—Property described in section 48(l)(3)(A)(ix).	15 percent	Jan. 1, 1980	Dec. 31, 1985
(iv) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—Property described in section 48(l)(2)(A)(vii).	11 percent	Jan. 1, 1980	Dec. 31, 1985
(v) QUALIFIED INTERCITY BUSES.—Property described in section 48(l)(2)(A)(ix).	10 percent	Jan. 1, 1980	Dec. 31, 1985
(vi) BIOMASS PROPERTY.—Property described in section 48(l)(15).	10 percent	Oct. 1, 1978	Dec. 31, 1985
(vii) CHLOR-ALKALI ELECTROLYTIC CELLS.—Property described in section 48(l)(5)(M).	10 percent	Jan. 1, 1980	Dec. 31, 1982

"(B) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under subparagraph (A) (as modified by subparagraphs (C) and (D)).

"(C) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage con-

tained in clause (i) of subparagraph (A) with respect to property which is part of a project with a normal construction period of 2 years or more (within the meaning of subsection (d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(i) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and

"(ii) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition, construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(D) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in clause (iv) of subparagraph (A) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'.

"(3) SPECIAL RULE FOR CERTAIN ENERGY PROPERTY.—The regular percentage shall not apply to any energy property which, but for section 48(l)(1), would not be section 38 property. In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero.

Ante, p. 827.

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—

"In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentages and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(C) DEFINITIONS.—For purpose of this paragraph—

"(i) 30-YEAR BUILDING.—The term '30-year building' means a qualified rehabilitated building other than a 40-year building and other than a certified historic structure.

"(ii) 40-YEAR BUILDING.—The term '40-year building' means a qualified rehabilitated building (other than a certified historic structure) which would meet the requirements of section 48(g)(1)(B) if '40' were substituted

for '30' each place it appears in subparagraph (B) thereof.

"(iii) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a qualified rehabilitated building which meets the requirements of section 48(g)(3)."

26 USC 46.

(2) Subclause (II) of section 46(c)(8)(F)(ii) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "subsection (b)(2)".

(3)(A) Paragraph (1) of section 46(e) is amended—

(i) by striking out "and the $25,000 amount specified under subparagraphs (A) and (B) of subsection (a)(3)", and

(ii) by striking out "such items" and inserting in lieu thereof "such qualified investment".

(B) Paragraph (2) of section 46(e) is amended by striking out "the items described therein" and inserting in lieu thereof "qualified investment".

(4)(A) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "no credit shall be allowed by section 38" and inserting in lieu thereof "no credit determined under subsection (a) shall be allowed by section 38".

(B) Paragraphs (1) and (2) of section 46(f) are each amended by striking out "the credit allowable by section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable by section 38".

(C) Subparagraph (B) of section 46(f)(4) is amended by striking out "the credit allowed by section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowed by section 38".

(5) Paragraph (8) of section 46(f) is amended—

(A) by striking out "the credit allowable under section 38" each place it appears and inserting in lieu thereof "the credit determined under subsection (a) and allowable under section 38", and

(B) by striking out "(within the meaning of subsection (a)(7)(C))" and inserting in lieu thereof "(within the meaning of the first sentence of subsection (c)(3)(B))".

(6) Paragraph (2) of section 46(g) is amended by striking out "the limitation of subsection (a)(3)" and inserting in lieu thereof "the limitation of section 38(c)".

(7) Paragraph (1) of section 46(h) is amended—

(A) by striking out "the credit allowable to the organization under section 38" and inserting in lieu thereof "the credit determined under subsection (a) and allowable to the organization under section 38", and

(B) by striking out "the limitation contained in subsection (a)(3)" and inserting in lieu thereof "the limitation contained in section 38(c)".

26 USC 47.

(8) Paragraphs (5) and (6) of section 47(a) are each amended by striking out "under section 46(b)" and inserting in lieu thereof "under section 39".

(9) Subsection (c) of section 47 is amended by striking out "subpart A" and inserting in lieu thereof "subpart A, B, or D".

26 USC 48.

(10) Subparagraph (B) of section 48(c)(3) is amended by striking out "section 46(b)" and inserting in lieu thereof "section 39".

(11) Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(6)" and inserting in lieu thereof "section 38(c)(3)(B)". 26 USC 48.

(12) Subsection (f) of section 48 is amended—

(A) by adding "and" at the end of paragraph (1),

(B) striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(13) Paragraph (1) of section 48(l) is amended by striking out "section 46(a)(2)(C)" and inserting in lieu thereof "section 46(b)(2)".

(14) Subsection (m) of section 48 is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (b)".

(15) Subsection (n) of section 48 (relating to requirements for allowance of employee plan percentage) is hereby repealed; except that paragraph (4) of section 48(n) of the Internal Revenue Code of 1954 (as in effect before its repeal by this paragraph) shall continue to apply in the case of any recapture under section 47(f) of such Code of a credit allowable for a taxable year beginning before January 1, 1984.

(16) Subsection (o) of section 48 (defining certain credits) is amended by striking out paragraphs (3), (4), (5), (6), and (7) and by redesignating paragraph (8) as paragraph (3).

(17) Subsection (q) of section 48 is amended—

(A) by striking out "section 46(a)(2)" each place it appears and inserting in lieu thereof "section 46(a)", and

(B) by striking out "section 46(a)(2)(B)" each place it appears and inserting in lieu thereof "section 46(b)(1)".

(18) Subsection (r) of section 48 is amended by striking out "section 381(c)(23)" and inserting in lieu thereof "section 381(c)(26)". *Ante*, p. 635.

(p) TARGETED JOBS CREDIT.—

(1) Subsection (a) of section 51 (relating to amount of targeted jobs credit) is amended to read as follows: 26 USC 51.

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the targeted jobs credit determined under this section for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 25 percent of the qualified second-year wages for such year."

(2) Subsection (g) of section 51 is amended by striking out "the credit provided by section 44B" and inserting in lieu thereof "the targeted jobs credit determined under this subpart".

(3) Section 51 is amended by adding at the end thereof the following new subsection:

"(j) ELECTION TO HAVE TARGETED JOBS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe."

26 USC 52.

(4) Subsection (a) of section 52 is amended by striking out "the credit (if any) allowable by section 44B to each such member" and inserting in lieu thereof "the credit (if any) determined under section 51(a) with respect to each such member".

(5) Subsection (b) of section 52 is amended by striking out "the credit (if any) allowable by section 44B" and inserting in lieu thereof "the credit (if any) determined under section 51(a)".

(6) Subsection (c) of section 52 is amended by striking out "credit shall be allowed under section 44B" and inserting in lieu thereof "credit shall be allowed under section 38 for any targeted jobs credit determined under this subpart".

(7) Paragraph (2) of section 52(d) is amended by striking out ", subject to section 53, a credit under section 44B" and inserting in lieu thereof ", subject to section 38(c), a credit under section 38(a)".

Repeal.
26 USC 53.

(8) Section 53 (relating to limitation based on amount of tax) is hereby repealed.

(9) The table of sections for old subpart D of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 53.

(q) SECTION 55.—

26 USC 55.

(1) Paragraph (1) of section 55(c) (relating to credits) is amended—

(A) by striking out "subpart A of part IV" and inserting in lieu thereof "subpart A, B, or D of part IV", and

(B) by striking out "section 33(a)" each place it appears and inserting in lieu thereof "section 27(a)".

(2) Clause (i) of section 55(c)(2)(B) is amended by striking out "section 33(a)" and inserting in lieu thereof "section 27(a)".

(3) Paragraph (3) of section 55(c) is amended to read as follows:

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In the case of any taxable year for which a tax is imposed by this section, for purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under section 23, 30, or 38, the amount of the limitation under section 25, 30(g), or 38(c) (as the case may be) shall be deemed to be—

Ante, p. 826.
Ante, p. 827.

"(A) the amount of such limitation for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

"(B) the amount of the tax imposed by this section for the taxable year, reduced by—

"(i) the amount of the credit allowable under section 27(a),

Ante, p. 826.

"(ii) in the case of the limitation under section 30(g), the amount of such tax taken into account under this subparagraph with respect to the limitation under section 25, and

"(iii) in the case of the limitation under section 38(c), the amount of such tax taken into account under this subparagraph with respect to limitations under sections 25 and 30(g)."

(4) Paragraph (2) of section 55(f) is amended by striking out "allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43)" and inserting in lieu thereof "allowable under subparts A, B, and D of part IV of this subchapter".

(r) TECHNICAL AND CONFORMING AMENDMENTS TO OTHER PROVISIONS.—

(1) SECTION 56.—

(A) Subsection (c) of section 56 (defining regular tax deduction) is amended— 26 USC 56.

(i) by striking out "subpart A of part IV other than sections 39 and 44G" and inserting in lieu thereof "subparts A, B, and D of part IV", and

(ii) by amending the last sentence to read as follows: "For purposes of the preceding sentence, the amount of the credit determined under section 38 for any taxable year shall be determined without regard to the employee stock ownership credit determined under section 41." *Ante*, p. 827. *Ante*, p. 826.

(B) Subparagraph (A) of section 56(e)(1) is amended by striking out clauses (i), (ii), (iii), and (iv) and inserting in lieu thereof the following:

"(i) section 27 (relating to foreign tax credit), and *Ante*, p. 826.

"(ii) section 38 (relating to general business credit), exceed".

(2) SECTION 86.—Paragraph (1) of section 86(f) (relating to treatment as pension or annuity for certain purposes) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)". *Post*, p. 1158.

(3) SECTION 87.—Section 87 (relating to alcohol fuel credit included in income) is amended to read as follows: 26 USC 87.

"SEC. 87. ALCOHOL FUEL CREDIT.

"Gross income includes the amount of the alcohol fuel credit determined with respect to the taxpayer for the taxable year under section 40(a)." *Ante*, p. 832.

(4) SECTION 103.—Clause (iv) of section 103(b)(6)(F) (relating to certain capital expenditures not taken into account) is amended by striking out "section 44F(b)(2)(A)" and inserting in lieu thereof "section 30(b)(2)(A)". 26 USC 103.

(5) SECTION 108.—Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended to read as follows: 26 USC 108. 11 USC 101 *et seq.*

"(B) RESEARCH CREDIT AND GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes of determining the amount allowable as a credit under—

"(i) section 30 (relating to credit for increasing research activities), or *Ante*, p. 826.

"(ii) section 38 (relating to general business credit). *Ante*, p. 827.

For purposes of this subparagraph, there shall not be taken into account any portion of a carryover which is attributable to the employee stock ownership credit determined under section 41." *Ante*, p. 826.

(6) SECTION 129.—

(A) Paragraph (2) of section 129(b) (relating to earned income limitation) is amended by striking out "section 44A(e)(2)" and inserting in lieu thereof "section 21(d)(2)". 26 USC 129.

(B) Paragraph (1) of section 129(e) (defining dependent care assistance) is amended by striking out "section 44A(c)(2)" and inserting in lieu thereof "section 21(b)(2)".

26 USC 129.

(C) Paragraph (2) of section 129(e) (defining earned income) is amended by striking out "section 43(c)(2)" and inserting in lieu thereof "section 32(c)(2)".

(7) SECTION 168.—

26 USC 168.

(A) Clause (i) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(B) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(C) Subparagraph (A) of section 168(i)(4), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV of subchapter A of this chapter" and inserting in lieu thereof "section 38".

(D) Clause (i) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subpart A of part IV" and inserting in lieu thereof "subparts A, B, and D of part IV".

(E) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "under the last sentence of section 53(a)" and inserting in lieu thereof "under section 25(b)(2)".

(8) SECTION 196.—

26 USC 196.

(A) Section 196 (relating to deduction for certain unused investment credits) is amended to read as follows:

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.

"(a) ALLOWANCE OF DEDUCTION.—If any portion of the qualified business credits determined for any taxable year has not, after the application of section 38(c), been allowed to the taxpayer as a credit under section 38 for any taxable year, an amount equal to the credit not so allowed shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year for which such credit could, under section 39, have been allowed as a credit.

Ante, p. 827.

Ante, p. 828.

"(b) TAXPAYER'S DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist before the first taxable year following the last taxable year for which the qualified business credits could, under section 39, have been allowed as a credit, the amount described in subsection (a) (or the proper portion thereof) shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) QUALIFIED BUSINESS CREDITS.—For purposes of this section, the term 'qualified business credits' means—

Ante, p. 834.

"(1) the investment credit determined under section 46(a) (but only to the extent attributable to property the basis of which is reduced by section 48(q)),

Ante, p. 837.

"(2) the targeted jobs credit determined under section 51(a), and

Ante, p. 832.

"(3) the alcohol fuels credit determined under section 40(a).

"(d) SPECIAL RULE FOR INVESTMENT TAX CREDIT.—In the case of the investment credit determined under section 46(a) (other than a credit to which section 48(q)(3) applies), subsection (a) shall be

applied by substituting 'an amount equal to 50 percent of' for 'an amount equal to'."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 196 and inserting in lieu thereof:

"Sec. 196. Deduction for certain unused business credits."

(9) SECTION 213.—Subsection (e) of section 213 (relating to exclusion of amounts allowed for care of certain dependents) is amended by striking out "section 44A" and inserting in lieu thereof "section 21". 26 USC 213.

(10) SECTION 280C.—

(A) Section 280C (relating to certain expenses for which credits are allowable) is amended by striking out subsection (a) and by redesignating subsections (b) and (c) as subsections (a) and (b), respectively. 26 USC 280C.

(B) Subsection (a) of section 280C (as so redesignated) is amended—

(i) by striking out the first sentence and inserting in lieu thereof the following: "No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit determined for the taxable year under section 51(a).", and *Ante*, p. 837.

(ii) by striking out "SECTION 44B CREDIT" in the subsection heading and inserting in lieu thereof "TARGETED JOBS CREDIT".

(C) Subsection (b) of section 280C (as so redesignated) is amended by striking out "44H" each place it appears and inserting in lieu thereof "29".

(D) Paragraph (3) of section 280C(b) (as so redesignated) is amended—

(i) by striking out "section 44F(f)(5)" and inserting in lieu thereof "section 30(f)(5)",

(ii) by striking out "section 44F(f)(1)(B)" and inserting in lieu thereof "section 30(f)(1)(B)",

(iii) by striking out "section 44F(f)(1)" and inserting in lieu thereof "section 30(f)(1)".

(11) SECTION 381.—Subsection (c) of section 381 is amended— 26 USC 381.

(A) by striking out paragraphs (23), (24), (26), (27), and (30),

(B) by redesignating paragraphs (25), (28), and (29) as paragraphs (23), (24), and (25), respectively,

(C) by striking out "44F" each place it appears in paragraph (25) (as so redesignated) and inserting in lieu thereof "30", and

(D) by adding at the end thereof the following new paragraph:

"(26) CREDIT UNDER SECTION 38.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 38, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 38 in respect of the distributor or transferor corporation." *Ante*, p. 827.

(12) SECTION 383.—

(A) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended— 26 USC 383. 26 USC 1 *et seq.*

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation which can otherwise be carried forward under section 39, to any unused credit of the corporation which could otherwise be carried forward under section 30(g)(2), to any excess foreign taxes of the corporation which could otherwise be carried forward under section 904(c), and to any net capital loss of the corporation which can otherwise be carried forward under section 1212.", and

Ante, p. 828.

Ante, p. 826.

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES."

26 USC 383.

(B) Section 383 (as amended by the Tax Reform Act of 1976) is amended—

(i) by striking out "with respect to any unused investment credit" and all that follows and inserting in lieu thereof the following: "with respect to any unused business credit of the corporation under section 39, to any unused credit of the corporation under section 30(g)(2), to any excess foreign taxes of the corporation under section 904(c), and to any net capital loss of the corporation under section 1212.", and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS CREDITS, RESEARCH CREDITS, FOREIGN TAXES, AND CAPITAL LOSSES."

(C) The table of sections for part V of subchapter C of chapter 1 is amended by striking out the item relating to section 383 and inserting in lieu thereof the following:

"Sec. 383. Special limitations on unused business credits, research credits, foreign taxes, and capital losses."

26 USC 401.

(13) Paragraph (21) of section 401(a) is amended by striking out "allowable—" and all that follows and inserting in lieu thereof "allowable under section 41 if the employer made the transfer described in section 41(c)(1)(B)."

26 USC 404.

(14) SECTION 404.—Subsection (i) of section 404 (relating to deductibility of unused portions of employee stock ownership credit) is amended to read as follows:

"(i) DEDUCTIBILITY OF UNUSED PORTIONS OF EMPLOYEE STOCK OWNERSHIP CREDIT.—

"(1) UNUSED CREDIT CARRYOVERS.—If any portion of the employee stock ownership credit determined under section 41 for any taxable year has not, after the application of section 38(c), been allowed under section 38 for any taxable year, such portion shall be allowed as a deduction (without regard to any limitations provided under this section) for the last taxable year to which such portion could have been allowed as a credit under section 39.

Ante, p. 826.

Ante, p. 827.

Ante, p. 828.

"(2) REDUCTIONS IN CREDIT.—There shall be allowed as a deduction (subject to the limitations provided under this section) an amount equal to any reduction of the credit allowed under section 41 resulting from a final determination of such credit to

the extent such reduction is not taken into account under section 41(c)(3)." *Ante*, p. 826.

(15) SECTION 409.—

(A) Section 409 (relating to qualifications for tax credit employee stock ownership plans), as redesignated by section 491 of this Act, is amended by striking out "44G" each place it appears in subsections (b), (g), (i), (m), and (n) and inserting in lieu thereof "41". *Post*, p. 852. *Ante*, p. 848.

(B) Paragraph (1) of section 409(b), as so redesignated, is amended by striking out "48(n)(1)(A) or".

(C) Subsection (g) of section 409, as so redesignated, is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the references to section 48(n)(1) and the employee plan credit shall refer to such section and credit as in effect before the enactment of the Tax Reform Act of 1984." *Ante*, p. 837. *Ante*, p. 494.

(D) Subparagraph (A) of section 409(i)(1), as so redesignated, is amended by striking out "48(n)(1) or".

(E) Subsection (k) of section 409, as so redesignated, is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the reference to the matching employee plan credit shall refer to such credit as in effect before the enactment of the Tax Reform Act of 1984."

(16) SECTION 527(g)(1).—Paragraph (1) of section 527(g) (relating to treatment of newsletter funds) is amended by striking out "section 41(c)(2)" and inserting in lieu thereof "section 24(c)(2)". 26 USC 527.

(17) SECTION 642(a)(2).—Paragraph (2) of section 642(a) (relating to credit for political contributions) is amended by striking out "section 41" and inserting in lieu thereof "section 24". 26 USC 642.

(18) SECTION 691(b).—Subsection (b) of section 691 (relating to allowance of deductions and credit) is amended by striking out "section 33" each place it appears and inserting in lieu thereof "section 27". 26 USC 691.

(19) SECTIONS 874(a) AND 882(c)(2).—Sections 874(a) and 882(c)(2) are each amended— 26 USC 874, 882.

(A) by striking out "32" and inserting in lieu thereof "33", and

(B) by striking out "section 39" and inserting in lieu thereof "section 34".

(20) SECTION 901(a).—Subsection (a) of section 901 (relating to allowance of foreign tax credit) is amended by striking out the last sentence and inserting in lieu thereof the following: "The credit shall not be allowed against any tax treated as a tax not imposed by this chapter under section 25(b)." 26 USC 901. *Ante*, p. 827.

(21) SECTION 904(g).—Subsection (g) of section 904 (relating to limitation on foreign tax credit) is amended to read as follows: 26 USC 904.

"(g) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of an individual, for purposes of subsection (a), the tax against which the credit is taken is such tax reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter." *Ante*, p. 826.

(22) SECTION 936.—

(A) Clause (i)(I)(a) of section 936(h)(5)(C) is amended by striking out "section 44F(b)" and inserting in lieu thereof "section 30(b)". 26 USC 936.

(B) Clause (i)(IV)(c) of section 936(h)(5)(C) is amended—

(i) by striking out "section 44F" and inserting in lieu thereof "section 30", and

(ii) by striking out "section 44F(f)" and inserting in lieu thereof "section 30(f)".

26 USC 1016.

(23) SECTION 1016(a)(21).—Paragraph (21) of section 1016(a) (relating to adjustments to basis) is amended—

(A) by striking out "section 44C(e)" and inserting in lieu thereof "section 23(e)", and

(B) by striking out "section 44C" and inserting in lieu thereof "section 23".

26 USC 1033.

(24) SECTION 1033(g)(3)(A).—Subparagraph (A) of section 1033(g)(3) (relating to election to treat outdoor advertising displays as real property) is amended by striking out "the credit allowed by section 38 (relating to investment in certain depreciable property)" and inserting in lieu thereof "the investment credit determined under section 46(a)".

26 USC 1351.

(25) SECTION 1351(i).—Subsection (i) of section 1351 (relating to adjustments for succeeding years) is amended—

(A) by striking out "section 33" and inserting in lieu thereof "section 27", and

(B) by striking out "section 38 (relating to investment credit)" and inserting in lieu thereof "section 38 (relating to general business credit)".

26 USC 1366.

(26) SECTION 1366(f).—Paragraph (1) of section 1366(f) (relating to special rules) is amended by striking out "section 39" each place it appears and inserting in lieu thereof "section 34".

26 USC 1374.

(27) SECTION 1374(b).—Subsection (b) of section 1374 (relating to amount of tax imposed on certain capital gains) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

26 USC 1375.

(28) SECTION 1375(c).—Paragraph (1) of section 1375(c) (relating to disallowance of credit) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(29) SECTION 1451.—

26 USC 1451.
26 USC prec. 1461.

(A) Chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations and tax-free covenant bonds) is amended by striking out subchapter B and by redesignating subchapter C as subchapter B.

(B) The table of subchapters for chapter 3 is amended by striking out the items relating to subchapters B and C and inserting in lieu thereof the following:

"SUBCHAPTER B. Application of withholding provisions."

26 USC prec. 1441.

(C) The heading of chapter 3 is amended by striking out "AND TAX-FREE COVENANT BONDS".

(D) The table of chapters for subtitle A is amended by striking out "and tax-free covenant bonds" in the item relating to chapter 3.

26 USC 12.

(E) Section 12 is amended by striking out paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

26 USC 164.
97 Stat. 65.
42 USC 1305 note.

(F) Subsection (f) of section 164 (as in effect before its redesignation by the Social Security Amendments of 1983) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(G) Subsection (a) of section 1441 is amended by striking out "except in the cases provided for in section 1451 and". 26 USC 1441.

(H) Paragraph (3) of section 1441(c) is amended by striking out "section 1451" and inserting in lieu thereof "section 1451 (as in effect before its repeal by the Tax Reform Act of 1984)". *Ante*, p. 494.

(I) Subsection (a) of section 1442 is amended— 26 USC 1442.

(i) by striking out "or section 1451", and

(ii) by striking out "; except that, in the case of interest described in section 1451 (relating to tax-free covenant bonds), the deduction and withholding shall be at the rate specified therein".

(J) Paragraph (2) of section 6049(b) (relating to amounts not treated as interest) is amended— 26 USC 6049.

(i) by adding "and" at the end of subparagraph (C),

(ii) by striking out ", and" at the end of subparagraph (D) and inserting in lieu thereof a period, and

(iii) by striking out subparagraph (E).

(K) Paragraph (16) of section 7701(a) is amended by striking out "1451,". 26 USC 7701.

(30) SECTION 3507.—Subsections (b), (c), and (e) of section 3507 (relating to advanced payment of earned income credit) are each amended by striking out "section 43" each place it appears and inserting in lieu thereof "section 32". 26 USC 3507.

(31) SECTION 6096(b).—Subsection (b) of section 6096 (defining income tax liability) is amended by striking out "allowable under sections 33, 37, 38, 40, 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G, and 44H" and inserting in lieu thereof "allowable under part IV of subchapter A of chapter 1 (other than subpart C thereof)". 26 USC 6096.

(32) SECTION 6201(a)(4).—Paragraph (4) of section 6201(a) (relating to erroneous credit under section 39 or 43) is amended— 26 USC 6201.

(A) by striking out "section 39" and inserting in lieu thereof "section 34",

(B) by striking out "section 43" and inserting in lieu thereof "section 32", and

(C) by striking out "SECTION 39 OR 43" in the paragraph heading and inserting in lieu thereof "SECTION 32 OR 34".

(33) SECTION 6211(b).— 26 USC 6211.

(A) Paragraph (1) of section 6211(b) is amended by striking out "without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451" and inserting in lieu thereof "without regard to the credit under section 33".

(B) Paragraph (4) of section 6211(b) is amended by striking out "section 39" and inserting in lieu thereof "section 34".

(34) SECTION 6213(h)(3).—Paragraph (3) of section 6213(h) is amended by striking out "section 39" and inserting in lieu thereof "section 32 or 34". 26 USC 6213.

(35) SECTION 6362(c)(1).—Paragraph (1) of section 6362(c) (relating to qualified resident tax which is a percentage of the Federal tax) is amended by striking out "sections 31 and 39" and inserting in lieu thereof "sections 31 and 34". 26 USC 6362.

26 USC 6401.

(36) SECTION 6401(b).—Subsection (b) of section 6401 (relating to excessive credits treated as overpayments) is amended to read as follows:

"(b) EXCESSIVE CREDITS.—

"(1) IN GENERAL.—If the amount allowable as credits under subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subparts A, B, and D of such part IV), the amount of such excess shall be considered an overpayment.

Ante, p. 825.

"(2) SPECIAL RULE FOR CREDIT UNDER SECTION 33.—For purposes of paragraph (1), any credit allowed under section 33 (relating to withholding of tax on nonresident aliens and on foreign corporations) for any taxable year shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1 only if an election under subsection (g) or (h) of section 6013 is in effect for such taxable year."

Ante, p. 832.

(37) SECTION 6411.—

26 USC 6411.

(A) So much of subsection (a) of section 6411 as precedes paragraph (2) thereof (relating to tentative carryback and refund adjustments) is amended to read as follows:

"(a) APPLICATION FOR ADJUSTMENT.—A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by a business credit carryback provided in section 39, by a research credit carryback provided in section 30(g)(2) or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer and shall be filed, on or after the date of filing for the return for the taxable year of the net operating loss, net capital loss, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of a research credit carryback or a business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year (or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary. The applications shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

Ante, p. 828.
Ante, p. 826.

"(1) The amount of the net operating loss, net capital loss, unused research credit, or unused business credit;".

(B) Subsections (b) and (c) of section 6411 are each amended by striking out "unused investment credit, unused work incentive program credit, unused new employee credit, unused research credit, or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused research credit, or unused business credit".

26 USC 6420, 6421.

(38) SECTIONS 6420(g)(2), ETC.—Sections 6420(g)(2), 6421(i)(3), and 6427(i)(3) are each amended by striking out "section 39" and inserting in lieu thereof "section 34".

Post, p. 1005.

26 USC 6501.

(39) SECTION 6501(p).—Section 6501 is amended by striking out subsection (p) and by redesignating subsection (q) as subsection (p).

(40) SECTION 6511(d)(4)(C).—Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended to read as follows: 26 USC 6511.

"(C) CREDIT CARRYBACK DEFINED.—For purposes of this paragraph, the term 'credit carryback' means any business carryback under section 39 and any research credit carryback under section 30(g)(2)." *Ante*, p. 828. *Ante*, p. 826.

(41) SECTION 7871.—Subparagraph (A) of section 7871(a)(6) is amended by striking out "section 41(c)(4)" and inserting in lieu thereof "section 24(c)(4)". 97 Stat. 87. 26 USC 7871.

(42) SECTION 9502(d).—Paragraph (3) of section 9502(d) (relating to transfers from the Airport and Airway Trust Fund on account of certain section 39 credits) is amended— 26 USC 9502.

(A) by striking out "section 39" and inserting in lieu thereof "section 34", and

(B) by striking out "SECTION 39 CREDITS" in the heading and inserting in lieu thereof "SECTION 34 CREDITS".

(43) SECTION 9503(c).—Clause (ii) of section 9503(c)(2)(A) (relating to transfers from the Highway Trust Fund for certain repayments and credits) is amended by striking out "section 39" and inserting in lieu thereof "section 34". 26 USC 9503.

SEC. 475. EFFECTIVE DATES.

(a) GENERAL RULE.—The amendments made by this title shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years. 26 USC 21 note.

(b) TAX-FREE COVENANT BONDS.—The amendments made by subsections (j) and (r)(29) of section 474 shall not apply with respect to obligations issued before January 1, 1984. 26 USC 33 note. *Ante*, p. 830.

(c) CLARIFICATION OF EFFECT OF AMENDMENTS ON INVESTMENT TAX CREDIT.—Nothing in the amendments made by section 474(o) shall be construed as reducing the amount of any credit allowable for qualified investment in taxable years beginning before January 1, 1984. 26 USC 46 note. *Ante*, p. 830.

Subtitle G—Miscellaneous Simplification Provisions

SEC. 481. PREFERRED STOCK ELIGIBLE UNDER SECTION 1244.

(a) GENERAL RULE.—Subsections (c)(1) and (d)(2) of section 1244 (relating to losses on small business stock) are each amended by striking out "common stock" and inserting in lieu thereof "stock". 26 USC 1244.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to stock issued after the date of the enactment of this Act in taxable years ending after such date. 26 USC 1244 note.

SEC. 482. MEDICAL CARE DEDUCTION ALLOWED FOR LODGING AWAY FROM HOME IN CERTAIN CASES.

(a) IN GENERAL.—Subsection (d) of section 213 (relating to definitions for purposes of the deduction for medical, dental, etc., expenses), as amended by section 423(b), is amended by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively, and by inserting after paragraph (1) the following new paragraph: *Ante*, p. 800.

"(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."

(b) TECHNICAL AMENDMENT.—

Ante, p. 847. (1) Paragraph (7) of section 213(d), as redesignated by subsection (a), is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (6)".

Ante, p. 799. (2) Paragraph (6) of section 152(e), as amended by section 423 of this Act, is amended by striking out "section 213(d)(4)" and inserting in lieu thereof "section 213(d)(5)".

26 USC 213 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

Subtitle H—Repeal of Certain Obsolete Provisions

SEC. 491. TERMINATION OF RULES RELATING TO QUALIFIED BOND PURCHASE PLANS AND RETIREMENT BONDS WITH RESPECT TO BONDS ISSUED AFTER DECEMBER 31, 1983.

26 USC 405. (a) QUALIFIED BOND PURCHASE PLANS.—Section 405 (relating to qualified bond purchase plans) is hereby repealed.

26 USC 409. (b) RETIREMENT BONDS.—Section 409 (relating to retirement bonds) is hereby repealed.

(c) EXISTING BONDS MAY BE ROLLED OVER INTO QUALIFIED EMPLOYER PLANS.—

(1) Subparagraph (A) of section 405(d)(3) (as in effect before its repeal by subsection (a)) is amended to read as follows:

"(A) IN GENERAL.—If—

"(i) any qualified bond is redeemed,

"(ii) any portion of the excess of the proceeds from such redemption over the basis of such bond is transferred to an individual retirement plan which is maintained for the benefit of the individual redeeming such bond, or to a qualified trust (as defined in section 402(a)(5)(D)(iii)) for the benefit of such individual, and

Post, p. 869.

"(iii) such transfer is made on or before the 60th day after the individual received the proceeds of such redemption,

then gross income shall not include the proceeds to the extent so transferred and the transfer shall be treated as a rollover contribution described in section 408(d)(3)."

26 USC 402. (2) Subsection (e) of section 402 (relating to tax on lump-sum distributions) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE WHERE PORTION OF LUMP-SUM DISTRIBUTION ATTRIBUTABLE TO ROLLOVER OF BOND PURCHASED UNDER QUALIFIED BOND PURCHASE PLAN.—If any portion of a lump-sum distribution is attributable to a transfer described in section 405(d)(3)(A)(ii) (as in effect before its repeal by the Tax Reform Act of 1984), paragraphs (1) and (3) of this subsection and paragraph (2) of subsection (a) shall not apply to such portion." *Ante*, p. 494.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 55(f) (defining regular tax) is amended by striking "409(c),". 26 USC 55.

(2) Paragraph (7) of section 62 (defining adjusted gross income) is amended— 26 USC 62.

(A) by striking out "the deductions allowed by section 404 and section 405(c)" and inserting in lieu thereof "the deduction allowed by section 404", and

(B) by striking out "ANNUITY, AND BOND PURCHASE" in the heading and inserting in lieu thereof "AND ANNUITY".

(3) Paragraph (1) of section 72(o) is amended by striking out "402, 403, and 405" and inserting in lieu thereof "402 and 403". 26 USC 72.

(4) Paragraph (4) of section 72(o) is amended by striking out "408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(5) Subparagraph (D) of section 172(d)(4) is amended by striking out "or section 405(c)". 26 USC 172.

(6) Paragraph (2) of section 219(d) is amended by striking out "405(d)(3), 408(d)(3), or 409(b)(3)(C)" and inserting in lieu thereof "or 408(d)(3)". 26 USC 219.

(7) Paragraph (1) of section 219(e) is amended by striking out the last sentence.

(8) Paragraph (3) of section 219(e) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (B) and by redesignating subparagraph (D) as subparagraph (C).

(9) Clause (iv) of section 402(a)(5)(D) is amended by striking out subclause (III) and by redesignating subclauses (IV) and (V) as subclauses (III) and (IV), respectively. *Post*, p. 869.

(10) Clause (i) of section 402(a)(5)(F), as amended by this Act, is amended by striking out ", (II), or (III)" and inserting in lieu thereof "or (II)".

(11) Clause (ii) of section 402(a)(5)(F), as amended by this Act, is amended by striking out "(IV) or (V)" and inserting in lieu thereof "(III) or (IV)".

(12) The last sentence of section 403(b)(1) is amended by striking out "or 409(b)(3)(C)". 26 USC 403.

(13) Subsection (a) of section 406 is amended by striking out ", an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a)" and inserting in lieu thereof "or an annuity plan described in section 403(a)". 26 USC 406.

(14) Paragraph (3) of section 406(a) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

(15) Subsection (d) of section 406 is amended—

(A) by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404",

(B) by striking out "annuity, or bond purchase" and inserting in lieu thereof "or annuity", and

(C) by striking out "(or section 405(c))" in paragraph (2) thereof.

26 USC 407.

(16) Paragraph (1) of section 407(a) is amended by striking out ", an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a)" and inserting in lieu thereof "or an annuity plan described in section 403(a)".

(17) Subparagraph (B) of section 407(a)(1) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

(18) Subsection (d) of section 407 is amended—

(A) by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404",

(B) by striking out "annuity, or bond purchase" and inserting in lieu thereof "or annuity", and

(C) by striking out "(or section 405(c))" in paragraph (2) thereof.

26 USC 408.

(19) Paragraph (1) of section 408(a) is amended by striking out "403(b)(8), 405(d)(3), or 409(b)(3)(C)" and inserting in lieu thereof "or 403(b)(8)".

(20) Clause (i) of section 408(d)(3)(A) is amended by striking out "or retirement bond".

(21) Subparagraph (B) of section 408(d)(3) is amended by striking out ", individual retirement annuity, or a retirement bond" and inserting in lieu thereof "or an individual retirement annuity".

(22) Clause (ii) of section 408(d)(3)(D) (relating to partial rollovers) is amended by striking out "bond,".

(23) Paragraph (6) of section 408(d) is amended—

(A) by striking out ", individual retirement annuity, or retirement bond" and inserting in lieu thereof "or an individual retirement annuity", and

(B) by striking out ", annuity, or bond" and inserting in lieu thereof "or annuity".

(24) Subparagraph (E) of section 408(k)(3) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

26 USC 412.

(25) Paragraph (2) of section 412(a) is amended by striking out "or 405(a)".

26 USC 414.

(26) Subsection (h) of section 414 is amended by striking out "or 405(a)".

(27) Subsection (l) of section 414 is amended by striking out "or 405".

26 USC 415.

(28) Paragraph (2) of section 415(a) is amended by striking out subparagraph (D), by striking out "or" at the end of subparagraph (C), by adding "or" at the end of subparagraph (B), and by striking out "405(a),".

(29) Subparagraph (A) of section 415(b)(2) is amended by striking out "408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(30) Subparagraph (B) of section 415(b)(2) is amended by striking out "408(d)(3) and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(31) Paragraph (2) of section 415(c) is amended by striking out "405(d)(3), 408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(32) Paragraph (1) of section 415(k) is amended by striking out subparagraphs (C) and (H), by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively, by striking out ", or" at the end of subparagraph (F) (as

so redesignated) and inserting in lieu thereof a period, and by adding "or" at the end of subparagraph (E) (as so redesignated).

(33) Paragraph (2) of section 457(e) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively. 26 USC 457.

(34) Subsection (e) of section 2039 is amended— 26 USC 2039.

(A) by striking out paragraph (3),

(B) by striking out ", or" at the end of paragraph (2) and inserting in lieu thereof a period,

(C) by adding "or" at the end of paragraph (1),

(D) by striking out "405(d)(3), 408(d)(3), or 409(b)(3)(C)" and inserting in lieu thereof "or 408(d)(3)", and

(E) by striking out ", annuity, or bond" each place it appears and inserting in lieu thereof "or annuity".

(35) Paragraph (5) of section 2517(a) is amended by striking out ", an individual retirement annuity described in section 408(b), or a retirement bond described in section 409(a)" and inserting in lieu thereof "or an individual retirement annuity described in section 408(b)". 26 USC 2517.

(36) Paragraph (5) of section 3121(a) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively. 26 USC 3121.

(37) Paragraph (5) of section 3306(b) is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) through (G) as subparagraphs (C) through (F), respectively. 26 USC 3306.

(38) Paragraph (12) of section 3401(a) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C). 26 USC 3401.

(39) Subsection (e) of section 209 of the Social Security Act is amended by inserting "(as in effect before the enactment of the Tax Reform Act of 1984)" after "Internal Revenue Code of 1954" in paragraph (4) thereof. 26 USC 409.

(40) Subsection (a) of section 4972 is amended by striking out the last sentence and inserting in lieu thereof "This section applies only to plans which include a trust described in section 401(a) or which are described in section 403(a)." 26 USC 4972.

(41) Subsection (a) of section 4973 is amended— 26 USC 4973.

(A) by striking out paragraph (3),

(B) by striking out "or" at the end of paragraph (2),

(C) by adding "or" at the end of paragraph (1),

(D) by striking out ", annuities, or bonds" and inserting in lieu thereof "or annuities", and

(E) by striking out ", annuity, or bond" and inserting in lieu thereof "or annuity".

(42) Subparagraph (A) of section 4973(b)(1) is amended by striking out "408(d)(3), and 409(b)(3)(C)" and inserting in lieu thereof "and 408(d)(3)".

(43) The last sentence of section 4973(b) is amended by striking out ", individual retirement annuity, or bond" and inserting in lieu thereof "or the individual retirement annuity".

(44) Paragraph (1) of section 4973(c) is amended by striking out ", 408(d)(3)(A)(iii), or 409(b)(3)(C)" and inserting in lieu thereof "or 408(d)(3)(A)(iii)".

(45) The last sentence of section 4975(d) is amended by striking out ", individual retirement annuity, or an individual retirement bond (as defined in section 408 or 409)" and inserting in 26 USC 4975.

lieu thereof "or an individual retirement annuity (as defined in section 408)".

26 USC 4975.

(46) Paragraph (1) of section 4975(e) is amended—

(A) by striking out "or 405(a)",

(B) by striking out "or a retirement bond described in section 409",

(C) by striking out "annuity, or bond" and inserting in lieu thereof "or annuity", and

(D) by striking out "account, or bond" and inserting in lieu thereof "or account".

26 USC 6047.

(47) Section 6047 is amended by striking out subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

26 USC 6058.

(48) Subsection (e) of section 6058 is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

26 USC 6104.

(49) Clause (i) of section 6104(a)(1)(B) is amended by striking out ", 403(a), or 405(a)" and inserting in lieu thereof "or 403(a)".

26 USC 6652.

(50) Subsection (f) of section 6652 is amended by striking out "and bond purchase".

26 USC 7207.

(51) Section 7207 is amended by striking out "or (c)".

26 USC 7476.

(52) Subsection (c) of section 7476 is amended by striking out paragraph (3), by striking out ", or" at the end of paragraph (2) and inserting in lieu thereof a period, and by adding ", or" at the end of paragraph (1).

26 USC 7701.

(53) Paragraph (37) of section 7701(a) is amended by striking out subparagraph (C), by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and by adding "and" at the end of subparagraph (A).

(54) The table of sections of subpart A of part I of subchapter D of chapter 1 is amended by striking out the items relating to sections 405 and 409.

26 USC 4973.

(55) The section heading for section 4973 is amended by striking out "**CERTAIN INDIVIDUAL RETIREMENT ANNUITIES, AND CERTAIN RETIREMENT BONDS**" and inserting in lieu thereof "**AND CERTAIN INDIVIDUAL RETIREMENT ANNUITIES**".

(56) The table of sections for chapter 43 is amended by striking out "certain individual retirement annuities, and certain retirement bonds" in the item relating to section 4973 and inserting in lieu thereof "and certain individual retirement annuities".

26 USC 6047.

(57) The section heading for section 6047 is amended by striking out "**AND BOND PURCHASE**".

(58) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out "and bond purchase" in the item relating to section 6047.

(59) The first sentence of section 3107 of title 31, United States Code, is amended by inserting before the period ", as in effect before the enactment of the Tax Reform Act of 1984".

26 USC 409, 409A.
Ante, p. 848.

(e) SECTION 409A REDESIGNATED AS SECTION 409.—

(1) The section heading for section 409A is amended by striking out "**SEC. 409A.**" and inserting in lieu thereof "**SEC. 409.**".

26 USC 41.
Ante, p. 826.

(2) Subsection (c)(1)(A)(i) of old section 44G is amended by striking out "section 409A" and inserting in lieu thereof "section 409".

(3) Paragraph (6) of old section 44G(c) is amended by striking out "section 409A(l)" and inserting in lieu thereof "section 409(l)". 26 USC 41. *Ante*, p. 826.

(4) Paragraph (22) of section 401(a) is amended by striking out "section 409A" and inserting in lieu thereof "section 409". 26 USC 401.

(5) Paragraph (23) of section 401(a) is amended by striking out "section 409A(h)" each place it appears and inserting in lieu thereof "section 409(h)".

(6) Clause (ii) of section 415(c)(6)(B) is amended by striking out "section 409A" and inserting in lieu thereof "section 409". 26 USC 415.

(7) Paragraph (7) of section 4975(e) is amended— 26 USC 4975.

(A) by striking out "section 409A(h)" and inserting in lieu thereof "section 409(h)",

(B) by striking out "section 409A(e)(4)" and inserting in lieu thereof "section 409(e)(4)", and

(C) by striking out "section 409A(e)" and inserting in lieu thereof "section 409(e)".

(8) Paragraph (8) of section 4975(e) is amended by striking out "section 409A(l)" and inserting in lieu thereof "section 409(l)".

(9) Paragraphs (1) and (3) of section 6699(a) are each amended by striking out "section 409A" and inserting in lieu thereof "section 409". 26 USC 6699.

(10) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by striking out "Sec. 409A" and inserting in lieu thereof "Sec. 409".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments and repeals made by subsections (a), (b), and (d) shall apply to obligations issued after December 31, 1983. 26 USC 55 note.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to redemptions after the date of the enactment of this Act in taxable years ending after such date. 26 USC 402 note.

(3) SUBSECTION (e).—The amendments made by subsection (e) shall take effect on January 1, 1984. 26 USC 41 note.

(4) BONDS UNDER QUALIFIED BOND PURCHASE PLANS MAY BE REDEEMED AT ANY TIME.—Notwithstanding— 26 USC 405 note.

(A) subparagraph (D) of section 405(b)(1) of the Internal Revenue Code of 1954 (as in effect before its repeal by this section), and

(B) the terms of any bond described in subsection (b) of such section 405,

such a bond may be redeemed at any time after the date of the enactment of this Act in the same manner as if the individual redeeming the bond had attained age 59½.

(5) TREATMENT OF TAX IMPOSED UNDER SECTION 409(c).—For purposes of section 26(b) of the Internal Revenue Code of 1954 (as amended by this Act), any tax imposed by section 409(c) of such Code (as in effect before its repeal by this section) shall be treated as a tax imposed by section 408(f) of such Code. 26 USC 26 note.

SEC. 492. REPEAL OF RULES RELATING TO GAINS FROM DISPOSITION OF PROPERTY USED IN FARMING WHERE FARM LOSSES OFFSET NONFARM INCOME.

(a) IN GENERAL.—Section 1251 (relating to gain from disposition of property used in farming where farm losses offset nonfarm income) is hereby repealed. 26 USC 1251.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 170.

(1) SECTION 170.—

(A) The second sentence of section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "1251(c),".

(B) Subparagraph (C) of section 170(e)(3) (relating to special rule for certain contributions of inventory and other property) is amended by striking out "1251,".

26 USC 341.

(2) SECTION 341.—Paragraph (12) of section 341(e) (relating to nonapplication of section 1245(a)) is amended by striking out "1251(c),".

26 USC 453B.

(3) SECTION 453B.—The second sentence of section 453B(d)(2) (relating to liquidations to which section 337 applies) is amended by striking out "1251(c),".

26 USC 751.

(4) SECTION 751.—The second sentence of subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking out "farm recapture property (as defined in section 1251(e)(1)),", and

(B) by striking out "1251(c),".

26 USC 1252.

(5) SECTION 1252.—The second sentence of section 1252(a)(1) (relating to gains from disposition of farm land) is amended by striking out ", except that this section shall not apply to the extent section 1251 applies to such gain".

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by striking out the item relating to section 1251.

26 USC 170 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

TITLE V—EMPLOYEE BENEFIT PROVISIONS

Subtitle A—Welfare Benefit Plans

SEC. 511. TREATMENT OF FUNDED WELFARE BENEFIT PLANS.

(a) GENERAL RULE.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new subpart:

"Subpart D—Treatment of Welfare Benefit Funds

"Sec. 419. Treatment of funded welfare benefit plans.

"Sec. 419A. Qualified asset account; limitation on additions to account.

26 USC 419.

"SEC. 419. TREATMENT OF FUNDED WELFARE BENEFIT PLANS.

"(a) GENERAL RULE.—Contributions paid or accrued by an employer to a welfare benefit fund—

"(1) shall not be deductible under section 162 or 212, but

"(2) if they satisfy the requirements of either of such sections, shall (subject to the limitation of subsection (b)) be deductible under this section for the taxable year in which paid.

"(b) LIMITATION.—The amount of the deduction allowable under subsection (a)(2) for any taxable year shall not exceed the welfare benefit fund's qualified cost for the taxable year.

"(c) QUALIFIED COST.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified cost' means, with respect to any taxable year, the sum of—

"(A) the qualified direct cost for such taxable year, and

"(B) subject to the limitation of section 419A(b), any addition to a qualified asset account for the taxable year. *Post*, p. 856.

"(2) REDUCTION FOR FUNDS AFTER-TAX INCOME.—In the case of any welfare benefit fund, the qualified cost for any taxable year shall be reduced by such fund's after-tax income for such taxable year.

"(3) QUALIFIED DIRECT COST.—

"(A) IN GENERAL.—The term 'qualified direct cost' means, with respect to any taxable year, the aggregate amount (including administrative expenses) which would have been allowable as a deduction to the employer with respect to the benefits provided during the taxable year, if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

"(B) TIME WHEN BENEFITS PROVIDED.—For purposes of subparagraph (A), a benefit shall be treated as provided when such benefit would be includible in the gross income of the employee if provided directly by the employer (or would be so includible but for any provision of this chapter excluding such benefit from gross income).

"(C) 60-MONTH AMORTIZATION OF CHILD CARE FACILITIES.—

"(i) IN GENERAL.—In determining qualified direct costs with respect to any child care facility for purposes of subparagraph (A), in lieu of depreciation the adjusted basis of such facility shall be allowable as a deduction ratably over a period of 60 months beginning with the month in which the facility is placed in service.

"(ii) CHILD CARE FACILITY.—The term 'child care facility' means any tangible property which qualifies under regulations prescribed by the Secretary as a child care center primarily for children of employees of the employer; except that such term shall not include any property—

"(I) not of a character subject to depreciation; or

"(II) located outside the United States.

"(4) AFTER-TAX INCOME.—

"(A) IN GENERAL.—The term 'after-tax income' means, with respect to any taxable year, the gross income of the welfare benefit fund reduced by the sum of—

"(i) the deductions allowed by this chapter which are directly connected with the production of such gross income, and

"(ii) the tax imposed by this chapter on the fund for the taxable year.

"(B) TREATMENT OF CERTAIN AMOUNTS.—In determining the gross income of any welfare benefit fund—

"(i) contributions and other amounts received from employees shall be taken into account, but

"(ii) contributions from the employer shall not be taken into account.

"(5) ITEM ONLY TAKEN INTO ACCOUNT ONCE.—No item may be taken into account more than once in determining the qualified cost of any welfare benefit fund.

"(d) CARRYOVER OF EXCESS CONTRIBUTIONS.—If—

"(1) the amount of the contributions paid (or deemed paid under this subsection) by the employer during any taxable year to a welfare benefit fund, exceeds

"(2) the limitation of subsection (b),

such excess shall be treated as an amount paid by the employer to such fund during the succeeding taxable year.

"(e) WELFARE BENEFIT FUND.—For purposes of this section—

"(1) IN GENERAL.—The term 'welfare benefit fund' means any fund—

"(A) which is part of a plan of an employer, and

"(B) through which the employer provides welfare benefits to employees or their beneficiaries.

"(2) WELFARE BENEFIT.—The term 'welfare benefit' means any benefit other than a benefit with respect to which—

"(A) section 83(h) applies,

"(B) section 404 applies (determined without regard to section 404(b)(2)),

"(C) section 404A applies, or

"(D) an election under section 463 applies.

"(3) FUND.—The term 'fund' means—

"(A) any organization described in paragraph (7), (9), (17), or (20) of section 501(c),

"(B) any trust, corporation, or other organization not exempt from the tax imposed by this chapter, and

"(C) to the extent provided in regulations, any account held for an employer by any person.

"(f) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.—If—

"(1) there is no plan, but

"(2) there is a method or arrangement of employer contributions or benefits which has the effect of a plan,

this section shall apply as if there were a plan.

"(g) EXTENSION TO PLANS FOR INDEPENDENT CONTRACTORS.—If any fund would be a welfare benefit fund (as modified by subsection (f)) but for the fact that there is no employee-employer relationship—

"(1) this section shall apply as if there were such a plan, and

"(2) any reference in this section to the employer shall be treated as a reference to the person for whom services are provided, and any reference in this section to an employee shall be treated as a reference to the person providing the services.

26 USC 419A.

"SEC. 419A. QUALIFIED ASSET ACCOUNT; LIMITATION ON ADDITIONS TO ACCOUNT.

"(a) GENERAL RULE.—For purposes of this subpart, the term 'qualified asset account' means any account consisting of assets set aside to provide for the payment of—

"(1) disability benefits,

"(2) medical benefits,

"(3) SUB or severance pay benefits, or

"(4) life insurance benefits.

"(b) LIMITATION ON ADDITIONS TO ACCOUNT.—No addition to any qualified asset account may be taken into account under section

419(c)(1)(B) to the extent such addition results in the amount in such account exceeding the account limit.

Ante, p. 854.

"(c) ACCOUNT LIMIT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the account limit for any qualified asset account for any taxable year is the amount reasonably and actuarially necessary to fund—

"(A) claims incurred but unpaid (as of the close of such taxable year) for benefits referred to in subsection (a), and

"(B) administrative costs with respect to such claims.

"(2) ADDITIONAL RESERVE FOR POST-RETIREMENT MEDICAL AND LIFE INSURANCE BENEFITS.—The account limit for any taxable year may include a reserve funded over the working lives of the covered employees and actuarially determined on a level basis (using assumptions that are reasonable in the aggregate) as necessary for—

"(A) post-retirement medical benefits to be provided to covered employees (determined on the basis of current medical costs), or

"(B) post-retirement life insurance benefits to be provided to covered employees.

"(3) AMOUNT TAKEN INTO ACCOUNT FOR SUB OR SEVERENCE PAY BENEFITS.—

"(A) IN GENERAL.—The account limit for any taxable year with respect to SUB or severance pay benefits is 75 percent of the average annual qualified direct costs for SUB or severance pay benefits for any 2 of the immediately preceding 7 taxable years (as selected by the fund).

"(B) SPECIAL RULE FOR CERTAIN NEW PLANS.—In the case of any new plan for which SUB or severance pay benefits are not available to any key employee, the Secretary shall, by regulations, provide for an interim amount to be taken into account under paragraph (1).

"(4) LIMITATION ON AMOUNTS TO BE TAKEN INTO ACCOUNT.—

"(A) DISABILITY BENEFITS.—For purposes of paragraph (1), disability benefits payable to any individual shall not be taken into account to the extent such benefits are payable at an annual rate in excess of the lower of—

"(i) 75 percent of such individual's average compensation for his high 3 years (within the meaning of section 415(b)(3)), or

"(ii) the limitation in effect under section 415(b)(1)(A).

"(B) LIMITATION ON SUB OR SEVERANCE PAY BENEFITS.—For purposes of paragraph (3), any SUB or severance pay benefit payable to any individual shall not be taken into account to the extent such benefit is payable at an annual rate in excess of 150 percent of the limitation in effect under section 415(c)(1)(A).

"(5) SPECIAL LIMITATION WHERE NO ACTUARIAL CERTIFICATION.—

"(A) IN GENERAL.—Unless there is an actuarial certification of the account limit determined under paragraph (1) for any taxable year, the account limit for such taxable year shall not exceed the sum of the safe harbor limits for such taxable year.

"(B) SAFE HARBOR LIMITS.—

"(i) SHORT-TERM DISABILITY BENEFITS.—In the case of short-term disability benefits, the safe harbor limit for any taxable year is 17.5 percent of the qualified direct costs (other than insurance premiums) for the immediately preceding taxable year with respect to such benefits.

"(ii) MEDICAL BENEFITS.—In the case of medical benefits, the safe harbor limit for any taxable year is 35 percent of the qualified direct costs (other than insurance premiums) for the immediately preceding taxable year with respect to medical benefits.

"(iii) SUB OR SEVERANCE PAY BENEFITS.—In the case of SUB or severance pay benefits, the safe harbor limit for any taxable year is the amount determined under paragraph (3).

"(iv) LONG-TERM DISABILITY OR LIFE INSURANCE BENEFITS.—In the case of any long-term disability benefit or life insurance benefit, the safe harbor limit for any taxable year shall be the amount prescribed by regulations.

"(d) REQUIREMENT OF SEPARATE ACCOUNTS FOR POST-RETIREMENT MEDICAL OR LIFE INSURANCE BENEFITS PROVIDED TO KEY EMPLOYEES.—

"(1) IN GENERAL.—In the case of any employee who is a key employee—

"(A) a separate account shall be established for any medical benefits or life insurance benefits provided with respect to such employee after retirement, and

"(B) medical benefits and life insurance benefits provided with respect to such employee after retirement may only be paid from such separate account.

"(2) COORDINATION WITH SECTION 415.—For purposes of section 415, any amount attributable to medical benefits allocated to an account established under paragraph (1) shall be treated as an annual addition to a defined contribution plan for purposes of section 415(c).

"(3) KEY EMPLOYEE.—For purposes of this section, the term 'key employee' means any employee who, at any time during the plan year or any preceding plan year, is or was a key employee as defined in section 416(i).

"(e) SPECIAL LIMITATIONS ON RESERVES FOR MEDICAL BENEFITS OR LIFE INSURANCE BENEFITS PROVIDED TO RETIRED EMPLOYEES.—

"(1) BENEFITS MUST BE NONDISCRIMINATORY.—No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b)(1) with respect to such benefits.

Post, p. 864.

"(2) TAXABLE LIFE INSURANCE BENEFITS NOT TAKEN INTO ACCOUNT.—No life insurance benefit may be taken into account under subsection (c)(2) to the extent—

"(A) such benefit is includible in gross income under section 79, or

"(B) such benefit would be includible in gross income under section 101(b) (determined by substituting '$50,000' for '$5,000').

"(f) DEFINITIONS AND OTHER SPECIAL RULES.—For purposes of this section—

"(1) SUB OR SEVERANCE PAY BENEFIT.—The term 'SUB or severance pay benefit' means—

"(A) any supplemental unemployment compensation benefit (as defined in section 501(c)(17)(D)), and

"(B) any severance pay benefit.

"(2) MEDICAL BENEFIT.—The term 'medical benefit' means a benefit which consists of the providing (directly or through insurance) of medical care (as defined in section 213(d)).

"(3) LIFE INSURANCE BENEFIT.—The term 'life insurance benefit' includes any other death benefit.

"(4) VALUATION.—For purposes of this section, the amount of the qualified asset account shall be the value of the assets in such account (as determined under regulations).

"(5) HIGHER LIMIT IN CASE OF COLLECTIVELY BARGAINED PLANS.—Not later than July 1, 1985, the Secretary shall by regulations provide for special account limits in the case of any qualified asset account under a welfare benefit fund established under a collective bargaining agreement.

"(6) EXCEPTION FOR 10-OR-MORE EMPLOYER PLANS.—

"(A) IN GENERAL.—This subpart shall not apply in the case of any welfare benefit fund which is part of a 10 or more employer plan. The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.

"(B) 10 OR MORE EMPLOYER PLAN.—For purposes of subparagraph (A), the term '10 or more employer plan' means a plan—

"(i) to which more than 1 employer contributes, and

"(ii) to which no employer normally contributes more than 10 percent of the total contributions contributed under the plan by all employers.

"(7) ADJUSTMENTS FOR EXISTING EXCESS RESERVES.—

"(A) INCREASE IN ACCOUNT LIMIT.—The account limit for any of the first 4 taxable years to which this section applies shall be increased by the applicable percentage of any existing excess reserves.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"In the case of:	The applicable percentage is:
The first taxable year to which this section applies	80
The second taxable year to which this section applies	60
The third taxable year to which this section applies	40
The fourth taxable year to which this section applies	20.

"(C) EXISTING EXCESS RESERVE.—For purposes of this paragraph, the term 'existing excess reserve' means the excess (if any) of—

"(i) the amount of assets set aside for purposes described in subsection (a) as of the close of the first taxable year ending after the date of the enactment of the Tax Reform Act of 1984, over

Ante, p. 494.

"(ii) the account limit which would have applied under this section to such taxable year if this section had applied to such taxable year.

"(g) EMPLOYER TAXED ON INCOME OF WELFARE BENEFIT FUND IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any welfare benefit fund which is not an organization described in paragraph (7), (9), (17), or (20) of section 501(c), the employer shall include in gross income for any taxable year an amount equal to such fund's deemed unrelated income for the fund's taxable year ending within the employer's taxable year.

"(2) DEEMED UNRELATED INCOME.—For purposes of paragraph (1), the deemed unrelated income of any welfare benefit fund shall be the amount which would have been its unrelated business taxable income under section 512(a)(3) if such fund were an organization described in paragraph (7), (9), (17), or (20) of section 501(c).

"(h) AGGREGATION RULES.—For purposes of this subpart—

"(1) AGGREGATION OF FUNDS.—At the election of the employer, 2 or more welfare benefit funds of such employer may be treated as 1 fund.

"(2) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subpart. Such regulations may provide that the plan administrator of any welfare benefit fund which is part of a plan to which more than 1 employer contributes shall submit such information to the employers contributing to the fund as may be necessary to enable the employers to comply with the provisions of this section."

(b) AMENDMENTS TO TAX ON UNRELATED BUSINESS INCOME.—

(1) EXTENSION OF SECTION 512(A)(3) TO SUPPLEMENTAL UNEMPLOYMENT BENEFIT AND GROUP LEGAL TRUSTS.—

26 USC 512.

(A) Paragraph (3) of section 512(a) (relating to special rules applicable to organizations described in section 501(c)(7) or (9)) is amended by striking out "section 501(c)(7) or (9)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "paragraph (7), (9), (17), or (20) of section 501(c)".

(B) Clause (ii) of section 512(a)(3)(B) is amended by striking out "section 501(c)(9)" and inserting in lieu thereof "paragraph (9), (17), or (20) of section 501(c)".

(2) LIMITATION ON DEDUCTION FOR SET-ASIDE.—Paragraph (3) of section 512(a) is amended by adding at the end thereof the following new subparagraph:

"(E) LIMITATION ON AMOUNT OF SETASIDE IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(C).—

"(i) IN GENERAL.—In the case of any organization described in paragraph (9), (17), or (20) of section 501(c), a set-aside for any purpose specified in clause (ii) of subparagraph (B) may be taken into account under subparagraph (B) only to the extent that such set-aside does not result in an amount of assets set aside for such purpose in excess of the account limit determined under section 419A(c) for the taxable year (not taking into account any reserve described in section 419A(c)(2)(A) for post-retirement medical benefits).

Ante, p. 856.

"(ii) NO SET ASIDE FOR FACILITIES.—No set aside for assets used in the provision of benefits described in

clause (ii) of subparagraph (B) shall be taken into account.

"(iii) TREATMENT OF EXISTING RESERVES FOR POST-RETIREMENT MEDICAL OR LIFE INSURANCE BENEFITS.—

"(I) Clause (i) shall not apply to any income attributable to a existing reserve for post-retirement medical or life insurance benefits.

"(II) For purposes of subclause (I), the term 'existing reserve or post-retirement medical or life insurance benefit' means the amount of assets set aside as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984 for purposes of post-retirement medical benefits or life insurance benefits to be provided to covered employees. *Ante*, p. 494.

"(III) All payments during plan years ending on or after the date of the enactment of the Tax Reform Act of 1984 of post-retirement medical benefits or life insurance benefits shall be charged against the reserve referred to in subclause (II). Except to the extent provided in regulations prescribed by the Secretary, all plans of an employer shall be treated as 1 plan for purposes of the preceding sentence.

"(iv) TREATMENT OF TAX EXEMPT ORGANIZATIONS.—This paragraph shall not apply to any organization if substantially all of the contributions to such organization are made by employers who were exempt from tax under this chapter throughout the 5-taxable year period ending with the taxable year in which the contributions are made."

(c) TAX ON CERTAIN FUNDED WELFARE BENEFIT PLANS.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4976. TAXES WITH RESPECT TO FUNDED WELFARE BENEFIT PLANS. 26 USC 4976.

"(a) GENERAL RULE.—If—

"(1) an employer maintains a welfare benefit fund, and

"(2) there is a disqualified benefit provided during any taxable year,

there is hereby imposed on such employer a tax equal to 100 percent of such disqualified benefit.

"(b) DISQUALIFIED BENEFIT.—For purposes of subsection (a), the term 'disqualified benefit' means—

"(1) any medical benefit or life insurance benefit provided with respect to a key employee other than from a separate account established for such owner under section 419A(d), and *Ante*, p. 856.

"(2) any post-retirement medical or life insurance benefit unless the plan meets the requirements of section 505(b)(1) with respect to such benefit, and *Post*, p. 864.

"(3) any portion of such fund reverting to the benefit of the employer.

"(c) DEFINITIONS.—For purposes of this section, the terms used in this section shall have the same respective meanings as when used in subpart D of part I of subchapter D of chapter 1." *Ante*, p. 854.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new item:

"Sec. 4976. Taxes with respect to funded welfare benefit plans."

(d) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart D. Treatment of welfare benefit funds."

26 USC 419 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contributions paid or accrued after December 31, 1985, in taxable years ending after such date.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of plan maintained pursuant to 1 or more collective bargaining agreements—

(A) between employee representatives and 1 or more employers, and

(B) in effect on July 1, 1985 (or ratified on or before such date),

the amendments made by this section and section 514 shall not apply to years beginning before the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after July 1, 1985).

(3) SPECIAL RULE FOR PARAGRAPH (2).—For purposes of paragraph (2), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(4) SPECIAL EFFECTIVE DATE FOR CONTRIBUTIONS OF FACILITIES.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall apply in the case of—

(A) any contribution after June 22, 1984, of a facility to a welfare benefit fund, and

(B) any other contribution after June 22, 1984, to a welfare benefit fund to be used to acquire or improve a facility.

(5) BINDING CONTRACT EXCEPTIONS TO PARAGRAPH (4).—Paragraph (4) shall not apply to any facility placed in service before January 1, 1987—

(A) which is acquired or improved by the fund (or contributed to the fund) pursuant to a binding contract in effect on June 22, 1984, and at all times thereafter, or

(B) the construction of which by or for the fund began before June 22, 1984.

SEC. 512. TREATMENT OF UNFUNDED DEFERRED BENEFITS.

26 USC 404.

(a) GENERAL RULE.—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended to read as follows:

"(b) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN; UNFUNDED DEFERRED BENEFITS.—

"(1) METHOD OF CONTRIBUTIONS, ETC., HAVING THE EFFECT OF A PLAN.—If—

"(A) there is no plan, but

"(B) there is a method or arrangement of employer contributions or compensation which has the effect of a stock bonus, pension, profit-sharing, or annuity plan, or other plan deferring the receipt of compensation (including a plan described in paragraph (2)),

subsection (a) shall apply as if there were such a plan.

"(2) PLANS PROVIDING UNFUNDED DEFERRED BENEFITS.—

"(A) IN GENERAL.—For purposes of this section, any plan providing for deferred benefits (other than compensation) for employees, their spouses, or their dependents shall be treated as a plan deferring the receipt of compensation. In the case of such a plan, for purposes of this section, the determination of when an amount is includible in gross income shall be made without regard to any provisions of this chapter excluding such benefits from gross income.

"(B) EXCEPTION FOR CERTAIN BENEFITS.—Subparagraph (A) shall not apply to—

"(i) any benefit provided through a welfare benefit fund (as defined in section 419(e)), or

Ante, p. 854.

"(ii) to any benefit with respect to which an election under section 463 applies."

(b) CROSS REFERENCE.—Subsection (j) of section 162 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

26 USC 162.

"(3) For special rules relating to—

"(A) funded welfare benefit plans, see section 419, and

Ante, p. 854.

"(B) deferred compensation and other deferred benefits, see section 404."

(c) EFFECTIVE DATE.—

26 USC 404 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

(2) EXCEPTION FOR CERTAIN EXTENDED VACATION PAY PLANS.—In the case of any extended vacation pay plan maintained pursuant to a collective bargaining agreement—

(A) between employee representatives and 1 or more employers, and

(B) in effect on June 22, 1984,

the amendments made by this section shall not apply before the date on which such collective bargaining agreement terminates (determined without regard to any extension thereof agreed to after June 22, 1984). For purposes of the preceding sentence, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 513. ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT STATUS OF CERTAIN ORGANIZATIONS.

(a) GENERAL RULE.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

26 USC 505.

"SEC. 505. ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF SECTION 501(c).

"(a) CERTAIN REQUIREMENTS MUST BE MET IN THE CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9) OR (20) OF SECTION 501(c).—

"(1) VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS, ETC.—An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan of an employer shall not be exempt from tax under section 501(a) unless such plan meets the requirements of subsection (b) of this section.

"(2) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to 1 or more collective bargaining agreements between 1 or more employee organizations and 1 or more employers.

"(b) NONDISCRIMINATION REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a plan meets the requirements of this subsection only if—

"(A) each class of benefits under the plan is provided under a classification of employees which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

"(B) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated employees.

A life insurance, disability, severance pay, or supplemental unemployment compensation benefit shall not be considered to fail to meet the requirements of subparagraph (B) merely because the benefits available bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of employees covered by the plan.

"(2) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of paragraph (1), there may be excluded from consideration—

"(A) employees who have not completed 3 years of service,

"(B) employees who have not attained age 21,

"(C) seasonal employees or less than half-time employees,

"(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

"(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(3) APPLICATION OF SUBSECTION WHERE OTHER NONDISCRIMINATION RULES PROVIDED.—In the case of any benefit for which a provision of this chapter other than this subsection provides nondiscrimination rules, paragraph (1) shall not apply but the requirements of this subsection shall be met only if the nondiscrimination rules so provided are satisfied with respect to such benefit.

"(4) AGGREGATION RULES.—For purposes of this subsection—

"(A) AGGREGATION OF PLANS.—At the election of the employer, 2 or more plans of such employer may be treated as 1 plan.

"(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(n) shall be applied without regard to paragraph (5).

"(5) HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this subsection, the term 'highly compensated individual' has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting '10 percent' for '25 percent'.

"(c) REQUIREMENT THAT ORGANIZATION NOTIFY SECRETARY THAT IT IS APPLYING FOR TAX-EXEMPT STATUS.—

"(1) IN GENERAL.—An organization shall not be treated as an organization described in paragraph (9), (17), or (20) of section 501(c)—

"(A) unless it has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

"(B) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

"(2) SPECIAL RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization in existence on the date of the enactment of the Tax Reform Act of 1984, the time for giving notice under paragraph (1) shall not expire before the date 1 year after such date of the enactment."

Ante, p. 494.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 505. Additional requirements for organizations described in paragraph (9), (17), or (20) of section 501(c)."

(c) EFFECTIVE DATE.—

26 USC 505 note.

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1984.

(2) TREATMENT OF CERTAIN BENEFITS IN PAY STATUS AS OF JANUARY 1, 1985.—For purposes of determining whether a plan meets the requirements of section 505(b) of the Internal Revenue Code of 1954 (as added by subsection (a)), there may (at the election of the employer) be excluded from consideration all disability or severance payments payable to individuals who are in pay status as of January 1, 1985. The preceding sentence shall not apply to any payment to the extent such payment is increased by any plan amendment adopted after June 22, 1984.

Ante, p. 864.

Subtitle B—Provisions Relating to Pension Plans

SEC. 521. REQUIRED DISTRIBUTIONS.

(a) QUALIFIED PENSION PLANS.—

(1) IN GENERAL.—Paragraph (9) of section 401(a) (relating to required distributions), as in effect before the amendments

26 USC 401.

made by section 242 of the Tax Equity and Fiscal Responsibility Act of 1982, is amended to read as follows:

"(9) REQUIRED DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this subsection unless the plan provides that the entire interest of each employee—

"(i) will be distributed to such employee not later than the required beginning date, or

"(ii) will be distributed, beginning not later than the required beginning date, in accordance with regulations, over the life of such employee or over the lives of such employee and a designated beneficiary (or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary).

"(B) REQUIRED DISTRIBUTION WHERE EMPLOYEE DIES BEFORE ENTIRE INTEREST IS DISTRIBUTED.—

"(i) WHERE DISTRIBUTIONS HAVE BEGUN UNDER SUBPARAGRAPH (A)(ii).—A trust shall not constitute a qualified trust under this section unless the plan provides that if—

"(I) the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii), and

"(II) the employee dies before his entire interest has been distributed to him,

the remaining portion of such interest will be distributed at least as rapidly as under the method of distributions being used under subparagraph (A)(ii) as of the date of his death.

"(ii) 5-YEAR RULE FOR OTHER CASES.—A trust shall not constitute a qualified trust under this section unless the plan provides that, if an employee dies before the distribution of the employee's interest has begun in accordance with subparagraph (A)(ii), the entire interest of the employee will be distributed within 5 years after the death of such employee.

"(iii) EXCEPTION TO 5-YEAR RULE FOR CERTAIN AMOUNTS PAYABLE OVER LIFE OF BENEFICIARY.—If—

"(I) any portion of the employee's interest is payable to (or for the benefit of) a designated beneficiary,

"(II) such portion will be distributed (in accordance with regulations) over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), and

"(III) such distributions begin not later than year after the date of the employee's death or such later date as the Secretary may by regulations prescribe,

for purposes of clause (ii), the portion referred to in subclause (I) shall be treated as distributed on the date on which such distributions begin.

"(iv) SPECIAL RULE FOR SURVIVING SPOUSE OF EMPLOYEE.—If the designated beneficiary referred to in clause (iii)(I) is the surviving spouse of the employee—

"(I) the date on which the distributions are required to begin under clause (iii)(III) shall not be earlier than the date on which the employee would have attained age 70½, and

"(II) if the surviving spouse dies before the distributions to such spouse begin, this subparagraph shall be applied as if the surviving spouse were the employee.

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph, the term 'required beginning date' means April 1 of the calendar year following the later of—

"(i) the calendar year in which the employee attains age 70½, or

"(ii) the calendar year in which the employee retires. Except as provided in section 409(d), clause (ii) shall not apply in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains 70½.

Ante, p. 852.

"(D) LIFE EXPECTANCY.—For purposes of this paragraph, the life expectancy of an employee and the employee's spouse (other than in the case of a life annuity) may be redetermined but not more frequently than annually.

"(E) DESIGNATED BENEFICIARY.—For purposes of this paragraph, the term 'designated beneficiary' means any individual designated as a beneficiary by the employee.

"(F) TREATMENT OF PAYMENTS TO CHILDREN.—Under regulations prescribed by the Secretary, for purposes of this paragraph, any amount paid to a child shall be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority (or other designated event permitted under regulations)."

(2) REPEAL OF SECTION 242.—Section 242 of the Tax Equity and Fiscal Responsibility Act of 1982 is hereby repealed.

26 USC 401, 401 note.

(b) INDIVIDUAL RETIREMENT ACCOUNTS AND ANNUITIES.—

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Section 408(a) (relating to individual retirement accounts) is amended by striking out paragraphs (6) and (7) and inserting in lieu thereof the following new paragraph:

26 USC 408.

"(6) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) (relating to required distributions) shall apply to the distribution of the entire interest of an individual for whose benefit the trust is maintained."

Ante, p. 865.

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Section 408(b) (relating to individual retirement annuities) is amended by striking out paragraphs (3) and (4), by redesignating paragraph (5) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) (relating to required distributions) shall apply to the distribution of the entire interest of the owner."

(c) SPECIAL RULE FOR CUSTODIAL ACCOUNTS.—Paragraph (7) of section 403(b) (relating to custodial accounts for regulated investment company stock) is amended by adding at the end thereof the following new subparagraph:

26 USC 403.

"(D) DISTRIBUTION REQUIREMENTS.—For purposes of determining when the interest of an employee in a custodial account must be distributed, such account shall be treated in the same manner as an annuity contract."

(d) CERTAIN DISTRIBUTION REQUIREMENTS TO APPLY TO 5-PERCENT OWNERS RATHER THAN KEY EMPLOYEES.—Section 72(m)(5) (relating to penalties applicable to certain amounts received by owner-employees) is amended—

Post, p. 957.

(1) by striking out "key employee" each place it appears in subparagraph (A) and inserting in lieu thereof "5-percent owner";

(2) by striking out "in a top-heavy plan" in clause (i) of subparagraph (A); and

(3) by striking out "the terms 'key employee' and 'top-heavy plan' " in subparagraph (C) and inserting in lieu thereof "the term '5 percent owner' ".

26 USC 401 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1984.

Ante, p. 867.

(2) REPEAL OF SECTION 242 OF TEFRA.—The amendment made by subsection (a)(2) shall take effect as if included in the Tax Equity and Fiscal Responsibility Act of 1982.

(3) TRANSITION RULE.—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (a)(1), by reason of distributions under a designation (before January 1, 1984) by any employee in accordance with a designation described in section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (as in efffect before the amendments made by this Act).

Ante, p. 865.

26 USC 401 note.

(4) SPECIAL RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1954), paragraph (1) shall be applied by substituting "1986" for "1984".

(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements ratified on or before the date of the enactment of this Act between employee representatives and one or more employers, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1988.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 522. ROLLOVER OF CERTAIN PARTIAL DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

26 USC 402.

(1) QUALIFIED TRUSTS.—Clause (i) of section 402(a)(5)(A) (relating to rollover amounts) is amended to read as follows—

"(i) any portion of the balance to the credit of an employee in a qualified trust is paid to him,".

(2) QUALIFIED ANNUITIES.—Clause (i) of section 403(a)(4)(A) (relating to rollover amounts) is amended to read as follows: 26 USC 403.

"(i) any portion of the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him,".

(3) SECTION 403(b) ANNUITIES.—Clause (i) of section 403(b)(8)(A) (relating to rollover amounts) is amended to read as follows:

"(i) any portion of the balance to the credit of an employee in an annuity contract described in paragraph (1) is paid to him,".

(b) SPECIAL RULES FOR ROLLOVERS OF PARTIAL DISTRIBUTIONS.—Paragraph (5) of section 402(a) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph: 26 USC 402.

"(D) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) REQUIREMENTS.—Subparagraph (A) shall apply to a partial distribution only if—

"(I) such distribution is of an amount equal to at least 50 percent of the balance to the credit of the employee in a qualified trust (determined immediately before such distribution and without regard to subsection (e)(4)(C)),

"(II) such distribution is not one of a series of periodic payments, and

"(III) the employee elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have subparagraph (A) apply to such partial distribution.

"(ii) PARTIAL DISTRIBUTIONS MAY BE TRANSFERRED ONLY TO INDIVIDUAL RETIREMENT PLANS.—In the case of a partial distribution, a plan described in subclause (IV) or (V) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan.

"(iii) DENIAL OF 10-YEAR AVERAGING AND CAPITAL GAINS TREATMENT FOR SUBSEQUENT DISTRIBUTIONS.—If an election under clause (i) is made with respect to any partial distribution paid to any employee—

"(I) paragraph (2) of this subsection,

"(II) paragraphs (1) and (3) of subsection (e), and

"(III) paragraph (2) of section 403(a),

shall not apply to any distribution (paid after such partial distribution) of the balance to the credit of such employee under the plan under which such partial distribution was made (or under any other plan which, under subsection (e)(4)(C), would be aggregated with such plan).

"(iv) SPECIAL RULE FOR UNREALIZED APPRECIATION.—If an election under clause (i) is made with respect to any partial distribution, the second and third sentences of paragraph (1) shall not apply to such distribution."

(c) PARTIAL DISTRIBUTIONS PAID TO SPOUSE OF EMPLOYEE AFTER EMPLOYEE'S DEATH ELIGIBLE FOR ROLLOVER.—Paragraph (7) of section 402(a) (relating to rollover where spouse receives lump-sum distribution at death of employee) is amended to read as follows:

"(7) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTIONS AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an

employee is paid to the spouse of the employee after the employee's death, paragraph (5) shall apply to such distribution in the same manner as if the spouse were the employee.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "qualifying rollover distribution" each place it appears and inserting in lieu thereof "qualified total distribution"—

26 USC 402.

(A) section 402(a)(5)(B),

Ante, p. 869.

(B) section 402(a)(5)(E)(i) (as redesignated by subsection (b)), and

(C) section 402(a)(6)(E)(i).

(2) Subparagraph (B) of section 402(a)(5) is amended by adding at the end thereof the following new sentence: "In the case of any partial distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to subparagraph (A)).".

(3) Clause (ii) of section 402(a)(5)(E) (as redesignated by subsection (b)) is amended by striking out "gross income" and inserting in lieu thereof "gross income (determined without regard to this paragraph)".

(4) Clause (v) of subparagraph (E) of section 402(a)(5) (as redesignated by subsection (b)) is amended to read as follows:

"(v) PARTIAL DISTRIBUTION.—The term 'partial distribution' means any distribution to an employee of any portion of the balance to the credit of such employee in a qualified trust; except that such term shall not include any distribution which is a qualified total distribution."

(5) Subparagraph (F) of section 402(a)(5) (as redesignated by subsection (b)) is amended by striking out "subparagraph (D)(iv)" each place it appears and inserting in lieu thereof "subparagraph (E)(iv)".

(6) Paragraph (6) of section 402(a) is amended by striking out "paragraph (5)(D)(i)" each place it appears and inserting in lieu thereof "paragraph (5)(E)(i)".

(7) Clauses (iii) and (iv) of section 402(a)(6)(D) are each amended by striking out "employee contributions" and inserting in lieu thereof "employee contributions (or, in the case of a partial distribution, the amount not includible in gross income)".

(8) Clause (i) of section 402(a)(6)(E) is amended by striking out "paragraph (5)(D)(i)(II)" and inserting in lieu thereof "paragraph (5)(D) or (5)(E)(i)(II)".

(9) Subparagraph (B) of section 403(a)(4) is amended by striking out "(B) through (E)" and inserting in lieu thereof "(B) through (F)".

26 USC 403.

(10) Subparagraph (B) of section 403(b)(8) is amended to read as follows:

"(B) SPECIAL RULES FOR PARTIAL DISTRIBUTIONS.—

"(i) IN GENERAL.—In the case of any distribution other than a total distribution, rules similar to the rules of clauses (i) and (ii) of section 402(a)(5)(D) shall apply.

Ante, p. 869.

"(ii) TOTAL DISTRIBUTION.—For purposes of subparagraph (A), the term 'total distribution' means one or more distributions from an annuity contract described in paragraph (1) which would constitute a lump-sum

distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a), or 1 or more distributions of accumulated deductible employee contributions (within the meaning of section 72(o)(5)).''

(11) Subparagraph (C) of section 403(b)(8) is amended by striking out ''(D)(v), and (E)(i)'' and inserting in lieu thereof ''(F)(i)''. 26 USC 403.

(12) Clause (ii) of section 408(d)(3)(A) is amended by striking out ''rollover contribution from an employee's trust'' and inserting in lieu thereof ''rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) from an employee's trust''. 26 USC 408.

(13) Subparagraph (C) of section 409(b)(3) is amended by striking out the second sentence and inserting in lieu thereof the following new sentences: ''This subparagraph does not apply in the case of a transfer to such an employee's trust or such an annuity unless no part of the value of such proceeds is attributable to any source other than a qualified rollover contribution. For purposes of the preceding sentence, the term 'qualified rollover contribution' means any rollover contribution of a qualified total distribution (as defined in section 402(a)(5)(E)(i)) which is from such an employee's trust or annuity plan (other than an annuity plan or a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under such plan), and which did not qualify as a rollover contribution by reason of section 402(a)(7).'' *Ante*, p. 852. *Ante*, p. 869. *Ante*, p. 869.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after the date of the amendment of this Act, in taxable years ending after such date. 26 USC 402 note.

SEC. 523. TREATMENT OF DISTRIBUTIONS WHERE SUBSTANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE CONTRIBUTIONS.

(a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph: 26 USC 72.

''(7) SPECIAL RULES FOR PLANS WHERE SUBSTANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE CONTRIBUTIONS.—

''(A) IN GENERAL.—In the case of any plan or contract to which this paragraph applies, subparagraph (D) of paragraph (5) shall not apply to any amount received from such plan or contract.

''(B) PLANS OR CONTRACTS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply to any trust or contract—

''(i) which is described in clause (i) or subclause (I), (II), or (III) of clause (ii) of paragraph (5)(D), and

''(ii) with respect to which 85 percent of the total contributions during a representative period are derived from employee contributions.

''(C) SPECIAL RULE FOR CERTAIN FEDERAL PLANS.—If the Federal Government or an instrumentality thereof maintains more than 1 plan, subparagraph (B) shall be applied by aggregating all such plans which are actively administered by the Federal Government or such instrumentality.''

(b) CONFORMING AMENDMENTS.—

26 USC 72.

(1) Subparagraph (D) of section 72(e)(5) (relating to contracts under qualified plans) is amended by striking out "This" and inserting in lieu thereof "Except as provided in paragraph (7), this".

(2) Paragraph (3) of section 72(p) (defining qualified employer plan) is amended by inserting "other than a plan described in subsection (e)(7)" after "section 219(e)(3)".

26 USC 72 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any amount received or loan made after the 90th day after the date of the enactment of this Act.

SEC. 524. PROVISIONS RELATING TO TOP-HEAVY PLANS.

(a) DEFINITION OF KEY EMPLOYEE.—

26 USC 416.

(1) IN GENERAL.—Clause (i) of section 416(i)(1)(A) (defining key employee) is amended by inserting "having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A) for any such plan year" after "employer".

26 USC 416 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

(b) ACCRUED BENEFIT OF INDIVIDUAL NOT EMPLOYED WITHIN LAST 5 YEARS DISREGARDED.—

26 USC 416.

(1) IN GENERAL.—Paragraph (4) of section 416(g) (relating to other special rules) is amended by adding at the end thereof the following new subparagraph:

"(E) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE NOT EMPLOYED FOR LAST 5 YEARS.—If any individual has not received any compensation from any employer maintaining the plan (other than benefits under the plan) at any time during the 5-year period ending on the determination date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account."

26 USC 416 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(c) SALARY REDUCTION ARRANGEMENTS MAY BE TAKEN INTO ACCOUNT.—

26 USC 416.

(1) IN GENERAL.—Paragraph (2) of section 416(c) (relating to minimum benefits for defined contribution plans) is amended by striking out subparagraph (C).

26 USC 416 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1984.

(d) CERTAIN GOVERNMENTAL PLANS EXEMPT FROM TOP-HEAVY PLAN RULES.—

26 USC 401.

(1) IN GENERAL.—Paragraph (10)(B) of section 401(a) (relating to plan requirements regarding top-heavy plans) is amended by adding at the end thereof the following new clause:

"(iii) EXEMPTION FOR GOVERNMENTAL PLANS.—This subparagraph shall not apply to any governmental plan."

26 USC 401 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan years beginning after December 31, 1983.

26 USC 401 note.

(e) QUALIFICATION REQUIREMENTS MODIFIED IF REGULATIONS NOT ISSUED.—

(1) IN GENERAL.—If the Secretary of the Treasury or his delegate does not publish final regulations under section 416 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) before January 1, 1985, the Secretary shall publish before such date plan amendment

provisions which may be incorporated in a plan to meet the requirements of section 401(a)(10)(B)(ii) of such Code.

(2) EFFECT OF INCORPORATION.—If a plan is amended to incorporate the plan amendment provisions described in paragraph (1), such plan shall be treated as meeting the requirements of section 401(a)(10)(B)(ii) of the Internal Revenue Code of 1954 during the period such amendment is in effect but not later than 6 months after the final regulations described in paragraph (1) are published.

(3) FAILURE BY SECRETARY TO PUBLISH.—If the Secretary of the Treasury or his delegate does not publish plan amendment provisions described in paragraph (1), the plan shall be treated as meeting the requirements of section 401(a)(10)(B) of the Internal Revenue Code of 1954 if—

(A) such plan is amended to incorporate such requirements by reference, except that

(B) in the case of any optional requirement under section 416 of such Code, if such amendment does not specify the manner in which such requirement will be met, the employer shall be treated as having elected the requirement with respect to each employee which provides the maximum vested accrued benefit for such employee.

SEC. 525. REPEAL OF ESTATE TAX EXCLUSION FOR QUALIFIED PENSION PLAN BENEFITS.

(a) IN GENERAL.—Section 2039 (relating to inclusion in the gross estate of annuities) is amended by striking out subsections (c), (d), (e), (f), and (g) and inserting in lieu thereof the following new subsection: 26 USC 2039.

"(c) EXCEPTION OF CERTAIN ANNUITY INTERESTS CREATED BY COMMUNITY PROPERTY LAWS.—

"(1) IN GENERAL.—In the case of an employee on whose behalf contributions or payments were made by his employer or former employer under a trust, plan, or contract to which this subsection applies, if the spouse of such employee predeceases such employee, then notwithstanding any provision of law, there shall be excluded from the gross estate of such spouse the value of any interest of such spouse in such trust, plan, or contract, to the extent such interest—

"(A) is attributable to such contributions or payments, and

"(B) arises solely by reason of such spouse's interest in community income under the community property laws of a State.

"(2) TRUSTS, PLANS, AND CONTRACTS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) any trust, plan, or contract which at the time of the decedent's separation from employment (by death or otherwise), or if earlier, at the time of termination of the plan—

"(i) formed part of a plan which met the requirements of section 401(a), or

"(ii) was purchased pursuant to a plan described in section 403(a), or

"(B) a retirement annuity contract purchased for an employee by an employer which is—

"(i) an organization referred to in clause (ii) or (vi) of section 170(b)(1)(A), or

"(ii) a religious organization (other than a trust) exempt from taxation under section 501(a).

"(3) AMOUNT CONTRIBUTED BY EMPLOYEE.—For purposes of this subsection—

"(A) contributions or payments made by the decedent's employer or former employer under a trust, plan, or contract described in paragraph (2)(A) shall not be considered to be contributed by the decedent, and

"(B) contributions or payments made by the decedent's employer or former employer toward the purchase of an annuity contract described in paragraph (2)(B) shall not be considered to be contributed by the decedent to the extent excludable from gross income under section 403(b)."

26 USC 2039 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1984.

(2) EXCEPTION FOR PARTICIPANTS IN PAY STATUS.—The amendments made by this section shall not apply to the estate of any decedent who—

(A) was a participant in any plan who was in pay status on December 31, 1984, and

(B) irrevocably elected the form of the benefit before the date of the enactment of this Act.

26 USC 2039 note.

(3) PAY STATUS RULE EXTENDED TO $100,000 LIMITATION.—Subsection (c) of section 245 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting ", except that such amendments shall not apply to the estate of any decedent who was a participant in any plan who was in pay status on December 31, 1982, and irrevocably elected before January 1, 1983, the form of benefit".

SEC. 526. AFFILIATED SERVICE GROUPS, EMPLOYEE LEASING ARRANGEMENTS, AND COLLECTIVE BARGAINING AGREEMENTS.

(a) ATTRIBUTION RULES FOR AFFILIATED SERVICE GROUPS.—

26 USC 414.

(1) IN GENERAL.—Subparagraph (B) of section 414(m)(6), as in effect for taxable years beginning after December 31, 1983, is amended by striking out "section 267(c)" and inserting in lieu thereof "section 318(a)".

26 USC 414 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1984.

(b) EMPLOYEE LEASING EXCEPTION ONLY APPLIES TO NON-EMPLOYEES.—

(1) IN GENERAL.—Paragraph (2) of section 414(n) (defining leased employee) is amended by striking out "any person" in the material preceding subparagraph (A) and inserting in lieu thereof "any person who is not an employee of the recipient and".

26 USC 414 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1983.

(c) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—

Ante, p. 558.

(1) IN GENERAL.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(46) DETERMINATION OF WHETHER THERE IS A COLLECTIVE BARGAINING AGREEMENT.—In determining whether there is a collective bargaining agreement between employee representa-

tives and 1 or more employers, the term 'employee representatives' shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of the employer."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on April 1, 1984. 26 USC 7701 note.

(d) ADDITIONAL REGULATIONS.—

(1) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection: 26 USC 414.

"(o) REGULATIONS.—The Secretary shall prescribe such regulations (which may provide rules in addition to the rules contained in subsections (m) and (n)) as may be necessary to prevent the avoidance of any employee benefit requirement listed in subsection (m)(4) or (n)(3) through the use of—

"(1) separate organizations,

"(2) employee leasing, or

"(3) other arrangements."

(2) CONFORMING AMENDMENT.—Subsection (m) of section 414 is amended by striking out paragraph (6).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 26 USC 414 note.

SEC. 527. PROVISIONS RELATING TO CASH OR DEFERRED ARRANGEMENTS.

(a) PARTICIPATION AND DISCRIMINATION STANDARDS.—Subparagraph (A) of section 401(k)(3) is amended to read as follows: 26 USC 401.

"(A) A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement unless—

"(i) those employees eligible to benefit under the arrangement satisfy the provisions of subparagraph (A) or (B) of section 410(b)(1), and

"(ii) the actual deferral percentage for highly compensated employees (as defined in paragraph (4)) for such year bears a relationship to the actual deferral percentage for all other eligible employees for such plan year which meets either of the following tests:

"(I) The actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 1.5.

"(II) The excess of the actual deferral percentage for the group of highly compensated employees over that of all other eligible employees is not more than 3 percentage points, and the actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 2.5.

If 2 or more plans which include cash or deferred arrangements are considered as 1 plan for purposes of section 401(a)(4) or 410(b), the cash or deferred arrangements included in such plans shall be treated as 1 arrangement for purposes of this subparagraph.

The deferral percentage taken into account under this subparagraph for any employee who is a participant under 2 or more cash or deferred arrangements of the employer

shall be the sum of the deferral percentages for such employee under each of such arrangements."

(b) APPLICATION TO PRE-ERISA MONEY PURCHASE PLAN.—

26 USC 401.

(1) GENERAL RULE.—Paragraphs (1) and (2) of section 401(k) (relating to cash or deferred arrangements) are each amended by inserting "(or a pre-ERISA money purchase plan)" after "stock bonus plan".

(2) DEFINITION OF PRE-ERISA MONEY PURCHASE PLAN.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(5) PRE-ERISA MONEY PURCHASE PLAN.—For purposes of this subsection, the term 'pre-ERISA money purchase plan' means a pension plan—

"(A) which is a defined contribution plan (as defined in section 414(i)),

"(B) which was in existence on June 27, 1974, and which, on such date, included a salary reduction arrangement, and

"(C) under which neither the employee contributions nor the employer contributions may exceed the levels provided for by the contribution formula in effect under the plan on such date."

(3) TECHNICAL AMENDMENT.—Subparagraph (B) of section 401(k)(2) is amended by striking out ", hardship or the attainment of age 59½," and inserting in lieu thereof "(or in the case of a profit sharing or stock bonus plan, hardship or the attainment of age 59½)".

26 USC 401 note.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to plan years beginning after December 31, 1984.

(B) EXCEPTION FOR CERTAIN EXISTING PLANS.—The amendment made by subsection (a) shall not apply to any plan—

(i) which was maintained by a State on June 8, 1984, and

(ii) with respect to which a determination letter had been issued by the Secretary on December 6, 1982.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after the date of the enactment of this Act.

(B) TRANSITIONAL RULE.—Rules similar to the rules under section 135(c)(2) of the Revenue Act of 1978 shall apply with respect to any pre-ERISA money purchase plan (as defined in section 401(k)(5) of the Internal Revenue Code of 1954) for plan years beginning after December 31, 1979, and on or before the date of the enactment of this Act.

26 USC 401 note.

Supra.

SEC. 528. TREATMENT OF CERTAIN MEDICAL, ETC., BENEFITS UNDER SECTION 415.

26 USC 415.

(a) GENERAL RULE.—Section 415 (relating to limitations on benefits and contributions under qualified plan) is amended by adding at the end thereof the following new subsection:

"(l) TREATMENT OF CERTAIN MEDICAL BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, contributions allocated to any individual medical account which is part of a

defined benefit plan shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c).

"(2) INDIVIDUAL MEDICAL BENEFIT ACCOUNT.—For purposes of paragraph (1), the term 'individual medical benefit account' means any separate account—

"(A) which is established for a participant under a defined benefit plan, and

"(B) from which benefits described in section 401(h) are payable solely to such participant, his spouse, or his dependents."

(b) REQUIREMENT THAT SEPARATE ACCOUNT BE MAINTAINED FOR 5-PERCENT OWNER.—Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph: 26 USC 401.

"(6) in the case of an employee who is a 5-percent owner, a separate account is established and maintained for such benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a 5-percent owner) are only payable to such employee (and his spouse and dependents) from such separate account.

For purposes of paragraph (6), the term '5-percent owner' means any employee who, at any time during the plan year or any preceding plan year during which contributions were made on behalf of such employee, is or was a 5-percent owner (as defined in section 416(i)(1)(B))."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after March 31, 1984. 26 USC 401 note.

SEC. 529. CERTAIN ALIMONY TREATED AS COMPENSATION.

(a) IN GENERAL.—Paragraph (1) of section 219(f) (defining compensation) is amended by adding at the end thereof the following new sentence: "The term 'compensation' shall include any amount includible in the individual's gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2)." 26 USC 219. *Ante*, p. 795.

(b) CONFORMING AMENDMENT.—Subsection (b) of section 219 is amended by striking out paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984. 26 USC 219 note.

Subtitle C—Tax Treatment of Fringe Benefits

SEC. 531. EXCLUSION OF CERTAIN FRINGE BENEFITS FROM GROSS INCOME.

(a) EXCLUSION OF CERTAIN FRINGE BENEFITS.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 132 as section 133 and by inserting after section 131 the following new section: 26 USC 133.

26 USC 132.

"SEC. 132. CERTAIN FRINGE BENEFITS.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income shall not include any fringe benefit which qualifies as a—

"(1) no-additional-cost service,

"(2) qualified employee discount,

"(3) working condition fringe, or

"(4) de minimis fringe.

"(b) NO-ADDITIONAL-COST SERVICE DEFINED.—For purposes of this section, the term 'no-additional-cost service' means any service provided by an employer to an employee for use by such employee if—

"(1) such service is offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is performing services, and

"(2) the employer incurs no substantial additional cost (including forgone revenue) in providing such service to the employee (determined without regard to any amount paid by the employee for such service).

"(c) QUALIFIED EMPLOYEE DISCOUNT DEFINED.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE DISCOUNT.—The term 'qualified employee discount' means any employee discount with respect to qualified property or services to the extent such discount does not exceed—

"(A) in the case of property, the gross profit percentage of the price at which the property is being offered by the employer to customers, or

"(B) in the case of services, 20 percent of the price at which the services are being offered by the employer to customers.

"(2) GROSS PROFIT PERCENTAGE.—

"(A) IN GENERAL.—The term 'gross profit percentage' means the percent which—

"(i) the excess of the aggregate sales price of property sold by the employer to customers over the aggregate cost of such property to the employer, is of

"(ii) the aggregate sale price of such property.

"(B) DETERMINATION OF GROSS PROFIT PERCENTAGE.—Gross profit percentage shall be determined on the basis of—

"(i) all property offered to customers in the ordinary course of the line of business of the employer in which the employee is performing services (or a reasonable classification of property selected by the employer), and

"(ii) the employer's experience during a representative period.

"(3) EMPLOYEE DISCOUNT DEFINED.—The term 'employee discount' means the amount by which—

"(A) the price at which the property or services are provided to the employee by the employer, is less than

"(B) the price at which such property or services are being offered by the employer to customers.

"(4) QUALIFIED PROPERTY OR SERVICES.—The term 'qualified property or services' means any property (other than real property and other than personal property of a kind held for investment) or services which are offered for sale to customers in the ordinary course of the line of business of the employer in which the employee is peforming services.

"(d) WORKING CONDITION FRINGE DEFINED.—For purposes of this section, the term 'working condition fringe' means any property or services provided to an employee of the employer to the extent that, if the employee paid for such property or services, such payment would be allowable as a deduction under section 162 or 167.

"(e) DE MINIMIS FRINGE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'de minimis fringe' means any property or service the value of which is (after taking into account the frequency with which similar fringes are provided by the employer to the employer's employees) so small as to make accounting for it unreasonable or administratively impracticable.

"(2) TREATMENT OF CERTAIN EATING FACILITIES.—The operation by an employer of any eating facility for employees shall be treated as a de minimis fringe if—

"(A) such facility is located on or near the business premises of the employer, and

"(B) revenue derived from such facility normally equals or exceeds the direct operating costs of such facility.

The preceding sentence shall apply with respect to any officer, owner, or highly compensated employee only if access to the facility is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

"(f) CERTAIN INDIVIDUALS TREATED AS EMPLOYEES FOR PURPOSES OF SUBSECTIONS (a) (1) AND (2).—For purposes of paragraphs (1) and (2) of subsection (a)—

"(1) RETIRED AND DISABLED EMPLOYEES AND SURVIVING SPOUSE OF EMPLOYEE TREATED AS EMPLOYEE.—With respect to a line of business of an employer, the term 'employee' includes—

"(A) any individual who was formerly employed by such employer in such line of business and who separated from service with such employer in such line of business by reason of retirement or disability, and

"(B) any widow or widower of any individual who died while employed by such employer in such line of business or while an employee within the meaning of subparagraph (A).

"(2) SPOUSE AND DEPENDENT CHILDREN.—

"(A) IN GENERAL.—Any use by the spouse or a dependent child of the employee shall be treated as use by the employee.

"(B) DEPENDENT CHILD.—For purposes of subparagraph (A), the term 'dependent child' means any child (as defined in section 151(e)(3)) of the employee—

"(i) who is a dependent of the employee, or

"(ii) both of whose parents are deceased.

For purposes of the preceding sentence, any child to whom section 152(e) applies shall be treated as the dependent of both parents.

Ante, p. 799.

"(g) SPECIAL RULES RELATING TO EMPLOYER.—For purposes of this section—

"(1) CONTROLLED GROUPS, ETC.—All employees treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section.

"(2) RECIPROCAL AGREEMENTS.—For purposes of paragraph (1) of subsection (a), any service provided by an employer to an employee of another employer shall be treated as provided by the employer of such employee if—

"(A) such service is provided pursuant to a written agreement between such employers, and

"(B) neither of such employers incurs any substantial additional cost (including forgone revenue) in providing such service or pursuant to such agreement.

"(h) SPECIAL RULES.—

"(1) EXCLUSIONS UNDER SUBSECTION (a) (1) AND (2) APPLY TO OFFICERS, ETC., ONLY IF NO DISCRIMINATION.—Paragraphs (1) and (2) of subsection (a) shall apply with respect to any fringe benefit described therein provided with respect to any officer, owner, or highly compensated employee only if such fringe benefit is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees.

"(2) SPECIAL RULE FOR LEASED SECTIONS OF DEPARTMENT STORES.—

"(A) IN GENERAL.—For purposes of paragraph (2) of subsection (a), in the case of a leased section of a department store—

"(i) such section shall be treated as part of the line of business of the person operating the department store, and

"(ii) employees in the leased section shall be treated as employees of the person operating the department store.

"(B) LEASED SECTION OF DEPARTMENT STORE.—For purposes of subparagraph (A), a leased section of a department store is any part of a department store where over-the-counter sales of property are made under a lease or similar arrangement where it appears to the general public that individuals making such sales are employed by the person operating the department store.

"(3) AUTO SALESMEN.—

"(A) IN GENERAL.—For purposes of subsection (a)(3), qualified automobile demonstration use shall be treated as a working condition fringe.

"(B) QUALIFIED AUTOMOBILE DEMONSTRATION USE.—For purposes of subparagraph (A), the term 'qualified automobile demonstration use' means any use of an automobile by a full-time automobile salesman in the sales area in which the automobile dealer's sales office is located if—

"(i) such use in provided primarily to facilitate the salesman's performance of services for the employer, and

"(ii) there are substantial restrictions on the personal use of such automobile by such salesman.

"(4) PARKING.—The term 'working condition fringe' includes parking provided to an employee on or near the business premises of the employer.

"(5) ON-PREMISES GYMS AND OTHER ATHLETIC FACILITIES.—

"(A) IN GENERAL.—Gross income shall not include the value of any on-premises athletic facility provided by an employer to his employees.

"(B) ON-PREMISES ATHLETIC FACILITY.—For purposes of this paragraph, the term 'on-premises athletic facility' means any gym or other athletic facility—

"(i) which is located on the premises of the employer,

"(ii) which is operated by the employer, and

"(iii) substantially all the use of which is by employees of the employer, their spouses, and their dependent children (within the meaning of subsection (f)).

"(i) CUSTOMERS NOT TO INCLUDE EMPLOYEES.—For purposes of this section (other than subsection (c)(2)(B)), the term 'customers' shall only include customers who are not employees.

"(j) SECTION NOT TO APPLY TO FRINGE BENEFITS EXPRESSLY PROVIDED FOR ELSEWHERE.—This section (other than subsection (e)) shall not apply to any fringe benefits of a type the tax treatment of which is expressly provided for in any other section of this chapter.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking out the item relating to section 132 and inserting in lieu thereof the following:

"Sec. 132. Certain fringe benefits.
"Sec. 133. Cross references to other Acts."

(b) CAFETERIA PLAN.—

(1) DEFINITION OF CAFETERIA PLAN.—Paragraph (1) of section 125(d) (defining cafeteria plan) is amended to read as follows: 26 USC 125.

"(1) IN GENERAL.—The term 'cafeteria plan' means a written plan under which—

"(A) all participants are employees, and

"(B) the participants may choose among 2 or more benefits consisting of cash and statutory nontaxable benefits."

(2) DEFINITION OF STATUTORY NONTAXABLE BENEFIT.—

(A) IN GENERAL.—Subsection (f) of section 125 is amended to read as follows:

"(f) STATUTORY NONTAXABLE BENEFITS DEFINED.—For purposes of this section, the term 'statutory nontaxable benefit' means any benefit which, with the application of subsection (a) is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 117, 124, 127, or 132). Such term includes any group term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79." *Ante*, p. 877.

(B) CONFORMING AMENDMENT.—Subsection (c) of section 125 is amended by striking out "nontaxable benefits" each place it appears and inserting in lieu thereof "statutory nontaxable benefits".

(3) EXCEPTION FOR KEY EMPLOYEES.—Subsection (b) of section 125 (relating to exception for highly compensated participants) is amended to read as follows:

"(b) EXCEPTION FOR HIGHLY COMPENSATED PARTICIPANTS AND KEY EMPLOYEES.—

"(1) HIGHLY COMPENSATED PARTICIPANTS.—In the case of a highly compensated participant, subsection (a) shall not apply

to any benefit attributable to a plan year for which the plan discriminates in favor of—

"(A) highly compensated individuals as to eligibility to participate, or

"(B) highly compensated participants as to contributions and benefits.

"(2) KEY EMPLOYEES.—In the case of a key employee (within the meaning of section 416(i)(1)), subsection (a) shall not apply to any benefit attributable to a plan for which the statutory nontaxable benefits provided to key employees exceed 25 percent of the aggregate of such benefits provided for all employees under the plan. For purposes of the preceding sentence, statutory nontaxable benefits shall be determined without regard to the last sentence of subsection (f).

"(3) YEAR OF INCLUSION.—For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) or (2) shall be treated as received or accrued in the taxable year of the participant or key employee in which the plan year ends."

(4) REPORTING REQUIREMENTS.—

26 USC 125.

(A) Section 125 (relating to cafeteria plans) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—Each employer maintaining a cafeteria plan during any year which begins after December 31, 1984, and to which this section applies shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

"(A) the number of employees of the employer,

"(B) the number of employees participating under the plan,

"(C) the total cost of the plan during the year, and

"(D) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged.

"(2) RECORDKEEPING REQUIREMENT.—Each employer maintaining a cafeteria plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of this section are met.

"(3) ADDITIONAL INFORMATION WHEN REQUIRED BY THE SECRETARY.—Any employer—

"(A) who maintains a cafeteria plan during any year for which a return is required under paragraph (1), and

"(B) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe."

26 USC 6652.

(B) Subsection (f) of section 6652 is amended—

(i) by striking out "or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans)" and inserting in lieu thereof ", 6047 (relating to information relating to certain trusts and annuity and bond purchase plans), or 125(h) (relating to information with respect to cafeteria plans)", and

(ii) by striking out "DEFERRED COMPENSATION.—" in the subsection heading and inserting in lieu thereof "DEFERRED COMPENSATION; ETC.—".

(5) EXCEPTION FOR CERTAIN CAFETERIA PLANS AND BENEFITS.— 26 USC 125 note.

(A) GENERAL TRANSITIONAL RULE.—Any cafeteria plan in existence on February 10, 1984, which failed as of such date and continued to fail thereafter to satisfy the rules relating to section 125 under proposed Treasury regulations, and any benefit offered under such a cafeteria plan which failed as of such date and continued to fail thereafter to satisfy the rules of section 105, 106, 120, or 129 under proposed Treasury regulations, will not fail to be a cafeteria plan under section 125 or a nontaxable benefit under section 105, 106, 120, or 129 solely because of such failures. The preceding sentence shall apply only with respect to cafeteria plans and benefits provided under cafeteria plans before the earlier of—

(i) January 1, 1985, or

(ii) the effective date of any modification to provide additional benefits after February 10, 1984.

(B) SPECIAL TRANSITION RULE FOR ADVANCE ELECTION BENEFIT BANKS.—Any benefit offered under a cafeteria plan in existence on February 10, 1984, which failed as of such date and continued to fail thereafter to satisfy the rules of section 105, 106, 120, or 129 under proposed Treasury regulations because an employee was assured of receiving (in cash or any other benefit) amounts available but unused for covered reimbursement during the year without regard to whether he incurred covered expenses, will not fail to be a nontaxable benefit under such applicable section solely because of such failure. The preceding sentence shall apply only with respect to benefits provided under cafeteria plans before the earlier of—

(i) July 1, 1985, or

(ii) the effective date of any modification to provide additional benefits after February 10, 1984.

Except as provided in Treasury regulations, the special transition rule is available only for benefits with respect to which, after December 31, 1984, contributions are fixed before the period of coverage and taxable cash is not available until the end of such period of coverage.

(C) PLANS FOR WHICH SUBSTANTIAL IMPLEMENTATION COSTS WERE INCURRED.—For purposes of this paragraph, any plan with respect to which substantial implementation costs had been incurred before February 10, 1984, shall be treated as in existence on February 10, 1984.

(6) STUDY OF EFFECTS OF CAFETERIA PLANS ON HEALTH CARE COSTS.—

(A) STUDY.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Treasury, shall conduct a study of the effects of cafeteria plans (within the meaning of section 125 of the Internal Revenue Code of 1954) on the containment of health care costs.

(B) REPORT.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Treasury, shall submit a report on the study conducted under subparagraph (A) to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate by no later than April 1, 1985.

(c) CLARIFICATION THAT FRINGE BENEFITS NOT COVERED BY STATUTORY EXCLUSION INCLUDED IN GROSS INCOME.—Paragraph (1) of section 61(a) (defining gross income) is amended by striking out "commissions, and similar items" and inserting in lieu thereof "commissions, fringe benefits, and similar items".

26 USC 61.

(d) CONFORMING AMENDMENTS TO EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

26 USC 3121.
97 Stat. 126.

(A) Subsection (a) of section 3121 (defining wages) is amended—

(i) by striking out "all remuneration paid in any medium" in the material preceding paragraph (1) and inserting in lieu thereof "all remuneration (including benefits) paid in any medium", and

(ii) by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by inserting after paragraph (19) the following new paragraph:

"(20) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132."

Ante, p. 877.

42 USC 409.
97 Stat. 127.

(B) Section 209 of the Social Security Act is amended—

(i) by striking out "all remuneration paid in any medium" in the material preceding subsection (a) and inserting in lieu thereof "all remuneration (including benefits) paid in any medium", and

(ii) by striking out "or" at the end of subsection (q), by striking out the period at the end of subsection (r) and inserting in lieu thereof "; or", and by inserting after subsection (r) the following new subsection:

"(s) Any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132 of the Internal Revenue Code of 1954."

26 USC 3231.

(2) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(5) The term 'compensation' shall not include any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132."

26 USC 3306.
97 Stat. 860.

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 (defining wages) is amended—

(A) by striking out "all remuneration paid in any medium" in the material preceding paragraph (1) and inserting in lieu thereof "all remuneration (including benefits) paid in any medium", and

(B) by striking out "or" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or", and by inserting after paragraph (15) the following new paragraph:

"(16) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that

the employee will be able to exclude such benefit from income under section 117 or 132."

Ante, p. 877.

(4) WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended— 26 USC 3401.

(A) by striking out "all remuneration paid in any medium" in the material preceding paragraph (1) and inserting in lieu thereof "all remuneration (including benefits) paid in any medium", and

(B) by striking out "or" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(20) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 or 132."

(5) METHOD OF COLLECTING TAX FROM NON-CASH FRINGE BENEFITS.—Section 3501 (relating to collection and payment of taxes) is amended— 26 USC 3501.

(A) by striking out "The taxes" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—The taxes", and

(B) by adding at the end thereof the following new subsection:

"(b) TAXES WITH RESPECT TO NON-CASH FRINGE BENEFITS.—The taxes imposed by this subtitle with respect to non-cash fringe benefits shall be collected (or paid) by the employer at the time and in the manner prescribed by the Secretary by regulations."

(e) ELECTION WITH RESPECT TO CERTAIN EXISTING LINES OF BUSINESS.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc., plans), as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 4977. TAX ON CERTAIN FRINGE BENEFITS PROVIDED BY AN EMPLOYER. 26 USC 4977.

"(a) IMPOSITION OF TAX.—In the case of an employer to whom an election under this section applies for any calendar year, there is hereby imposed a tax for such calendar year equal to 30 percent of the excess fringe benefits.

"(b) EXCESS FRINGE BENEFITS.—For purposes of subsection (a), the term 'excess fringe benefits' means, with respect to any calendar year—

"(1) the aggregate value of the fringe benefits provided by the employer during the calendar year which were not includible in gross income under paragraphs (1) and (2) of section 132(a), over *Ante*, p. 877.

"(2) 1 percent of the aggregate amount of compensation—

"(A) which was paid by the employer during such calendar year to employees, and

"(B) was includible in gross income for purposes of chapter 1.

"(c) EFFECT OF ELECTION ON SECTION 132(a).—If—

"(1) an election under this section is in effect with respect to an employer for any calendar year, and

"(2) as of January 1, 1984, substantially all of the employees of the employer were entitled to employee discounts or services provided by the employer in 1 line of business,

Ante, p. 877.

for purposes of paragraphs (1) and (2) of section 132(a) (but not for purposes of section 132(g)(2)), all employees of any line of business of the employer which was in existence on January 1, 1984, shall be treated as employees of the line of business referred to in paragraph (2).

"(d) PERIOD OF ELECTION.—An election under this section shall apply to the calendar year for which made and all subsequent calendar years unless revoked by the employer.

"(e) TREATMENT OF CONTROLLED GROUPS.—All employees treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4977. Tax on certain fringe benefits provided by an employer."

26 USC 132 note.

(f) DETERMINATION OF LINE OF BUSINESS IN CASE OF AFFILIATED GROUP OPERATING RETAIL DEPARTMENT STORES.—If—

(1) as of October 5, 1983, the employees of one member of an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954 without regard to subsections (b)(2) and (b)(4) thereof) were entitled to employee discounts at the retail department stores operated by another member of such affiliated group, and

(2) the primary business of the affiliated group is the operation of retail department stores,

then, for purpose of applying section 132(a)(2) of the Internal Revenue Code of 1954, with respect to discounts provided for such employees at the retail department stores operated by such other member, the employer shall be treated as engaged in the same line of business as such other member.

Ante, p. 877.

(g) MORATORIUM ON ISSUANCE OF REGULATIONS RELATING TO FACULTY HOUSING.—

(1) IN GENERAL.—Any regulation providing for the inclusion in gross income under section 61 of the Internal Revenue Code of 1954 of the excess (if any) of the fair market value of qualified campus lodging over the greater of—

(A) the operating costs paid or incurred in furnishing such lodging, or

(B) the rent received for such lodging,

shall not be issued before January 1, 1986.

(2) QUALIFIED CAMPUS LODGING.—For purposes of this subsection, the term "qualified campus lodging" means lodging which is—

(A) located on (or in close proximity to) a campus of an educational institution (described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954), and

(B) provide by such institution to an employee of such institution, or to a spouse or dependent (within the meaning of section 152 of such Code) of such employee.

(3) APPLICATION OF SUBSECTION.—This subsection shall apply with respect to lodging furnished after December 31, 1983, and before January 1, 1986.

26 USC 132 note.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1985.

SEC. 532. EXCLUSION OF CERTAIN REDUCTIONS IN TUITION FROM GROSS INCOME.

(a) IN GENERAL.—Section 117 (relating to scholarships and fellowship grants) is amended by adding at the end thereof the following new subsection: 26 USC 117.

"(d) QUALIFIED TUITION REDUCTIONS.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f). *Ante*, p. 877.

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to qualified tuition reductions (as defined in section 117(d)(2) of the Internal Revenue Code of 1954) for education furnished after June 30, 1985, in taxable years ending after such date. 26 USC 117 note. *Supra.*

Subtitle D—Employee Stock Ownership Plans

SEC. 541. NONRECOGNITION OF GAIN ON STOCK SOLD TO EMPLOYEE STOCK OWNERSHIP PLANS OR CERTAIN COOPERATIVES IF QUALIFIED REPLACEMENT PROPERTY ACQUIRED.

(a) IN GENERAL.—Part III of subchapter 0 of chapter 1 (relating to nontaxable exchanges), as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 1042. SALES OF STOCK TO STOCK OWNERSHIP PLANS OR CERTAIN COOPERATIVES. 26 USC 1042.

"(a) NONRECOGNITION OF GAIN.—If—

"(1) the taxpayer elects the application of this section with respect to any sale of qualified securities,

"(2) the taxpayer purchases qualified replacement property within the replacement period, and

"(3) the requirements of subsection (b) are met with respect to such sale,

then the gain (if any) on such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost to the taxpayer of such qualified replacement property.

"(b) REQUIREMENTS TO QUALIFY FOR NONRECOGNITION.—A sale of qualified securities meets the requirements of this subsection if—

"(1) SALE TO EMPLOYEE ORGANIZATIONS.—The qualified securities are sold to—

"(A) an employee stock ownership plan (as defined in section 4975(e)(7)), or

"(B) an eligible worker-owned cooperative.

"(2) EMPLOYEES MUST OWN 30 PERCENT OF STOCK AFTER SALE.—The plan or cooperative referred to in paragraph (1) owns, immediately after the sale, at least 30 percent of the total value of the employer securities (within the meaning of section 409(l)) outstanding as of such time.

Ante, p. 852.

"(3) PLAN MAINTAINED FOR BENEFIT OF EMPLOYEES.—No portion of the assets of the plan or cooperative attributable to employer securities (within the meaning of section 409(l)) acquired by the plan or cooperative described in paragraph (1) accrue under such plan, or are allocated by such cooperative, for the benefit of—

"(A) the taxpayer,

"(B) any person who is a member of the family of the taxpayer (within the meaning of section 267(c)(4)), or

"(C) any other person who owns (after application of section 318(a)) more than 25 percent in value of any class of outstanding employer securities (within the meaning of section 409(l)).

"(4) WRITTEN STATEMENT REQUIRED.—

"(A) IN GENERAL.—The taxpayer files with the Secretary the written statement described in subparagraph (B).

"(B) STATEMENT.—A statement is described in this subparagraph if it is a verified written statement of—

"(i) the employer whose employees are covered by the plan described in paragraph (1), or

"(ii) any authorized officer of the cooperative described in paragraph (l),

consenting to the application of section 4978(a) with respect to such employer or cooperative.

Post, p. 894.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section.—

"(1) QUALIFIED SECURITIES.—The term 'qualified securities' means employer securities (as defined in section 409(l)) which—

"(A) are issued by a domestic corporation that has no securities outstanding that are readily tradable on an established securities market,

"(B) at the time of the sale described in subsection (a)(1), have been held by the taxpayer for more than 1 year, and

"(C) were not received by the taxpayer in—

"(i) a distribution from a plan described in section 401(a), or

"(ii) a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(2) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' means any organization—

"(A) to which part I of subchapter T applies,

"(B) a majority of the membership of which is composed of employees of such organization,

"(C) a majority of the voting stock of which is owned by members,

"(D) a majority of the board of directors of which is elected by the members on the basis of 1 person 1 vote, and

"(E) a majority of the allocated earnings and losses of which are allocated to members on the basis of—

"(i) patronage,

"(ii) capital contributions, or

"(iii) some combination of clauses (i) and (ii).

"(3) REPLACEMENT PERIOD.—The term 'replacement period' means the period which begins 3 months before the date on which the sale of qualified securities occurs and which ends 12 months after the date of such sale.

"(4) QUALIFIED REPLACEMENT PROPERTY.—The term 'qualified replacement property' means any securities (as defined in section 165(g)(2)) issued by a domestic corporation which does not, for the taxable year in which such stock is issued, have passive investment income (as defined in section 1362(d)(3)(D)) that exceeds 25 percent of the gross receipts of such corporation for such taxable year.

"(5) SECURITIES ACQUIRED BY UNDERWRITER.—No acquisition of securities by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as a sale for purposes of subsection (a).

"(6) TIME FOR FILING ELECTION.—An election under subsection (a) shall be filed not later than the last day prescribed by law (including extensions thereof) for filing the return of tax imposed by this chapter for the taxable year in which the sale occurs.

"(d) BASIS OF QUALIFIED REPLACEMENT PROPERTY.—The basis of the taxpayer in qualified replacement property purchased by the taxpayer during the replacement period shall be reduced by the amount of gain not recognized by reason of such purchase and the application of subsection (a). If more than one item of qualified replacement property is purchased, the basis of each of such items shall be reduced by an amount determined by multiplying the total gain not recognized by reason of such purchase and the application of subsection (a) by a fraction—

"(1) the numerator of which is the cost of such item of property, and

"(2) the denominator of which is the total cost of all such items of property.

"(e) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any qualified securities and there is in effect an election under subsection (a) with respect to such gain, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing qualified replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase qualified replacement property within the replacement period, or

"(C) a failure to make such purchase within the replacement period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other

law or rule of law which would otherwise prevent such assessment."

(b) CONFORMING AMENDMENTS.—

Ante, p. 569.
26 USC 1223.

(1) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (13) as paragraph (14) and by inserting after paragraph (12) the following:

"(13) In determining the period for which the taxpayer has held qualified replacement property (within the meaning of section 1042(b)) the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale of qualified securities (within the meaning of section 1042(b)), there shall be included the period for which such qualified securities had been held by the taxpayer."

Ante, p. 887.

Ante, p. 568.

(2) Subsection (a) of section 1016 (relating to adjustments to basis), as amended by this Act, is amended—

(A) by striking out "and" at the end of paragraph (25),

(B) by striking out the period at the end of paragraph (26) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(27) in the case of qualified replacement property, the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(c)."

Ante, p. 887.

(3) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1042. Sales of stock to employees."

26 USC 1042 note.

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

SEC. 542. DEDUCTIBILITY OF CERTAIN DIVIDEND DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.

26 USC 404.

(a) DEDUCTION.—Section 404 (relating to deductions for employer contributions to an employees' trust) is amended by adding at the end thereof the following new subsection:

"(k) DIVIDENDS PAID DEDUCTIONS.—In addition to the deductions provided under subsection (a), there shall be allowed as a deduction to a corporation the amount of any dividend paid in cash by such corporation during the taxable year with respect to the stock of such corporation if—

"(1) such stock is held on the record date for the dividend by a tax credit employee stock ownership plan (as defined in section 409) or an employee stock ownership plan (as defined in section 4975(e)(7)) which is maintained by such corporation or by any other corporation that is a member of a controlled group of corporations (within the meaning of section 409(l)(4)) that includes such corporation, and

Ante, p. 852.

"(2) in accordance with the plan provisions—

"(A) the dividend is paid in cash to the participants in the plan, or

"(B) the dividend is paid to the plan and is distributed in cash to participants in the plan not later than 90 days after the close of the plan year in which paid."

(b) DENIAL OF PARTIAL EXCLUSION.—Section 116 (relating to partial exclusion of dividends) is amended by adding at the end thereof the following new subsection: 26 USC 116.

"(e) DIVIDENDS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Subsection (a) shall not apply to any dividend described in section 404(k)." *Ante*, p. 890.

(c) NO WITHHOLDING ON DIVIDEND DISTRIBUTION.—Subparagraph (B) of section 3405(d)(1) (relating to designated distributions) is amended— *Post*, p. 963.

(1) by striking out "and" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iii) any distribution described in section 404(k)(2)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act. 26 USC 404 note.

SEC. 543. EXCLUSION OF INTEREST ON LOANS USED TO FINANCE ACQUISITION OF EMPLOYER SECURITIES BY AN ESOP.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items excluded from gross income), as amended by this Act, is amended by redesignating section 133 as section 134 and by inserting after section 132 the following new section: 26 USC 134. *Ante*, p. 877.

"SEC. 133. INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES. 26 USC 133.

"(a) IN GENERAL.—Gross income does not include 50 percent of the interest received by—

"(1) a bank (within the meaning of section 581),

"(2) an insurance company to which subchapter L applies, or

"(3) a corporation actively engaged in the business of lending money,

with respect to a securities acquisition loan.

"(b) SECURITIES ACQUISITION LOAN.—

"(1) IN GENERAL.—For purposes of this section, the term 'securities acquisition loan' means any loan to a corporation, or to an employee stock ownership plan, to the extent that the proceeds are used to acquire employer securities (within the meaning of section 409(l)) for the plan. *Ante*, p. 852.

"(2) LOANS BETWEEN RELATED PERSONS.—The term 'securities acquisition loan' shall not include—

"(A) any loan made between corporations which are members of the same controlled group of corporations, or

"(B) any loan made between an employee stock ownership plan and any person that is—

"(i) the employer of any employees who are covered by the plan; or

"(ii) a member of a controlled group of corporations which includes such employer.

"(3) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this paragraph, the term 'controlled group of corporations' has the meaning given such term by section 409(l)(4).

"(c) EMPLOYEE STOCK OWNERSHIP PLAN.—For purposes of this section, the term 'employee stock ownership plan' has the meaning given to such term by section 4975(e)(7)."

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 133 and inserting in lieu thereof the following:

"Sec. 133. Interest on certain loans used to acquire employer securities.
"Sec. 134. Cross references to other Act."

26 USC 133 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans used to acquire employer securities after the date of the enactment of this Act.

SEC. 544. ASSUMPTION OF ESTATE TAX LIABILITY BY EMPLOYER STOCK OWNERSHIP PLAN OR COOPERATIVE RECEIVING EMPLOYER SECURITIES.

(a) IN GENERAL.—Subchapter C of chapter 11 (relating to miscellaneous estate tax provisions) is amended by adding at the end thereof the following new section:

26 USC 2210.

"SEC. 2210. LIABILITY FOR PAYMENT IN CASE OF TRANSFER OF EMPLOYER SECURITIES TO AN EMPLOYEE STOCK OWNERSHIP PLAN OR A WORKER-OWNED COOPERATIVE.

"(a) IN GENERAL.—If—

"(1) employer securities—

"(A) are acquired from the decedent by an employee stock ownership plan or by an eligible worker-owned cooperative from any decedent,

"(B) pass from the decedent to such a plan or cooperative, or

"(C) are transferred by the executor to such a plan or cooperative, and

"(2) the executor elects the application of this section and files the agreements described in subsection (e) before the due date (including extensions) for filing the return of tax imposed by section 2001,

then the executor is relieved of liability for payment of that portion of the tax imposed by section 2001 which such employee stock ownership plan or cooperative is required to pay under subsection (b).

"(b) PAYMENT OF TAX BY EMPLOYEE STOCK OWNERSHIP PLAN OR COOPERATIVE.—

"(1) IN GENERAL.—An employee stock ownership plan or eligible worker-owned cooperative—

"(A) which has acquired employer securities from the decedent, or to which such securities have passed from the decedent or been transferred by the executor, and

"(B) with respect to which an agreement described in subsection (e)(1) is in effect,

shall pay that portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent which is described in paragraph (2).

"(2) AMOUNT OF TAX TO BE PAID.—The portion of the tax imposed by section 2001 with respect to the taxable estate of the decedent that is referred to in paragraph (1) is equal to the lesser of—

"(A) the value of the employer securities described in subsection (a)(1) which is included in the gross estate of the decedent, or

"(B) the tax imposed by section 2001 with respect to such taxable estate reduced by the sum of the credits allowable against such tax.

"(c) INSTALLMENT PAYMENTS.—

"(1) IN GENERAL.—If—

"(A) the executor of the estate of the decedent (without regard to this section) elects to have the provisions of section 6166 (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business) apply to payment of that portion of the tax imposed by section 2001 with respect to such estate which is attributable to employer securities, and

"(B) the plan administrator or the cooperative provides to the executor the agreement described in subsection (e)(1),

then the plan administrator or the cooperative may elect, before the due date (including extensions) for filing the return of such tax, to pay all or part of the tax described in subsection (b)(2) in installments under the provisions of section 6166.

"(2) INTEREST ON INSTALLMENTS.—In determining the 4-percent portion for purposes of section 6601(j)—

"(A) the portion of the tax imposed by section 2001 with respect to an estate for which the executor is liable, and

"(B) the portion of such tax for which an employee stock ownership plan or an eligible worker-owned cooperative is liable,

shall be aggregated.

"(d) GUARANTEE OF PAYMENTS.—Any employer—

"(1) whose employees are covered by an employee stock ownership plan, and

"(2) who has entered into an agreement described in subsection (e)(2) which is in effect,

shall guarantee (in such manner as the Secretary may prescibe) the payment of any amount such plan is required to pay under subsection (b), including any interest payable under section 6601 which is attributable to such amount.

"(e) AGREEMENTS.—The agreements described in this subsection are as follows:

"(1) A written agreement signed by the plan administrator, or by any authorized officer of the eligible worker-owned cooperative, consenting to the application of subsection (b) to such plan or cooperative.

"(2) A written agreement signed by the employer whose employees are covered by the plan described in subsection (b) consenting to the application of subsection (d).

"(f) EXEMPTION FROM TAX ON PROHIBITED TRANSACTIONS.—The assumption under this section by an employee stock ownership plan of any portion of the liability for the tax imposed by section 2001 shall be treated as a loan described in section 4975(d)(3).

"(g) DEFINITIONS.—For purposes of this section—

"(1) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409(l). *Ante*, p. 852.

"(2) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given to such term by section 1041(b)(2). *Ante*, p. 793.

"(4) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g)."

(b) CONFORMING AMENDMENTS.—

26 USC 2002.

(1) Section 2002 (relating to liability for payment of estate tax) is amended to read as follows:

"SEC. 2002. LIABILITY FOR PAYMENT.

Ante, p. 892.

"Except as provided in section 2210, the tax imposed by this chapter shall be paid by the executor."

(2) The table of sections for subchapter C of chapter 11 is amended by adding at the end thereof the following:

"Sec. 2210. Liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative."

26 USC 6018.

(3) Section 6018 (relating to estate tax returns) is amended by adding at the end thereof the following new subsection:

"(c) ELECTION UNDER SECTION 2210.—In all cases in which subsection (a) requires the filing of a return, if an executor elects the applications of section 2210—

Ante, p. 892.

"(1) RETURN BY EXECUTOR.—The return which the executor is required to file under the provisions of subsection (a) shall be made with respect to that portion of estate tax imposed by subtitle B which the executor is required to pay.

"(2) RETURN BY PLAN ADMINISTRATOR.—The plan administrator of an employee stock ownership plan or the eligible worker-owned cooperative, as the case may be, shall make a return with respect to that portion of the tax imposed by section 2001 which such plan or cooperative is required to pay under section 2210(b)."

26 USC 6166.

(4) Subsection (j) of section 6166 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(6) PAYMENT OF ESTATE TAX BY EMPLOYEE STOCK OWNERSHIP PLAN OR ELIGIBLE WORKER-OWNED COOPERATIVE.—For provision allowing plan administrator or eligible worker-owned cooperative to elect to pay a certain portion of the estate tax in installments under the provisions of this section, see section 2210(c)."

Ante, p. 892.

26 USC 2210 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to those estates of decedents which are required to file returns on a date (including any extensions) after the date of enactment of this Act.

SEC. 545. EXCISE TAX ON CERTAIN DISPOSITIONS OF EMPLOYER SECURITIES BY EMPLOYEE STOCK OWNERSHIP PLANS AND CERTAIN COOPERATIVES.

(a) IN GENERAL.—Chapter 43 (relating to excise taxes on qualified pension plans), as amended by this Act, is amended by adding at the end thereof the following new section:

26 USC 4978.

"SEC. 4978. TAX ON CERTAIN DISPOSITIONS BY EMPLOYEE STOCK OWNERSHIP PLANS AND CERTAIN COOPERATIVES.

"(a) TAX ON DISPOSITIONS OF SECURITIES TO WHICH SECTION 1042 APPLIES BEFORE CLOSE OF MINIMUM HOLDING PERIOD.—If, during the 3-year period after the date on which the employee stock ownership plan or eligible worker-owned cooperative acquired any qualified

securities in a sale to which section 1042 applied, such plan or cooperative disposes of any qualified securities and— *Ante*, p. 887.

"(1) the total number of shares held by such plan or cooperative after such disposition is less then the total number of employer securities held immediately after such sale, or

"(2) except to the extent provided in regulations, the value of qualified securities held by such plan or cooperative after such disposition is less than 30 percent of the total value of all employer securities as of such disposition,

there is hereby imposed a tax on the disposition equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by paragraph (1) shall be equal to 10 percent of the amount realized on the disposition.

"(2) LIMITATION.—The amount realized taken into account under paragraph (1) shall not exceed that portion allocable to qualified securities acquired in the sale to which section 1042 applied (determined as if such securities were disposed of before any other securities).

"(3) DISTRIBUTIONS TO EMPLOYEES.—The amount realized on any distribution to an employee for less than fair market value shall be determined as if the qualified security had been sold to the employee at fair market value.

"(c) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this subsection shall be paid by—

"(1) the employer, or

"(2) the eligible worker-owned cooperative,

that made the written statement described in section 1042(a)(2)(B).

"(d) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

"(1) CERTAIN DISTRIBUTIONS TO EMPLOYEES.—This section shall not apply with respect to any distribution of qualified securities (or sale of such securities) which is made by reason of—

"(A) the death of the employee,

"(B) the retirement of the employee after the employee has attained 59½ years of age,

"(C) the disability of the employee (within the meaning of section 72(m)(5)), or

"(D) the separation of the employee from service for any period which results in a 1-year break in service (within the meaning of section 411(a)(6)(A)).

"(2) CERTAIN REORGANIZATIONS.—In the case of any exchange of qualified securities in any reorganization described in section 368(a)(1) for stock of another corporation, such exchange shall not be treated as a disposition for purposes of this section.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given to such term by section 4975(e)(7).

"(2) QUALIFIED SECURITIES.—The term 'qualified securities' has the meaning given to such term by section 1042(b)(1).

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given to such term by section 1042(b)(1).

"(4) DISPOSITION.—The term 'disposition' includes any distribution.

"(5) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given to such term by section 409(l).".

Ante, p. 852.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4978. Tax on certain dispositions and allocations by employee stock ownership plans and certain cooperatives."

26 USC 4978 note.

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

Subtitle E—Miscellaneous

26 USC 402 note.

SEC. 551. TREATMENT OF CERTAIN DISTRIBUTIONS FROM A QUALIFIED TERMINATED PLAN.

26 USC 1 *et seq.*

(a) IN GENERAL.—For purposes of the Internal Revenue Code 1954, if—

(1) a distribution was made from a qualified terminated plan to an employee on December 16, 1976, and on January 6, 1977, such employee transferred all of the property received in such distribution to an individual retirement account (within the meaning of section 408(a) of such Code) established for the benefit of such employee, and

(2) the remaining balance to the credit of such employee in such qualified terminated plan was distributed to such employee on January 21, 1977, and all the property received by such employee in such distribution was transferred by such employee to such individual retirement account on January 21, 1977,

then such distributions shall be treated as qualifying rollover distributions (within the meaning of section 402(a)(5) of such Code) and shall not be includible in the gross income of such employee for the taxable year in which paid.

(b) QUALIFIED TERMINATED PLAN.—For purposes of this section, the term "qualified terminated plan" means a pension plan—

(1) with respect to which a notice of sufficiency was issued by the Pension Benefit Guaranty Corporation on December 2, 1976, and

(2) which was terminated by corporate action on February 20, 1976.

(c) REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

SEC. 552. PARTIAL TERMINATION FOR CERTAIN PENSION PLANS.

For purposes of section 411(d)(3) of the Internal Revenue Code of 1954 (relating to minimum vesting standards in the case of partial terminations), a partial termination shall not be treated as occurring if—

(1) the partial termination is a result of a decline in plan participation which—

(A) occurs by reason of the completion of the Trans-Alaska Oil Pipeline construction project, and

(B) occurred after December 31, 1975, and before January 1, 1980, with respect to participants employed in Alaska,

(2) no discrimination prohibited by section 401(a)(4) of such Code occurred with respect to such partial termination, and

(3) the plan administrator establishes to the satisfaction of the Secretary of the Treasury or his delegate that the benefits of this section will not accrue to the employers under the plan.

SEC. 553. DISTRIBUTION REQUIREMENTS FOR ACCOUNTS AND ANNUITIES OF AN INSURER IN A REHABILITATION PROCEEDING. 26 USC 401 note.

(a) IN GENERAL.—For purposes of sections 401(a)(9), 408(a) (6) and (7), and 408(b) (3) and (4) of the Internal Revenue Code of 1954— *Ante*, pp. 865, 867.

(1) a trust, custodial account, or annuity or other contract forming part of a pension or profit-sharing plan, or a retirement annuity, or

(2) a grantor of an individual retirement account or an individual retirement annuity,

shall not be treated as failing to meet the requirements of such sections if such account, annuity, or contract was issued by an insurance company which, on March 15, 1984, was a party to a rehabilitation proceeding under the applicable State insurance law.

(b) LIMITATION.—Subsection (a) shall apply only during the period during which—

(1) the insurance company continues to be a party to the proceeding described in subsection (a), and

(2) distributions under the trust, custodial account, or annuity or other contract may not be made by reason of such proceeding.

SEC. 554. EXTENSION OF TIME FOR REPAYMENT OF QUALIFIED REFUNDING LOANS.

Paragraph (2) of section 236(c) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph: 26 USC 72 note.

"(D) SPECIAL RULE FOR NON-KEY EMPLOYEES.—In the case of a non-key employee (within the meaning of section 416(i)(2) of the Internal Revenue Code of 1954), this paragraph shall be applied by substituting 'January 1, 1985' for 'August 14, 1983' each place it appears."

SEC. 555. TECHNICAL AMENDMENTS TO THE INCENTIVE STOCK OPTION PROVISIONS.

(a) DETERMINATION OF FAIR MARKET VALUE.—

(1) IN GENERAL.—Subsection (c) of section 422A (relating to special rules) is amended by adding at the end thereof of the following new paragraph: 26 USC 422A.

"(10) FAIR MARKET VALUE.—For purposes of this section, the fair market value of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse."

(2) INCENTIVE STOCK OPTION AS AN ITEM OF TAX PREFERENCE.—Paragraph (10) of section 57(a) (relating to items of tax preference) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to 26 USC 57.

any restriction other than a restriction which, by its terms, will never lapse."

(b) MODIFICATION OF INCENTIVE STOCK OPTIONS.—Subparagraph (B) of section 425(h)(3) (relating to modifications) is amended by striking out "422A(b)(5),".

26 USC 425.

(c) EFFECTIVE DATES.—

26 USC 422A note.

(1) FAIR MARKET VALUE.—The amendment made by subsection (a) shall apply to options granted after March 20, 1984, except that such subsection shall not apply to any incentive stock option granted before September 20, 1984, pursuant to a plan adopted or corporate action taken by the board of directors of the grantor corporation before May 15, 1984.

26 USC 57 note.

(2) ITEMS OF TAX PREFERENCE.—The amendment made by subsection (b) shall apply to options exercised after March 20, 1984. In the case of an option issued after March 20, 1984, pursuant to a plan adopted or corporate action taken by the board of directors of the grantor corporation before May 15, 1984, the preceding sentence shall be applied by substituting "December 31, 1984" for "March 20, 1984".

26 USC 425 note.

(3) MODIFICATIONS.—The amendment made by subsection (c) shall apply with respect to modifications of options after March 20, 1984.

26 USC 83 note.

SEC. 556. TIME FOR MAKING CERTAIN SECTION 83(b) ELECTIONS.

In the case of any transfer of property in connection with the performance of services after June 30, 1976, and on or before November 18, 1982, the election permitted by section 83(b) of the Internal Revenue Code of 1954 may be made, notwithstanding paragraph (2) of such section 83(b), with the income tax return for the first taxable year ending after the date of the enactment of this Act, if—

(1) the amount paid for such property was not less than its fair market value at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), and

(2) the election is consented to by the person transferring such property.

The election shall contain that information required by the Secretary of the Treasury or his delegate for elections permitted by such section 83(b). The period for assessing any tax attributable to a transfer of property which is the subject of an election made pursuant to this section shall not expire before the date which is 3 years after the date such election was made.

SEC. 557. EMPLOYER AND EMPLOYEE BENEFIT ASSOCIATION TREATED AS RELATED PERSONS UNDER SECTION 1239.

26 USC 1239.

(a) GENERAL RULE.—Section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by adding at the end thereof the following new subsection:

"(d) EMPLOYER AND RELATED EMPLOYEE ASSOCIATION.—For purposes of subsection (a), the term 'related person' also includes—

"(1) an employer and any person related to the employer (within the meaning of subsection (b)), and

"(2) a welfare benefit fund (within the meaning of section 419(e)) which is controlled directly or indirectly by persons referred to in paragraph (1)."

Ante, p. 854.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date. 26 USC 1239 note.

SEC. 558. ELIMINATION OF RETROACTIVE APPLICATION OF AMENDMENTS MADE BY MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.

(a) IN GENERAL.— 29 USC 1381 note.

(1) LIABILITY.—Any withdrawal liability incurred by an employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.) as a result of the complete or partial withdrawal of such employer from a multiemployer plan before September 26, 1980, shall be void.

(2) REFUNDS.—Any amounts paid by an employer to a plan sponsor as a result of such withdrawal liability shall be refunded by the plan sponsor to the employer with interest (in accordance with section 401(a)(2)), less a reasonable amount for administrative expenses incurred by the plan sponsor (other than legal expenses incurred with respect to the plan) in calculating, assessing, and refunding such amounts. 26 USC 401.

(b) CONFORMING AMENDMENTS.—

(1) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(A) Sections 4211 (b) and (c), 4217(a), and 4235(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1391 (b) and (c), 1397(a), and 1415(a)) are amended by striking out "April 28, 1980" each place it appears and inserting in lieu thereof "September 25, 1980".

(B) Sections 4211 (b) and (c), 4217(a), 4219(c)(1)(C)(iii), and 4402(e) of such Act (29 U.S.C. 1391 (b) and (c), 1397(a), 1399(c)(1)(C)(iii), and 1461(e)) are amended by striking out "April 29, 1980" each place it appears and inserting in lieu thereof "September 26, 1980".

"(C) Section 4402(f)(1) of such Act (29 U.S.C. 1461(f)(1)) is amended by striking out "April 29, 1985" and inserting in lieu thereof "September 26, 1985".

(2) MULTIEMPLOYER PENSION PLAN AMENDMENTS ACT OF 1980.—Section 108(d) of the Multiemployer Pension Plan Amendments Act of 1980 (29 U.S.C. 1385 note) is amended—

(A) by striking out "April 29, 1982" in paragraph (1) and inserting in lieu thereof "September 26, 1982"; and

(B) by striking out "April 29, 1980" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "September 26, 1980".

(c) NO INCREASE IN LIABILITY.—The amendments made by this section shall not be construed to increase the liability incurred by any employer pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.), as in effect immediately before the amendments made by subsection (b), as a result of the complete or partial withdrawal of such employer from a multiemployer plan prior to September 26, 1980. 29 USC 1381 note.

(d) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS.—In the case of an employer who, on September 26, 1980, has a binding agreement to withdraw from a multiemployer plan, subsection (a)(1) shall be applied by substituting "December 31, 1980" for "September 26, 1980". 29 USC 1381 note.

SEC. 559. TELECOMMUNICATION EMPLOYEES.

(a) EMPLOYEE PROTECTION.—Notwithstanding any provisions of the divestiture interchange agreement to the contrary, in the case of any change in employment on or after January 1, 1985, by a covered employee, the recognition of service credit, and enforcement of such recognition, shall be governed in the same manner and to same extent as provided under the divestiture interchange agreement for a change in employment by a covered employee during calendar year 1984.

(b) EMPLOYEES COVERED.—For purposes of this section, a covered employee is an individual—

(1) who is an employee of an entity subject to the modified final judgment,

(2) who is serving in an eligible position, and

(3) who—

(A) on December 31, 1983, was an employee of any such entity serving in an eligible position, or

(B) was a former employee with rehire or recall rights on such date and is rehired during the period of the employee's rehire or recall rights.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "service credit" means service credit for benefit accrual, vesting, and eligibility for benefits under any pension plan, or any other employee benefits, including the interchange and treatment of associated benefit obligations and assets.

(2) The term "change in employment" means the commencement of employment of a covered employee by an entity subject to the modified final judgment after the termination of employment (with or without break in service) of such individual from an eligible position within another entity subject to the modified final judgment.

(3) The term "eligible position" means any position (A) which is not a supervisory position, within the meaning of section 2(11) of the National Labor Relations Act (29 U.S.C. 152(11)) or (B) the annual base pay rate for which is not more than $50,000, adjusted by the percentage increase in the consumer price index since December 31, 1983.

(4) The term "modified final judgment" means the judgment of the United States District Court for the District of Columbia in the case, United States against Western Electric, et alia, No. 82-0192, as modified.

(5) The term "entity subject to the modified final judgment" means—

(A) any carrier divested as a result of the modified final judgment,

(B) the corporation owning such carrier before divestiture,

(C) any other communications common carrier owned, in whole or in part, by such corporation on December 31, 1983, or

(D) any Interchange Company (as defined in the divestiture interchange agreement) excluding any subsidiary of such company other than any such subsidiary—

(i) which was established as of December 31, 1983, and

(ii) which participates in a defined benefit pension plan maintained by such Interchange Company.

(6) The term "divestiture interchange agreement" refers to the agreement between entities subject to the modified final judgment which was executed as of November 1, 1983, and which provides for mutual reciprocal recognition of service credit.

(7) The term "consumer price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(d) COORDINATION WITH OTHER BENEFIT-RELATED PROVISIONS.—Nothing in this section shall be construed to limit benefits which would otherwise be available to any individual, whether provided under the modified final judgment, under applicable law, or otherwise.

SEC. 560. STUDY OF EMPLOYEE WELFARE BENEFIT PLANS.

(a) IN GENERAL.—The Secretary of the Treasury shall make a study of the problems relating to the use of employee welfare benefit plans for the provision of benefits to current and retired employees. Such study shall include a study of the need for participation, vesting, and funding standards.

(b) REPORT.—A report of the study conducted under subsection (a), together with such recommendations for legislation as the Secretary deems appropriate, shall be made to the Congress by not later than February 1, 1985.

SEC. 561. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out "and payable during" and inserting in lieu thereof "and expected to be paid during". 26 USC 463.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after March 31, 1984. 26 USC 463 note.

TITLE VI—TAX-EXEMPT BOND PROVISIONS

Subtitle A—Mortgage Subsidy Bonds

SEC. 611. 4-YEAR EXTENSION OF MORTGAGE SUBSIDY BOND AUTHORITY.

(a) GENERAL RULE.—Subparagraph (B) of section 103A(c)(1) (defining qualified mortgage bond) is amended by striking out "December 31, 1983" each place it appears and inserting in lieu thereof "December 31, 1987". 26 USC 103A.

(b) REPORTING, ETC., REQUIREMENTS FOR MORTGAGE SUBSIDY BONDS.—

(1) IN GENERAL.—Subsection (j) of section 103A (relating to other requirements) is amended by adding at the end thereof the following new paragraphs:

"(3) INFORMATION REPORTING REQUIREMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is

issued (or such later time as the Secretary may prescribe with respect to any portion of the statement) a statement concerning the issue which contains—

"(i) the name and address of the issuer,

"(ii) the date of the issue, the amount of the lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(iii) such information as the Secretary may require in order to determine whether such issue meets the requirements of this section and the extent to which proceeds of such issue have been made available to low-income individuals, and

"(iv) such other information as the Secretary may require.

"(B) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement under subparagraph (A) if there is reasonable cause for the failure to file such statement in a timely fashion.

"(4) STATE CERTIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if, before the issue, a State official designated by State law (or, where there is no such State official, the Governor) certifies in the manner prescribed by regulations that the issue meets the requirements of subsection (g).

"(B) CERTIFICATION FURNISHED TO SECRETARY.—Any certification under subparagraph (A) shall be submitted to the Secretary at the same time as the statement with respect to such issue is submitted under paragraph (3) or such other time as the Secretary may prescribe.

"(C) SPECIAL RULE FOR CONSTITUTIONAL HOME RULE CITIES.—In the case of any constitutional home rule city (as defined in subsection (g)(5)(C)), the certification under subparagraph (A) shall be made by the chief executive officer of such city.

"(5) POLICY STATEMENT.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the applicable elected representative of the governmental unit—

"(i) which is the issuer, or

"(ii) on whose behalf such issue was issued,

has published (after a public hearing following reasonable public notice) a report described in subparagraph (B) by the last day of the year preceding the year in which such issue is issued and a copy of such report has been submitted to the Secretary on or before such last day.

"(B) REPORT.—The report referred to in subparagraph (A) which is published by the applicable elected representative of the governmental unit shall include—

"(i) a statement of the policies with respect to housing, development, and low-income housing assistance which such governmental unit is to follow in issuing qualified mortgage bonds and mortgage credit certificates, and

"(ii) an assessment of the compliance of such governmental unit during the preceding 1-year period preceding the date of the report with—

"(I) the statement of policy on qualified mortgage bonds and mortgage credit certificates that was set forth in the previous report, if any, of an applicable elected representative of such governmental unit, and

"(II) the intent of Congress that State and local governments are expected to use their authority to issue qualified mortgage bonds and mortgage credit certificates to the greatest extent feasible (taking into account prevailing interest rates and conditions in the housing market) to assist lower income families to afford home ownership before assisting higher income families."

(c) TREATMENT OF QUALIFIED VETERANS' MORTGAGE BONDS.—

(1) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(1)" and inserting in lieu thereof "subsection (d), paragraphs (1) and (3) of subsection (j), and subsection (o)". 26 USC 103A.

(2) Section 103A is amended by adding at the end thereof the following new subsection:

"(o) ADDITIONAL REQUIREMENTS FOR QUALIFIED VETERANS' MORTGAGE BONDS.—

"(1) VETERANS TO WHOM FINANCING MAY BE PROVIDED.—An obligation meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue is a qualified veteran.

"(2) REQUIREMENT THAT STATE PROGRAM BE IN EFFECT BEFORE JUNE 22, 1984.—An issue meets the requirements of this subsection only if it is a general obligation of a State which issued qualified veterans' mortgage bonds before June 22, 1984.

"(3) VOLUME LIMITATION.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto (when added to the aggregate amount of qualified veterans' mortgage bonds previously issued by the State during the calendar year) does not exceed the State veterans limit for such calendar year.

"(B) STATE VETERANS LIMIT.—A State veterans limit for any calendar year is the amount equal to—

"(i) the aggregate amount of qualified veterans bonds issued by such State during the period beginning on January 1, 1979, and ending on June 22, 1984 (not including the amount of any qualified veterans bond issued by such State during the calendar year (or portion thereof) in such period for which the amount of such bonds so issued was the lowest), divided by

"(ii) the number (not to exceed 5) of calendar years after 1979 and before 1985 during which the State issued qualified veterans bonds (determined by only taking into account bonds issued on or before June 22, 1984).

"(4) QUALIFIED VETERAN.—For purposes of this subsection, the term 'qualified veteran' means any veteran—

"(A) who served on active duty at some time before January 1, 1977, and

"(B) who applied for the financing before the later of—

"(i) the date 30 years after the last date on which such veteran left active service, or

"(ii) January 1, 1985.

"(5) GOOD FAITH EFFORT RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (c)(2) shall apply to the requirements of this subsection.

"(6) SPECIAL RULE FOR CERTAIN SHORT-TERM OBLIGATIONS.—In the case of any obligation which has a term of 1 year or less and which was issued to provide financing for property taxes, the amount taken into account under this subsection with respect to such obligation shall be 1/15 of its principal amount."

26 USC 103A note.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply with respect to obligations issued after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to obligations issued after December 31, 1984.

(3) SUBSECTION (c).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (c) shall apply to obligations issued after the date of the enactment of this Act.

Ante, p. 903.

(B) VOLUME LIMITATION.—The requirements of paragraph (3) of section 103A(o) of the Internal Revenue Code of 1954 (as added by this section) shall apply to obligations issued after June 22, 1984. In applying such requirements to obligations issued after such date, obligations issued on or before such date shall not be taken into account under such paragraph (3).

(C) QUALIFIED VETERANS' MORTGAGE BONDS AUTHORIZED BEFORE OCTOBER 18, 1983, NOT TAKEN INTO ACCOUNT.—The requirements of section 103A(o)(3) of the Internal Revenue Code of 1954 shall not apply to any qualified veterans' mortgage bond if—

(i) the issuance of such bond was authorized by a State referendum before October 18, 1983, or

(ii) the issuance of such bond was authorized pursuant to a State referendum before December 1, 1983, where such referendum was authorized by action of the State legislature before October 18, 1983.

(4) TRANSITIONAL RULE WHERE STATE FORMULA FOR ALLOCATING STATE CEILING EXPIRES.—

(A) IN GENERAL.—If a State law which provided a formula for allocating the State ceiling under section 103A(g) of the Internal Revenue Code of 1954 for calendar year 1983 expires as of the close of calendar year 1983, for purposes of section 103A(g) of such Code, such State law shall be treated as remaining in effect after 1983. In any case to which the preceding sentence applies, where the State's expiring allocation formula requires action by a State official to allocate the State ceiling among issuers, actions of such State official in allocating such ceiling shall be effective.

(B) TERMINATION.—Subparagraph (A) shall not apply on or after the effective date of any State legislation enacted

after the date of the enactment of this Act with respect to the allocation of the State ceiling.

(C) SPECIAL RULE FOR TEXAS.—In the case of Texas, the Governor of such State may take the actions described in subparagraph (A) pursuant to procedures established by the Governor consistent with the State laws of Texas.

(5) SPECIAL RULE FOR DETERMINATIONS OF STATISTICAL AREA.—For purposes of applying section 103A of the Internal Revenue Code of 1954 and any other provision of Federal law—

(A) RESCISSION.—The Director of the Office of Management and Budget shall rescind the designation of the Kansas City, Missouri primary metropolitan statistical area (KCMO PMSA) and the designation of the Kansas City, Kansas primary metropolitan statistical area (Kansas City, KS PMSA), and shall not take any action to designate such two primary metropolitan statistical areas as a consolidated metropolitan statistical area.

(B) DESIGNATION.—The Director of the Office of Management and Budget shall designate a single metropolitan statistical area which includes the following:

(i) Kansas City, Kansas.

(ii) Kansas City, Missouri.

(iii) The counties of Johnson, Wyandotte, Leavenworth, and Miami in Kansas.

(iv) The counties of Cass, Clay, Jackson, Platte, Ray, and Lafayette in Missouri.

The metropolitan statistical area designation pursuant to this subsection shall be known as the "Kansas City Missouri-Kansas Metropolitan Statistical Area".

(6) TRANSITIONAL RULE FOR KENTUCKY AND NEVADA.—For purposes of section 103A(g) of the Internal Revenue Code of 1954, in the case of Kentucky and Nevada, subclause (I) of section 103A(g)(6)(B)(ii) of such Code shall be applied as if the first day referred to in such subclause were January 1, 1987.

(7) REPORT TO CONGRESS.—The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall, not later than January 1, 1987, submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the performance of issuers of qualified mortgage bonds and mortgage credit certificates relative to the intent of Congress described in section 103A(j) of the Internal Revenue Code of 1954.

SEC. 612. MORTGAGE CREDIT CERTIFICATES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 25 as section 26 and by inserting after section 24 the following new section: 26 USC 26.

"SEC 25. INTEREST ON CERTAIN HOME MORTGAGES. 26 USC 25.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(A) the certificate credit rate, and

"(B) the interest paid or incurred by the taxpayer during the taxable year on the remaining principal of the certified indebtedness amount.

"(2) LIMITATION WHERE CREDIT RATE EXCEEDS 20 PERCENT.—

"(A) IN GENERAL.—If the certificate credit rate exceeds 20 percent, the amount of the credit allowed to the taxpayer under paragraph (1) for any taxable year shall not exceed $2,000.

"(B) SPECIAL RULE WHERE 2 OR MORE PERSONS HOLD INTERESTS IN RESIDENCE.—If 2 or more persons hold interests in any residence, the limitation of subparagraph (A) shall be allocated among such persons in proportion to their respective interests in the residence.

"(b) CERTIFICATE CREDIT RATE; CERTIFIED INDEBTEDNESS AMOUNT.—For purposes of this section—

"(1) CERTIFICATE CREDIT RATE.—The term 'certificate credit rate' means the rate of the credit allowable by this section which is specified in the mortgage credit certificate.

"(2) CERTIFIED INDEBTEDNESS AMOUNT.—The term 'certified indebtedness amount' means the amount of indebtedness which is—

"(A) incurred by the taxpayer—

"(i) to acquire the principal residence of the taxpayer,

"(ii) as a qualified home improvement loan (as defined in section 103A(l)(6)) with respect to such residence, or

"(iii) as a qualified rehabilitation loan (as defined in section 103A(l)(7)) with respect to such residence, and

"(B) specified in the mortgage credit certificate.

"(c) MORTGAGE CREDIT CERTIFICATE; QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—For purposes of this section—

"(1) MORTGAGE CREDIT CERTIFICATE.—The term 'mortgage credit certificate' means any certificate which—

"(A) is issued under a qualified mortgage credit certificate program by the State or political subdivision having the authority to issue a qualified mortgage bond to provide financing on the principal residence of the taxpayer,

"(B) is issued to the taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence,

"(C) specifies—

"(i) the certificate credit rate, and

"(ii) the certified indebtedness amount, and

"(D) is in such form as the Secretary may prescribe.

"(2) QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—

"(A) IN GENERAL.—The term 'qualified mortgage credit certificate program' means any program—

"(i) which is established by a State or political subdivision thereof for any calendar year for which it is authorized to issue qualified mortgage bonds,

"(ii) under which the issuing authority elects (in such manner and form as the Secretary may prescribe) not to issue an amount of qualified mortgage bonds which it may otherwise issue during such calendar year under section 103A,

"(iii) under which the indebtedness certified by mortgage credit certificates meets the requirements of the

following subsections of section 103A (as modified by subparagraph (B) of this paragraph):

"(I) subsection (d) (relating to residence requirements),

"(II) subsection (e) (relating to 3-year requirement),

"(III) subsection (f) (relating to purchase price requirement),

"(IV) subsection (h) (relating to portion of loans required to be placed in targeted areas), and

"(V) paragraph (1) of subsection (j) (relating to other requirements),

"(iv) under which no mortgage credit certificate may be issued with respect to any residence any of the financing of which is provided from the proceeds of a qualified mortgage bond or a qualified veterans' mortgage bond,

"(v) except to the extent provided in regulations, which is not limited to indebtedness incurred from particular lenders,

"(vi) except to the extent provided in regulations, which provides that a mortgage credit certificate is not transferrable, and

"(vii) if the issuing authority allocates a block of mortgage credit certificates for use in connection with a particular development, which requires the developer to furnish to the issuing authority and the homebuyer a certificate that the price for the residence is no higher than it would be without the use of a mortgage credit certificate.

"(B) MODIFICATIONS OF SECTION 103A.—Under regulations prescribed by the Secretary, in applying section 103A for purposes of subclauses (II) and (IV) of subparagraph (A)(iii)—

"(i) each qualified mortgage certificate credit program shall be treated as a separate issue,

"(ii) the product determined by multiplying—

"(I) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

"(II) the certificate credit rate specified in such certificate,

shall be treated as proceeds of such issue and the sum of such products shall be treated as the total proceeds of such issue, and

"(iii) paragraph (1) of section 103A(e) shall be applied by substituting '100 percent' for '90 percent or more'.

Clause (iii) shall not apply if the issuing authority submits a plan to the Secretary for administering the 90-percent requirement of section 103A(e)(1) and the Secretary is satisfied that such requirement will be met under such plan.

"(d) DETERMINATION OF CERTIFICATE CREDIT RATE.—For purposes of this section—

"(1) IN GENERAL.—The certificate credit rate specified in any mortgage credit certificate shall not be less than 10 percent or more than 50 percent.

"(2) AGGREGATE LIMIT ON CERTIFICATE CREDIT RATES.—

"(A) IN GENERAL.—In the case of each qualified mortgage credit certificate program, the sum of the products determined by multiplying—

"(i) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

"(ii) the certificate credit rate with respect to such certificate,

shall not exceed 20 percent of the nonissued bond amount.

"(B) NONISSUED BOND AMOUNT.—For purposes of subparagraph (A), the term 'nonissued bond amount' means, with respect to any qualified mortgage credit certificate program, the amount of qualified mortgage bonds which the issuing authority is otherwise authorized to issue and elects not to issue under subsection (c)(2)(A)(ii).

"(3) ADDITIONAL LIMIT IN CERTAIN CASES.—In the case of a qualified mortgage credit certificate program in a State which—

"(A) has a State ceiling (as defined in section 103A(g)(4)) for the year an election is made that exceeds 20 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single family owner-occupied residences located within the jurisdiction of such State, or

"(B) issued qualified mortgage bonds in an aggregate amount less than $150,000,000 for calendar year 1983,

the certificate credit rate for any mortgage credit certificate shall not exceed 20 percent unless the issuing authority submits a plan to the Secretary to ensure that the weighted average of the certificate credit rates in such mortgage credit certificate program does not exceed 20 percent and the Secretary approves such plan.

"(e) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

"(1) CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the applicable tax limit for such taxable year, such excess shall be a carryover to each of the 3 succeeding taxable years and, subject to the limitations of subparagraph (B), shall be added to the credit allowable by subsection (a) for such succeeding taxable year.

"(B) LIMITATION.—The amount of the unused credit which may be taken into account under subparagraph (A) for any taxable year shall not exceed the amount by which the applicable tax limit for such taxable year exceeds the sum of the amounts which, by reason of this paragraph, are carried to such taxable year and are attributable to taxable years before the unused credit year.

"(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term 'applicable tax limit' means the limitation imposed by section 26(a) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section).

Ante, p. 905.

"(2) INDEBTEDNESS NOT TREATED AS CERTIFIED WHERE CERTAIN REQUIREMENTS NOT IN FACT MET.—Subsection (a) shall not apply to any indebtedness if all the requirements of subsection (d)(1), (e), (f), and (j) of section 103A and clauses (iv), (v), and (vii) of subsection (c)(2)(A)", were not in fact met with respect to such

indebtedness. Except to the extent provided in regulations, the requirements described in the preceding sentence shall be treated as met if there is a certification, under penalty of perjury, that such requirements are met.

"(3) PERIOD FOR WHICH CERTIFICATE IN EFFECT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a mortgage credit certificate shall be treated as in effect with respect to interest attributable to the period—

"(i) beginning on the date such certificate is issued, and

"(ii) ending on the earlier of the date on which—

"(I) the certificate is revoked by the issuing authority, or

"(II) the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate relates.

"(B) CERTIFICATE INVALID UNLESS INDEBTEDNESS INCURRED WITHIN CERTAIN PERIOD.—A certificate shall not apply to any indebtedness which is incurred after the close of the second calendar year following the calendar year for which the issuing authority made the applicable election under subsection (c)(2)(A)(ii).

"(C) NOTICE TO SECRETARY WHEN CERTIFICATE REVOKED.—Any issuing authority which revokes any mortgage credit certificate shall notify the Secretary of such revocation at such time and in such manner as the Secretary shall prescribe by regulations.

"(4) REISSUANCE OF MORTGAGE CREDIT CERTIFICATES.—The Secretary may prescribe regulations which allow the administrator of a mortgage credit certificate program to reissue a mortgage credit certificate specifying a certified mortgage indebtedness that replaces the outstanding balance of the certified mortgage indebtedness specified on the original certificate to any taxpayer to whom the original certificate was issued, under such terms and conditions as the Secretary determines are necessary to ensure that the amount of the credit allowable under subsection (a) with respect to such reissued certificate is equal to or less than the amount of credit which would be allowable under subsection (a) with respect to the original certificate for any taxable year ending after such reissuance.

"(5) PUBLIC NOTICE THAT CERTIFICATES WILL BE ISSUED.—At least 90 days before any mortgage credit certificate is to be issued after a qualified mortgage credit certificate program, the issuing authority shall provide reasonable public notice of—

"(A) the eligibility requirements for such certificate,

"(B) the methods by which such certificates are to be issued, and

"(C) such other information as the Secretary may require.

"(6) INTEREST PAID OR ACCRUED TO RELATED PERSONS.—No credit shall be allowed under subsection (a) for any interest paid or accrued to a person who is a related person to the taxpayer (within the meaning of section 103(b)(6)(C)(i)).

"(7) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(8) QUALIFIED REHABILITATION AND HOME IMPROVEMENT.—

"(A) QUALIFIED REHABILITATION.—The term 'qualified rehabilitation' has the meaning given such term by section 103A(l)(7)(B).

"(B) QUALIFIED HOME IMPROVEMENT.—The term 'qualified home improvement' means an alteration, repair, or improvement described in section 103A(l)(6).

"(9) QUALIFIED MORTGAGE BOND.—The term 'qualified mortgage bond' has the meaning given such term by section 103A(c)(1).

"(10) MANUFACTURED HOUSING.—For purposes of this section, the term 'single family residence' includes any manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and which is of a kind customarily used at a fixed location. Nothing in the preceding sentence shall be construed as providing that such a home will be taken into account in making determinations under section 103A.

"(f) REDUCTION IN AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS WHICH MAY BE ISSUED WHERE CERTAIN REQUIREMENTS NOT MET.—

"(1) IN GENERAL.—If for any calendar year any mortgage credit certificate program which satisfies procedural requirements with respect to volume limitations prescribed by the Secretary fails to meet the requirements of paragraph (2) of subsection (d), such requirements shall be treated as satisfied with respect to any certified indebtedness of such program, but the applicable State ceiling under paragraph (4) of section 103A(g) for the State in which such program operates shall be reduced by 1.25 times the correction amount with respect to such failure. Such reduction shall be applied to such State ceiling for the calendar year following the calendar year in which the Secretary determines the correction amount with respect to such failure.

"(2) CORRECTION AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'correction amount' means an amount equal to the excess credit amount divided by 0.20.

"(B) EXCESS CREDIT AMOUNT.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the term 'excess credit amount' means the excess of—

"(I) the credit amount for any mortgage credit certificate program, over

"(II) the amount which would have been the credit amount for such program had such program met the requirements of paragraph (2) of subsection (d).

"(ii) CREDIT AMOUNT.—For purposes of clause (i), the term 'credit amount' means the sum of the products determined under clauses (i) and (ii) of subsection (d)(2)(A).

"(3) SPECIAL RULE FOR STATES HAVING CONSTITUTIONAL HOME RULE CITIES.—In the case of a State having one or more constitutional home rule cities (within the meaning of section 103A(g)(5)(C)), the reduction in the State ceiling by reason of paragraph (1) shall be allocated to the constitutional home rule

city, or to the portion of the State not within such city, whichever caused the reduction.

"(4) EXCEPTION WHERE CERTIFICATION PROGRAM.—The provisions of this subsection shall not apply in any case in which there is a certification program which is designed to insure that the requirements of this section are met and which meets such requirements as the Secretary may by regulations prescribe.

"(5) WAIVER.—The Secretary may waive the application of paragraph (1) in any case in which he determines that the failure is due to reasonable cause.

"(g) REPORTING REQUIREMENTS.—Each person who makes a loan which is a certified indebtedness amount under any mortgage credit certificate shall file a report with the Secretary containing—

"(1) the name, address, and social security account number of the individual to which the certificate was issued,

"(2) the certificate's issuer, date of issue, certified indebtedness amount, and certificate credit rate, and

"(3) such other information as the Secretary may require by regulations.

Each person who issues a mortgage credit certificate shall file a report showing such information as the Secretary shall by regulations prescribe. Any such report shall be filed at such time and in such manner as the Secretary may require by regulations.

"(h) TERMINATION.—No election may be made under subsection (c)(2)(A)(ii) for any calendar year after 1987.

"(i) REGULATIONS; CONTRACTS.—

"(1) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations which may require recipients of mortgage credit certificates to pay a reasonable processing fee to defray the expenses incurred in administering the program.

"(2) CONTRACTS.—The Secretary is authorized to enter into contracts with any person to provide services in connection with the administration of this section."

(b) APPLICATION WITH SECTION 103A.—Subsection (g) of section 103A (relating to limitation on aggregate amount of qualified mortgage bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph: 26 USC 103A.

"(8) REDUCTION FOR MORTGAGE CREDIT CERTIFICATES.—The applicable limit of any issuing authority for any calendar year shall be reduced by the sum of—

"(A) the amount of qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year, plus *Ante*, p. 905.

"(B) the amount of any reduction in such ceiling under section 25(f) applicable to such authority for such year."

(c) DISALLOWANCE OF PORTION OF DEDUCTION FOR INTEREST WHERE CREDIT TAKEN.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 26 USC 163.

"(g) REDUCTION OF DEDUCTION WHERE SECTION 25 CREDIT TAKEN.—The amount of the deduction under this section for interest paid or accrued during any taxable year on indebtedness with respect to which a mortgage credit certificate has been issued under section 25 shall be reduced by the amount of the credit allowable with respect to such interest under section 25 (determined without regard to section 26)." *Ante*, p. 905.

(d) CIVIL PENALTIES.—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6708.
Ante, p. 682.

"SEC. 6708. PENALTIES WITH RESPECT TO MORTGAGE CREDIT CERTIFICATES.

"(a) NEGLIGENCE.—If—

"(1) any person makes a material misstatement in any verified written statement made under penalties of perjury with respect to the issuance of a mortgage credit certificate, and

"(2) such misstatement is due to the negligence of such person,

such person shall pay a penalty of $1,000 for each mortgage credit certificate with respect to which such a misstatement was made.

"(b) FRAUD.—If a misstatement described in subsection (a)(1) is due to fraud on the part of the person making such misstatement, in addition to any criminal penalty, such person shall pay a penalty of $10,000 for each mortgage credit certificate with respect to which such a misstatement is made.

Ante, p. 905.

"(c) REPORTS.—Any person required by section 25(g) to file a report with the Secretary who fails to file the report with respect to any mortgage credit certificate at the time and in the manner required by the Secretary shall pay a penalty of $200 for such failure unless it is shown that such failure is due to reasonable cause and not to willful neglect. In the case of any report required under the second sentence of section 25(g), the aggregate amount of the penalty imposed by the preceding sentence shall not exceed $2,000.

"(d) MORTGAGE CREDIT CERTIFICATE.—The term 'mortgage credit certificate' has the meaning given to such term by section 25(c)."

(2) The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6708. Penalties with respect to mortgage credit certificates."

(e) TECHNICAL AMENDMENTS.—

Ante, pp. 826, 827; 26 USC 901.

(1) Sections 28(d)(2), 29(b)(5), 30(g)(1)(A), 38(c)(2), and 901(a), as amended by this Act, are each amended by striking out "section 25(b)" and inserting in lieu thereof "section 26(b)".

Ante, p. 826.

(2) Section 23(b)(5), as amended by this Act, is amended by striking out "section 25(a)" and inserting in lieu thereof "section 26(a)" and by striking out "(other than this section)" and inserting in lieu thereof "(other than this section and section 25)".

Ante, p. 838.

(3) Paragraph (3) of section 55(c) is amended—

(A) by striking out "25" each place it appears and inserting in lieu thereof "26", and

(B) by striking out "section 23, 30, or 38" and inserting in lieu thereof "section 23, 25, 30, or 38".

26 USC 168.

(4) Clause (iii) of section 168(i)(1)(D), as added by section 208(a) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out "section 25(b)(2)" and inserting in lieu thereof "section 26(b)(2)".

(5) Clause (iii) of section 168(i)(1)(D), as added by section 209(b) of the Tax Equity and Fiscal Responsibility Act of 1982 and amended by this Act, is amended by striking out "section 25(b)(2)" and inserting in lieu thereof "section 26(b)(2)".

(f) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 25 and inserting in lieu thereof the following:

"Sec. 25. Interest on certain home mortgages.
"Sec. 26. Limitation based on tax liability; definition of tax liability."

(g) EFFECTIVE DATE.— 26 USC 25 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to interest paid or accrued after December 31, 1984, on indebtedness incurred after December 31, 1984.

(2) ELECTIONS.—The amendments made by this section shall apply to elections under section 25(c)(2)(A)(ii) of the Internal Revenue Code of 1954 (as added by this section) for calendar years after 1983. *Ante*, p. 905.

SEC. 613. AUTHORITY TO BORROW FROM FEDERAL FINANCING BANK.

(a) GENERAL RULE.—Upon application by the appropriate State Housing Agency of Oregon, the Federal Financing Bank shall make qualified cash flow loans to such Agency. Such loans shall bear interest at a rate equal to the average rate on the applicable mortgage bonds with respect to which such loans were made.

(b) QUALIFIED CASH FLOW LOANS.—For purposes of this section, the term "qualified cash flow loan" means any loan with respect to an applicable mortgage bond reasonably necessary to cover any excess determined under subsection (c)(2) on the basis of actual payments. The aggregate amount of such loans which may be outstanding at any 1 time shall not exceed $300,000,000.

(c) APPLICABLE MORTGAGE BONDS.—For purposes of this section, the term "applicable mortgage bond" means any qualified veterans' mortgage bond issued as part of an issue—

(1) which was outstanding on December 5, 1980,

(2) with respect to which the excess of—

(A) the projected aggregate payments of principal on the applicable mortgage bonds during the 15-fiscal year period beginning with fiscal year 1984, over

(B) the projected aggregate payments during such period of principal on mortgages financed by the applicable mortgage bonds,

exceeds 12 percent of the aggregate principal amount of such bonds outstanding on July 1, 1983,

(3) with respect to which the amount of the average annual prepayments during fiscal years 1981, 1982, and 1983 was less than 2 percent of the average of the loan balances as of the beginning of each of such fiscal years, and

(4) which, for fiscal year 1983, had a prepayment experience rate that did not exceed 20 percent of the prepayment experience rate of the Federal Housing Administration in the State or region in which the issuer is located.

(d) DEFINITIONS.—

(1) ASSUMPTIONS USED IN MAKING PROJECTION.—The computation under subsection (c)(2) shall be made by using the following percentage of the prepayment experience of the Federal Housing Administration in the State or region in which the issuer of the applicable mortgage bonds is located:

Fiscal Year:	Percentage:
1984	15
1985	20
1986	25
1987 and thereafter	30.

(2) QUALIFIED VETERANS' MORTGAGE BONDS.—The term "qualified veterans' mortgage bonds" has the meaning given to such term by section 103A(c)(3) of the Internal Revenue Code of 1954.

SEC. 614. ELIMINATION OF CERTAIN EXCEPTIONS TO THE APPLICATION OF THE MORTGAGE SUBSIDY BOND TAX ACT OF 1980.

26 USC 103A note.

Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end thereof the following new subsections:

"(p) MOST EXCEPTIONS NOT TO APPLY TO BONDS ISSUED AFTER DECEMBER 31, 1984.—In addition to any obligations to which the amendments made by section 1102 apply by reason of the provisions of this section, the amendments made by section 1102 shall apply, notwithstanding any other provision of this section (other than subsection (n)), to obligations issued after December 31, 1984, all or a major portion of the proceeds of which are used to finance new mortgages on single-family residences that are owner occupied.

26 USC 103A, prec. 101.

"(q) REDUCTION OF STATE CEILING BY AMOUNT OF SPECIAL MORTGAGE BONDS ISSUED BEFORE 1985.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (other than subsections (n) and (r)), any obligation—

"(A) which is part of an issue all or a major portion of the proceeds of which are used to finance new mortgages in single-family residences that are owner occupied,

"(B) which were issued by issuing authorities in such State after June 15, 1984, and before January 1, 1985, and

"(C) to which the amendments made by section 1102 do not apply by reason of any provision of this section other than subsection (n),

shall, for purposes of applying the Internal Revenue Code of 1954, be treated as an obligation which is not described in section 103(a) of such Code if the aggregate face amount of such issue exceeds the portion of the State ceiling that is allocated by the State to such issue prior to the date of issuance of such issue.

26 USC 1 *et seq.*

"(2) APPLICATION OF SECTION 103A(g).—For purposes of applying section 103A(g) of such Code, the State ceiling for calendar year 1984 shall be reduced by the aggregate amount allocated by the State to any issues described in paragraph (1).

"(3) STATE CEILING.—For purposes of this subsection, the term 'State ceiling' has the meaning given to such term by section 103A(g)(4) of the Internal Revenue Code of 1954.

"(r) EXCEPTIONS TO SUBSECTION (q).—Subsection (q) shall not apply with respect to—

"(1) obligations—

"(A) the proceeds of which are used to finance the River Place Project located in Minneapolis, Minnesota, and

"(B) the aggregate face amount of which does not exceed $55,000,000, or

"(2) obligations—

"(A) the proceeds of which are used to finance the Waseca, Minnesota project, and

"(B) the aggregate face amount of which does not exceed $7,800,000."

Subtitle B—Private Activity Bonds

PART I—GENERAL RESTRICTIONS

SEC. 621. LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS.

Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

26 USC 103.
Post, p. 926.

"(n) LIMITATION ON AGGREGATE AMOUNT OF PRIVATE ACTIVITY BONDS ISSUED DURING ANY CALENDAR YEAR.—

"(1) IN GENERAL.—A private activity bond issued as part of an issue shall be treated as an obligation not described in subsection (a) if the aggregate amount of private activity bonds issued pursuant to such issue, when added to the aggregate amount of private activity bonds previously issued by the issuing authority during the calendar year, exceeds such authority's private activity bond limit for such calendar year.

"(2) PRIVATE ACTIVITY BOND LIMIT FOR STATE AGENCIES.—For purposes of this subsection—

"(A) IN GENERAL.—The private activity bond limit for any agency of the State authorized to issue private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

"(B) SPECIAL RULE WHERE STATE HAS MORE THAN 1 AGENCY.—If more than 1 agency of the State is authorized to issue private activity bonds, all such agencies shall be treated as a single agency.

"(3) PRIVATE ACTIVITY BOND LIMIT FOR OTHER ISSUERS.—For purposes of this subsection—

"(A) IN GENERAL.—The private activity bond limit for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

"(i) the population of the jurisdiction of such issuing authority, bears to

"(ii) the population for the entire State.

"(B) OVERLAPPING JURISDICTIONS.—For purposes of subparagraph (A)(i), the rules of section 103A(g)(3)(B) shall apply.

"(4) STATE CEILING.—For purposes of this subsection—

"(A) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of

"(i) an amount equal to $150 multiplied by the State's population, or

"(ii) $200,000,000.

"(B) PHASE IN OF LIMITATION WHERE AMOUNT OF 1983 PRIVATE ACTIVITY BONDS EXCEEDS THE CEILING.—

"(i) IN GENERAL.—In the case of any State which has an excess bond amount for 1983, the State ceiling for calendar year 1984 shall be the sum of the State ceiling determined under subparagraph (A) plus 50 percent of the excess bond amount for 1983.

"(ii) EXCESS BOND AMOUNT FOR 1983.—For purposes of clause (i), the excess bond amount for 1983 in any State is the excess (if any) of—

"(I) the aggregate amount of private activity bonds issued by issuing authorities in such State during the first 9 months of calendar year 1983 multiplied by ⅔, over

"(II) the State ceiling determined under subparagraph (A) for calendar year 1984.

"(C) ADJUSTMENT OF CEILING TO REFLECT PARTIAL TERMINATION OF SMALL ISSUE EXEMPTION.—In the case of calendar years after 1986, subparagraph (A) shall be applied by substituting '$100' for '$150'.

"(5) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—In the case of any State with 1 or more constitutional home rule cities (as defined in section 103A(g)(5)(C)), the rules of paragraph (5) of section 103A(g) shall apply for purposes of this subsection.

"(6) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—

"(A) IN GENERAL.—A State may, by law provide a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

"(B) INTERIM AUTHORITY FOR GOVERNOR.—

"(i) IN GENERAL.—The Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units in such State having authority to issue private activity bonds.

"(ii) TERMINATION OF AUTHORITY.—The authority provided in clause (i) shall not apply after the earlier of—

"(I) the first day of the first calendar year beginning after the legislature has met in regular session for more than 60 days after the date of the enactment of this paragraph, or

"(II) the effective date of any State legislation with respect to the allocation of the State ceiling.

"(C) STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.—The rules of paragraph (6)(C) of section 103A(g) shall apply for purposes of this paragraph.

"(7) PRIVATE ACTIVITY BOND.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in the paragraph, the term 'private activity bond' means any obligation the interest on which is exempt from tax under subsection (a) and which is—

"(i) an industrial development bond, or

"(ii) a student loan bond.

"(B) EXCEPTION FOR MULTIFAMILY HOUSING.—The term 'private activity bond' shall not include any obligation described in subsection (b)(4)(A) nor any housing program obligation under section 11(b) of the United States Housing Act of 1937.

42 USC 1437i.

"(C) EXCEPTION FOR CERTAIN FACILITIES DESCRIBED IN SECTION 103(b)(4)(C) OR (D).—

"(i) IN GENERAL.—The term 'private activity bond' shall not include any obligation described in subparagraph (C) or (D) of subsection (b)(4), but only if the

property described in such subparagraph is owned by or on behalf of a governmental unit.

"(ii) EXCEPTION NOT TO APPLY TO CERTAIN PARKING FACILITIES.—For purposes of clause (i), subparagraph (D) of subsection (b)(4) shall be applied as if it did not contain the phrase 'parking facilities'.

"(iii) DETERMINATION OF WHETHER PROPERTY OWNED BY GOVERNMENTAL UNIT.—For purposes of clause (i), property shall not be treated as not owned by a governmental unit solely by reason of the length of the lease to which it is subject if the lessee makes an irrevocable election (binding on the lessee and all successors in interest under the lease) not to claim depreciation or an investment credit with respect to such property.

"(iv) RESTRICTION WHERE SIGNIFICANT FRONT END LOADING.—Under regulations prescribed by the Secretary, clause (i) shall not apply in any case where the property is leased under a lease which has significant front end loading of rental accruals or payments.

"(D) REFUNDING ISSUES.—The term 'private activity bond' shall not include any obligation which is issued to refund another obligation to the extent that the amount of such obligation does not exceed the amount of the refunded obligation. In the case of any student loan bond, the preceding sentence shall apply only if the maturity date of the refunding obligation is not later than the later of—

"(i) the maturity of the obligation to be refunded, or

"(ii) the date 17 years after the date on which the refunded obligation was issued (or in the case of a series of refundings, the date on which the original obligation was issued).

"(8) STUDENT LOAN BONDS.—For purposes of this subsection, the term 'student loan bond' means an obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly to finance loans to individuals for educational expenses.

"(9) POPULATION.—For purposes of this subsection, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) published by the Bureau of the Census before the beginning of such calendar year.

"(10) ELECTIVE CARRYFORWARD OF UNUSED LIMITATION FOR SPECIFIED PROJECT.—

"(A) IN GENERAL.—If—

"(i) an issuing authority's private activity bond limit for any calendar year after 1983, exceeds

"(ii) the aggregate amount of private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward projects.

"(B) ELECTION MUST SPECIFY PROJECT.—In any election under subparagraph (A), the issuing authority shall—

"(i) specify the project (or projects) for which the carryforward is elected, and

"(ii) specify the portion of the excess described in subparagraph (A) which is to be a carryforward for each such project.

"(C) USE OF CARRYFORWARD.—

"(i) IN GENERAL.—If any issuing authority elects a carryforward under subparagraph (A) with respect to any carryforward project, any private activity bonds issued by such authority with respect to such project during the 3 calendar years (or, in the case of a project described in subsection (b)(4)(F), 6 calendar years) following the calendar year in which the carryforward arose shall not be taken into account under paragraph (1) to the extent the amount of such bonds do not exceed the amount of the carryforward elected for such project.

"(ii) ORDER IN WHICH CARRYFORWARD USED.—Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose.

"(D) ELECTION.—Any election made under this paragraph shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Any such election (and any specification contained therein), once made, shall be irrevocable.

"(E) CARRYFORWARD PROJECT.—For purposes of this paragraph, the term 'carryforward project' means—

"(i) any project described in paragraph (4) or (5) of subsection (b), and

"(ii) the purpose of issuing student loan bonds.

"(11) TREATMENT OF QUALIFIED SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond (as defined in subsection (e)), such bond shall be treated for purposes of this subsection as issued by a State or local issuing authority (whichever is appropriate).

"(12) CERTIFICATION OF NO CONSIDERATION FOR ALLOCATION.—

"(A) IN GENERAL.—Any private activity bond allocated any portion of the State limit shall not be exempt from tax under subsection (a) unless the public official if any responsible for such allocation certifies under penalty of perjury that the allocation was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign.

"(B) ANY CRIMINAL PENALTY MADE APPLICABLE.—Any person willfully making an allocation described in subparagraph (A) in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign shall be subject to criminal penalty to the same extent as if such allocation were a willful attempt to evade tax imposed by this title."

SEC. 622. TAX EXEMPTION DENIED WHERE OBLIGATION DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.

26 USC 103.

Subsection (h) of section 103 (relating to certain obligations which must not be guaranteed or subsidized under a energy program) is amended to read as follows:

"(h) OBLIGATION MUST NOT BE GUARANTEED, ETC.—

"(1) IN GENERAL.—An obligation shall not be treated as an obligation described in subsection (a) if such obligation is federally guaranteed.

"(2) FEDERALLY GUARANTEED DEFINED.—For purposes of paragraph (1), an obligation is federally guaranteed if—

"(A) the payment of principal or interest with respect to such obligation is guaranted (in whole or in part) by the United States (or any agency or instrumentality thereof),

"(B) such obligation is issued as part of an issue and a significant portion of the proceeds of such issue are to be—

"(i) used in making loans the payment of principal or interest with respect to which are to be guaranteed (in whole or in part) by the United States (or any agency or instrumentality thereof), or

"(ii) invested (directly or indirectly) in federally insured deposits or accounts, or

"(C) the payment of principal or interest on such obligation is otherwise indirectly guaranteed (in whole or in part, by the United States (or an agency or instrumentality thereof).

"(3) EXCEPTIONS.—

"(A) CERTAIN INSURANCE PROGRAMS.—An obligation shall not be treated as federally guaranteed by reason of—

"(i) any guarantee by the Federal Housing Administration, the Veterans' Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association,

"(ii) any guarantee of student loans and any guarantee by the Student Loan Marketing Association to finance student loans,

"(iii) any guarantee by the Small Business Administration with respect to qualified contracts for pollution control facilities (within the meaning of section 404(a) of the Small Business Investment Act of 1958, as in effect on the date of the enactment of the Tax Reform Act of 1984) if— 15 USC 694-1.

"(I) the Administrator of the Small Business Administration charges a fee for making such guarantee, and

"(II) the amount of such fee equals or exceeds 1 percent of the amount guaranteed, or

"(iv) any guarantee by the Bonneville Power Authority pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of the enactment of the Tax Reform Act of 1984 with respect to any obligation issued before July 1, 1989.

"(B) DEBT SERVICE, ETC.—Paragraph (1) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the purpose for which such issue was issued,

"(ii) investments of a bona fide debt service fund,

"(iii) investments of a reserve which meet the requirements of subsection (c)(4)(B),

"(iv) investments in obligations issued by the United States Treasury, or

"(v) other investments permitted under regulations.

"(C) EXCEPTION FOR HOUSING PROGRAMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to—

"(I) an obligation described in subsection (b)(4)(A) or a housing program obligation under section 11(b) of the United States Housing Act of 1937,

42 USC 1437i.

"(II) a qualified mortgage bond (as defined in section 103A(c)(1)), or

"(III) a qualified veterans' mortgage bond (as defined in section 103A(c)(3)).

"(ii) EXCEPTION NOT TO APPLY WHERE OBLIGATION INVESTED IN FEDERALLY INSURED DEPOSITS OR ACCOUNTS.—Clause (i) shall not apply to any obligation which is federally guaranteed within the meaning of paragraph (2)(B)(ii).

"(D) LOANS TO, OR GUARANTEES BY, FINANCIAL INSTITUTIONS.—Except as provided in paragraph (2)(B)(ii), an obligation which is issued as part of an issue shall not be treated as federally guaranteed merely by reason of the fact that the proceeds of such issue are used in making loans to a financial institution or there is a guarantee by a financial institution.

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

"(A) TREATMENT OF CERTAIN ENTITIES WITH AUTHORITY TO BORROW FROM UNITED STATES.—To the extent provided in regulations prescribed by the Secretary, any entity with statutory authority to borrow from the United States shall be treated as an instrumentality of the United States. Except in the case of a private activity bond (as defined in subsection (n)(7)), nothing in the preceding sentence shall be construed as treating the District of Columbia or any possession of the United States as an instrumentality of the United States.

"(B) FEDERALLY INSURED DEPOSIT OR ACCOUNT.—The term 'federally insured deposit or account' means any deposit or account in a financial institution to the extent such deposit or account is insured under Federal law by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any similar federally chartered corporation.

"(5) CERTAIN OBLIGATIONS SUBSIDIZED UNDER ENERGY PROGRAM.—

"(A) IN GENERAL.—An obligation to which this paragraph applies shall be treated as an obligation not described in subsection (a) if the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) under a program of the United States, a State, or a political subdivision of a State the principal purpose of which is to encourage the production or conservation of energy.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

"(i) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(ii) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities)."

SEC. 623. AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.

Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph: 26 USC 103.

"(15) AGGREGATE LIMIT PER TAXPAYER FOR SMALL ISSUE EXCEPTION.—

"(A) IN GENERAL.—Paragraph (6) of this subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any test-period beneficiary (when increased by the outstanding tax-exempt IDB's of such beneficiary) exceeds $40,000,000.

"(B) OUTSTANDING TAX-EXEMPT IDB'S OF ANY PERSON.—For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt IDB's of any person who is a test-period beneficiary with respect to such issue is the aggregate face amount of all industrial development bonds the interest on which is exempt from tax under subsection (a)—

"(i) which are allocated to such beneficiary, and

"(ii) which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue).

"(C) ALLOCATION OF FACE AMOUNT OF AN ISSUE.—

"(i) IN GENERAL.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary of a facility financed by the proceeds of such issue (other than an owner of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

"(ii) OWNERS.—Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary who is an owner of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility owned by such beneficiary bears to the entire facility.

"(D) TEST-PERIOD BENEFICIARY.—For purposes of this paragraph, except as provided in regulations, the term 'test-period beneficiary' means any person who was an owner or a principal user of facilities being financed by the issue at any time during the 3-year period beginning on the later of—

"(i) the date such facilities were placed in service, or

"(ii) the date of the issue.

"(E) TREATMENT OF RELATED PERSONS.—For purposes of this paragraph, all persons who are related (within the meaning of paragraph (6)(C)) to each other shall be treated as one person."

PART II—ARBITRAGE LIMITATIONS

SEC. 624. ARBITRAGE ON NONPURPOSE OBLIGATIONS.

26 USC 103.

(a) IN GENERAL.—Subsection (c) of section 103 (relating to arbitrage bonds) is amended by redesignating paragraph (6) as paragraph (7) and inserting after paragraph (5) the following new paragraph:

"(6) INVESTMENTS IN NONPURPOSE OBLIGATIONS.—

"(A) IN GENERAL.—For purposes of this title, any obligation which is part of an issue of industrial development bonds which does not meet the requirements of subparagraphs (C) and (D) shall be treated as an obligation which is not described in subsection (a).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any obligation described in subsection (b)(4)(A) or to any housing program obligation under section 11(b) of the Housing Act of 1937.

42 USC 1437i.

"(C) LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS.—

"(i) IN GENERAL.—An issue meets the requirements of this subparagraph only if—

"(I) at no time during any bond year, the amount invested in nonpurpose obligations with a yield higher than the yield on the issue exceeds 150 percent of the debt service on the issue for the bond year, and

"(II) the aggregate amount invested as provided in subclause (I) is promptly and appropriately reduced as the amount of outstanding obligations of the issue is reduced.

"(ii) EXCEPTION FOR TEMPORARY PERIODS.—Clause (i) shall not apply to—

"(I) proceeds of the issue invested for an initial temporary period until such proceeds are needed for the governmental purpose of the issue, and

"(II) temporary investment periods related to debt service.

"(iii) DEBT SERVICE DEFINED.—For purposes of this subparagraph, the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(iv) NO DISPOSITION IN CASE OF LOSS.—This subparagraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid to the United States (but for such sale or disposition) at the time of such sale or disposition.

"(D) REBATE TO UNITED STATES.—An issue shall be treated as meeting the requirements of this subparagraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the aggregate amount earned on all nonpurpose obligations (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if all nonpurpose obligations were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

is paid to the United States by the issuer in accordance with the requirements of subparagraph (E).

"(E) DUE DATE OF PAYMENTS UNDER SUBPARAGRAPH (D).—The amount which is required to be paid to the United States by the issuer shall be paid in installments which are made at least once every 5 years. Each installment shall be in an amount which insures that 90 percent of the amount described in subparagraph (D) with respect to the issue at the time payment of such installment is required will have been paid to the United States. The last installment shall be made no later than 30 days after the day on which the last obligation of the issue is redeemed and shall be in an amount sufficient to pay the remaining balance of the amount described in subparagraph (D) with respect to such issue.

"(F) SPECIAL RULES FOR APPLYING SUBPARAGRAPH (D).—

"(i) IN GENERAL.—In determining the aggregate amount earned on nonpurpose obligations for purposes of subparagraph (D)—

"(I) any gain or loss on the disposition of a nonpurpose obligation shall be taken into account, and

"(II) unless the issuer otherwise elects, any amount earned on a bona fide debt service fund shall not be taken into account if the gross earnings on such fund for the bond year is less than $100,000.

"(ii) TEMPORARY INVESTMENTS.—Under regulations prescribed by the Secretary, an issue shall, for purposes of this paragraph, be treated as meeting the requirements of subparagraph (D) if the gross proceeds of such issue are expended for the governmental purpose for which the bond was issued by no later than the day which is 6 months after the date of issuance of such issue. Gross proceeds which are held in a bona fide debt service fund shall not be considered gross proceeds for purposes of this clause only.

"(G) EXEMPTION FROM GROSS INCOME OF SUM REBATED.—Gross income does not include the sum described in subparagraph (D). Notwithstanding any other provision of this title, no deduction shall be allowed for any amount paid to the United States under subparagraph (D).

"(H) DEFINITIONS.—For purposes of this paragraph—

"(i) NONPURPOSE OBLIGATIONS.—The term 'nonpurpose obligation' means any security (within the meaning of subparagraph (A) or (B) of section 165(g)(2)) or any obligation not described in subsection (a) which—

"(I) is acquired with the gross proceeds of an issue, and

"(II) is not acquired in order to carry out the governmental purpose of the issue.

"(ii) GROSS PROCEEDS.—The gross proceeds of an issue include—

"(I) amounts received (including repayments of principal) as a result of investing the original proceeds of the issue, and

"(II) amounts used to pay debt service on the issue.

"(iii) YIELD.—The yield on the issue shall be determined on the basis of the issue price (within the meaning of section 1273 or 1274)."

Ante, pp. 536, 538.

(b) CONFORMING AMENDMENTS.—

26 USC 103A.

(1) Paragraph (1) of section 103A(i) (relating to arbitrage) is amended by striking out "section 103(c)" and inserting in lieu thereof "section 103(c) (other than section 103(c)(6))".

26 USC 103.

(2) Subsection (c) of section 103 is amended by striking out "Bonds" in the heading.

(3) Paragraph (1) of section 103(c) is amended by inserting "to arbitrage bonds" in the heading.

26 USC 103 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to bonds issued after December 31, 1984.

(2) EXCEPTION.—The amendments made by this section shall not apply to obligations issued by the Essex County Port Authority of New York and New Jersey as part of an issue approved by Essex County, New Jersey, on July 7, 1981, and approved by the State of New Jersey on December 31, 1981. The aggregate face amount of bonds to which this paragraph applies shall not exceed $350,000,000.

26 USC 103 note.

SEC. 625. STUDENT LOAN BONDS.

(a) ARBITRAGE REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations which specify the circumstances under which a qualified student loan bond shall be treated as an arbitrage bond for purposes of section 103 of the Internal Revenue Code of 1954. Such regulations may provide that—

(A) paragraphs (4) and (5) of section 103(c) of such Code shall not apply, and

Ante, p. 922.

(B) rules similar to section 103(c)(6) shall apply,

to qualified student loan bonds.

(2) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED STUDENT LOAN BOND.—The term 'qualified student loan bond' has the meaning given to such term by section 103(o)(3) of the Internal Revenue Code of 1954 (as amended by this Act).

Post, p. 926.

(B) ARBITRAGE BOND.—The term "arbitrage bond" has the meaning given to such term by section 103(c)(2).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, any regulations prescribed by the Secretary under paragraph (1) shall apply to obligations issued after the qualified date.

(B) QUALIFIED DATE.—

(i) IN GENERAL.—For purposes of this paragraph, the term "qualified date" means the earlier of—

(I) the date on which the Higher Education Act of 1965 expires, or

(II) the date, after the date of enactment of this Act, on which the Higher Education Act of 1965 is reauthorized.

20 USC 1001 note.

(ii) PUBLICATION OF REGULATIONS.—Notwithstanding clause (i), the qualified date shall not be a date which is prior to the date that is 6 months after the date on which the regulations prescribed under paragraph (1) are published in the Federal Register.

Federal Register, publication.

(C) REFUNDING OBLIGATIONS.—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligation issued exclusively to refund any qualified student loan bond which was issued before the qualified date, except that the requirements of subparagraphs (A) and (B) of section 626(b)(4) of this Act must be met with respect to such refunding.

Post, p. 926.

(D) FULFILLMENT OF COMMITMENTS.—Regulations prescribed by the Secretary under paragraph (1) shall not apply to any obligations which are needed to fulfill written commitments to acquire or finance student loans which are originated after June 30, 1984, and before the qualified date, but only if—

(i) such commitments are binding on the qualified date, and

(ii) the amount of such commitments is consistent with practices of the issuer which were in effect on March 15, 1984, with respect to establishing secondary markets for student loans.

(b) ARBITRAGE LIMITATION ON STUDENT LOAN BONDS WHICH ARE NOT QUALIFIED STUDENT LOAN BONDS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, any student loan bond (other than a qualified student loan bond) issued after December 31, 1985, shall be treated as an obligation not described in subsection (a) (1) or (2) of section 103 of the Internal Revenue Code of 1954 unless the issue of which such obligation is a part meets requirements similar to those of sections 103(c)(6) and 103A(i) of such Code.

Ante, p. 922.

(c) ISSUANCE OF STUDENT LOAN BONDS WHICH ARE NOT TAX-EXEMPT.—Any issuer who may issue obligations described in section 103(a) of the Internal Revenue Code of 1954 may elect to issue student loan bonds which are not described in such section 103(a) of such Code without prejudice to—

(1) the status of any other obligations issued, or to be issued, by such issuer as obligations described in section 103(a) of such Code, or

(2) the status of the issuer as an organization exempt from taxation under such Code.

(d) FEDERAL EXECUTIVE BRANCH JURISDICTION OVER TAX-EXEMPT STATUS.—For purposes of Federal law, any determination by the executive branch of the Federal Government of whether interest on any obligation is exempt from taxation under the Internal Revenue Code of 1954 shall be exclusively within the jurisdiction of the Department of the Treasury.

26 USC 1 *et seq.*

(e) STUDY ON TAX-EXEMPT STUDENT LOAN BONDS.—

(1) IN GENERAL.—The Comptroller General of the United States and the Director of the Congressional Budget Office, shall conduct studies of—

(A) the appropriate role of tax-exempt bonds which are issued in connection with the guaranteed student loan program and the PLUS program established under the Higher Education Act of 1965, and

20 USC 1001 note.

(B) the appropriate arbitrage rules for such bonds.

(2) REPORT.—The Comptroller General of the United States and the Director of the Congressional Budget Office, shall submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives reports on the studies conducted under paragraph (1) by no later than 9 months after the date of enactment of this Act.

PART III—OTHER RESTRICTIONS

SEC. 626. DENIAL OF TAX EXEMPTION TO CONSUMER LOAN BONDS.

Ante, p. 926.

(a) IN GENERAL.—Section 103 (relating to interest on certain governmental obligations) is amended by adding at the end thereof the following new subsection:

"(o) CONSUMER LOAN BONDS.—

"(1) DENIAL OF TAX EXEMPTION.—For purposes of this title, any consumer loan bond shall be treated as an obligation which is not described in subsection (a).

"(2) CONSUMER LOAN BONDS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'consumer loan bond' means any obligation which is issued as part of an issue all or a significant portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance loans (other than loans described in subparagraph (C)) to persons who are not exempt persons (within the meaning of subsection (b)(3)).

"(B) EXCLUDED OBLIGATIONS.—The term 'consumer loan bond' shall not include any—

"(i) qualified student loan bond,

"(ii) industrial development bond, or

"(iii) qualified mortgage bond or qualified veterans' mortgage bond.

"(C) EXCLUDED LOANS.—A loan is described in this subparagraph if the loan—

"(i) enables the borrower to finance any governmental tax or assessment of general application for an essential governmental function, or

"(ii) is used to acquire or carry nonpurpose obligations (within the meaning of subsection (c)(6)(G)(i)).

"(3) QUALIFIED STUDENT LOAN BONDS.—For purposes of this subsection, the term 'qualified student loan bond' means any obligation which is issued as part of an issue all or a major portion of the proceeds of which are reasonably expected to be used directly or indirectly to make or finance student loans under a program of general application to which the Higher Education Act of 1965 applies if—

20 USC 1001 note.

"(A) limitations are imposed under the program on—

"(i) the maximum amount of loans outstanding to any student, and

"(ii) the maximum rate of interest payable on any loan,

"(B) the loans are directly or indirectly guaranteed by the Federal Government,

"(C) the financing of loans under the program is not limited by Federal law to the proceeds of obligations the interest on which is exempt from taxation under this title, and

"(D) special allowance payments under section 438 of the Higher Education Act of 1965— 20 USC 1087-1.

"(i) are authorized to be paid with respect to loans made under the program, or

"(ii) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of obligations the interest on which is exempt from taxation under this title.

Such term shall not include any obligation issued under a State program which discriminates on the basis of the location (in the United States) at which the educational institution is located."

(b) EFFECTIVE DATES.— 26 USC 103 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection the amendment made by subsection (a) shall apply to obligations issued after the date of enactment of this Act.

(2) EXCEPTIONS FOR CERTAIN STUDENT LOAN PROGRAMS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to obligations issued by a program described in the following table to the extent the aggregate face amount of such obligations does not exceed the amount of allowable obligations specified in the following table with respect to such program:

Program	Amount of Allowable Obligations
Colorado Student Obligation Bond Authority	$60 million
Connecticut Higher Education Supplementary Loan Authority.	$15.5 million
District of Columbia	$50 million
Illinois Higher Education Authority	$11 million
State of Iowa	$16 million
Louisiana Public Facilities Authority	$75 million
Maine Health and Higher Education Facilities Authority	$5 million
Maryland Higher Education Supplemental Loan Program	$24 million
Massachusetts College Student Loan Authority	$90 million
Minnesota Higher Education Coordinating Board	$60 million
New Hampshire Higher Education and Health Facilities Authority.	$39 million
New York Dormitory Authority	$120 million
Pennsylvania Higher Education Assistance Agency	$300 million
Georgia Private Colleges and University Authority	$31 million
Wisconsin State Building Commission	$60 million
South Dakota Health and Educational Facilities Authority.	$6 million

(B) PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY.—Subparagraph (A) shall apply to obligations

issued by the Pennsylvania Higher Education Assistance Agency only if such obligations are issued solely for the purpose of refunding student loan bonds outstanding on March 15, 1984.

(3) CERTAIN TAX-EXEMPT MORTGAGE SUBSIDY BONDS.—For purposes of applying section 103(o) of the Internal Revenue Code of 1954, the term "consumer loan bond" shall not include any mortgage subsidy bond (within the meaning of section 103A(b) of such Code) to which the amendments made by section 1102 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply.

Ante, p. 915.

26 USC 103A, prec. 101.

(4) REFUNDING EXCEPTION.—The amendments made by this section shall not apply to any obligation or series of obligations the proceeds of which are used exclusively to refund obligations issued before March 15, 1984, except that—

(A) the amount of the refunding obligations may not exceed 101 percent of the aggregate face amount of the refunded obligations, and

(B) the maturity date of any refunding obligation may not be later than the date which is 17 years after the date on which the refunded obligation was issued (or, in the case of a series of refundings, the date on which the original obligation was issued).

(5) EXCEPTION FOR CERTAIN ESTABLISHED PROGRAMS.—The amendments made by this section shall not apply to any obligation substantially all of the proceeds of which are used to carry out a program established under State law which has been in effect in substantially the same form during the 30-year period ending on the date of enactment of this Act, but only if such proceeds are used to make loans or to fund similar obligations—

(A) in the same manner in which,

(B) in the same (or lesser) amount per participant, and

(C) for the same purposes for which,

such program was operated on March 15, 1984. This subparagraph shall not apply to obligations issued on or after March 15, 1987.

(6) CERTAIN BONDS FOR RENEWABLE ENERGY PROPERTY.—The amendments made by this section shall not apply to any obligations described in section 243 of the Crude Oil Windfall Profit Tax Act of 1980.

26 USC 103 note.

SEC. 627. LIMITATIONS ON ACQUISITIONS OF LAND, EXISTING FACILITIES, ETC.

(a) LIMITATION ON USE FOR LAND ACQUISITION.—Subsection (b) of section 103 is amended by adding at the end thereof the following new paragraph:

Ante, p. 921.

"(16) LIMITATION ON USE FOR LAND ACQUISITION.—

"(A) IN GENERAL.—Paragraphs (4), (5), and (6) shall not apply with respect to any obligation issued as part of an issue if—

"(i) any portion of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes, or

"(ii) 25 percent or more of the proceeds of such issue are to be used (directly or indirectly) for the acquisition of land not described in clause (i) (or an interest therein).

In the case of an obligation described in paragraph (5) (relating to industrial parks), clause (i) shall be applied by substituting '50 percent' for '25 percent'.

"(B) EXCEPTION FOR FIRST-TIME FARMERS.—

"(i) IN GENERAL.—If the requirements of clause (ii) are met with respect to any land, subparagraph (A) shall not apply to such land, and paragraph (17) shall not apply to property located thereon or to property to be acquired within 1 year to be used in farming, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of $250,000.

"(ii) ACQUISITION BY FIRST-TIME FARMERS.—The requirements of this clause are met with respect to any land if—

"(I) such land is to be used for farming purposes, and

"(II) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

"(iii) FIRST-TIME FARMER.—For purposes of this subparagraph, the term 'first-time farmer' means any individual if such individual has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated. For purposes of this subparagraph, any ownership or material participation by an individual's spouse or minor child shall be treated as ownership and material participation by the individual.

"(iv) FARM.—For purposes of this subparagraph, the term 'farm' has the meaning given such term by section 6420(c)(2).

"(v) SUBSTANTIAL FARMLAND.—The term 'substantial farmland' means any parcel of land unless—

"(I) such parcel is smaller than 15 percent of the median size of a farm in the county in which such parcel is located, and

(II) the fair market value of the land does not at any time while held by the individual exceed $125,000.

"(C) EXCEPTION FOR CERTAIN LAND ACQUIRED FOR ENVIRONMENTAL PURPOSES.—Any land acquired by a public agency in connection with an airport, mass transit, or port development project which consists of facilities described in paragraph (4)(D) shall not be taken into account under subparagraph (A) if—

"(i) such land is acquired for a noise abatement, wetland preservation, future use, or other public purpose, and

"(ii) there is not other significant use of such land."

(b) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph: *Ante*, p. 928.

"(17) ACQUISITION OF EXISTING PROPERTY NOT PERMITTED.—

"(A) IN GENERAL.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used for the acquisition of any property (or an interest therein) unless the first use of such property is pursuant to such acquisition.

"(B) EXCEPTION FOR CERTAIN REHABILITATIONS.—Subparagraph (A) shall not apply with respect to any building (and the equipment therefor) if—

"(i) the rehabilitation expenditures with respect to such building equals or exceeds

"(ii) 15 percent of the portion of the cost of acquiring such building (and equipment) financed with the proceeds of the issue.

A rule similar to the rule of the preceding sentence shall apply in the case of facilities other than a building except that clause (ii) shall be applied by substituting '100 percent' for '15 percent'.

"(C) REHABILITATION EXPENDITURES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in this subparagraph, the term 'rehabilitation expenditures' means any amount properly chargeable to capital account which is incurred by the person acquiring the building for property (or additions or improvements to property) in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with equipment having substantially the same function. For purposes of this clause, any amount incurred by a successor to the person acquiring the building or by the seller under a sales contract with such person shall be treated as incurred by such person.

"(ii) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'rehabilitation expenditures' does not include any expenditure described in section 48(g)(2)(B) (other than clause (i) thereof).

"(iii) PERIOD DURING WHICH EXPENDITURES MUST BE INCURRED.—The term 'rehabilitation expenditures' shall not include any amount which is incurred after the date 2 years after the later of—

"(I) the date on which the building was acquired, or

"(II) the date on which the obligation was issued.

"(D) SPECIAL RULE FOR CERTAIN PROJECTS.—In the case of a project involving 2 or more buildings, this paragraph shall be applied on a project basis."

(c) USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

Ante, p. 929.

"(18) NO PORTION OF BONDS MAY BE ISSUED FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISHMENTS, ETC.—Paragraphs (4), (5), and (6) shall not apply to any obligation issued as part of an issue if any portion of the proceeds of such issue is to be used to

provide any airplane, skybox, or other private luxury box, any health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

SEC. 628. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND PROVISIONS.

(a) CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—

(1) Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by adding at the end thereof the following new sentence: "In the case of an obligation issued after December 31, 1983, such obligation shall not be treated as described in this paragraph unless the appropriate requirements of subsections (b), (c), (h), (k), (l), and (n) of this section and section 103A are met with respect to such obligation. For purposes of applying such requirements, a possession of the United States shall be treated as a State; except that clause (ii) of subsection (n)(4)(A) shall not apply." 26 USC 103.

(2) Subparagraph (B) of section 103(m)(2) is amended to read as follows:

"(B) is exempt from tax under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act."

(3) Subsection (m) of section 103 is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTIONS.—The following obligations shall be treated as obligations described in paragraph (1) (without regard to the second sentence thereof):

"(A) Any obligation issued pursuant to the Northwest Power Act (16 U.S.C. 839d) as in effect on the date of the enactment of the Tax Reform Act of 1984. *Ante*, p. 494.

"(B) Any obligation issued pursuant to section 608(6)(A) of Public Law 97-468. 45 USC 1207.

"(C) Any obligation issued before June 19, 1984, under section 11(b) of the United States Housing Act of 1937." 42 USC 1437i.

(b) EXPANSION OF TAX-EXEMPT BOND FINANCED PROPERTY REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(f)(12) (relating to limitations on property financed with tax-exempt bonds) is amended to read as follows: 26 USC 168.

"(C) EXCEPTION FOR PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—Subparagraph (A) shall not apply to any recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(2) CONFORMING AMENDMENT.—Paragraph (12) of section 168(f) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(c) AGGREGATION OF ISSUES FOR SINGLE PROJECT.—Paragraph (6) of section 103(b) (relating to exemption for small issues) is amended by adding at the end thereof the following new subparagraph: 26 USC 103.

"(P) AGGREGATION OF ISSUES WITH RESPECT TO SINGLE PROJECT.—For purposes of this paragraph, 2 or more issues part or all of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses using substantial common facilities

shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue)."

26 USC 103.

(d) DEFINITION OF RELATED PERSONS IN THE CASE OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (relating to exception where bond held by substantial user) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph—

"(A) a partnership and each of its partners (and their spouses and minor children) shall be treated as related persons, and

"(B) an S corporation and each of its shareholders (and their spouses and minor children) shall be treated as related persons.".

(e) RESIDENTIAL RENTAL PROPERTY MAY BE IN MIXED USE STRUCTURE.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (A), any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes."

26 USC 103 note.

(f) PUBLIC APPROVAL REQUIREMENT IN THE CASE OF PUBLIC AIRPORT.—If—

(1) the proceeds of any issue are to be used to finance a facility or facilities located on a public airport, and

(2) the governmental unit issuing such obligations is the owner or operator of such airport,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport for purposes of subsection (k) of section 103 of the Internal Revenue Code of 1954 (relating to public approval for industrial development bonds).

(g) REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—Paragraph (7) of section 103(b) (relating to advance refunding of qualified public facilities) is hereby repealed.

26 USC 103 note.

(h) SMALL ISSUE LIMIT IN CASE OF CERTAIN URBAN DEVELOPMENT ACTION GRANTS.—In the case of any obligation issued on December 11, 1981, section 103(b)(6)(I) of the Internal Revenue Code of 1954 shall be applied by substituting "$15,000,000" for "$10,000,000" if—

(1) such obligation is part of an issue,

(2) substantially all of the proceeds of such issue are used to provide facilities with respect to which an urban development action grant under section 119 of the Housing and Community Development Act of 1974 was preliminarily approved by the Secretary of Housing and Urban Development on January 10, 1980, and

42 USC 5318.

(3) the Secretary of Housing and Urban Development determines, at the time such grant is approved, that the amount of such grant will equal or exceed 5 percent of the total capital expenditures incurred with respect to such facilities.

SEC. 629. CERTAIN PUBLIC UTILITIES TREATED AS EXEMPTED PERSONS UNDER SECTION 103(b); SPECIAL RULES FOR CERTAIN RAILROADS.

(a) CERTAIN PUBLIC UTILITIES.—For purposes of applying section 103(b)(3) of the Internal Revenue Code with respect to—

(1) any obligations issued after the date of enactment of this Act, and

(2) any obligations issued after December 31, 1969, which were treated as obligations described in section 103(a) of such Code on the day on which such obligations were issued,

the term "exempt person" shall include a regulated public utility having any customer service area within a State served by a public power authority which was required as a condition of a Federal Power Commission license specified by an Act of Congress enacted prior to the enactment of section 107 of the Revenue and Expenditure Control Act of 1968 (Public Law 90-364) to contract to sell power to one such utility and which is authorized by State law to sell power to other such utilities, but only with respect to the purchase by any such utility and resale to its customers of any output of any electrical generation facility or any portion thereof or any use of any electrical transmission facility or any portion thereof financed by such power authority and owned by it or by such State, and provided that by agreement between such power authority and any such utility there shall be no markup in the resale price charged by such utility of that component of the resale price which represents the price paid by such utility for such output or use.

26 USC 103 and notes.

(b) CERTAIN RAILROADS.—Section 103(b)(1) of the Internal Revenue Code of 1954 shall not apply to any obligation which is described in section 103(b)(6)(A) of such Code if—

(1) substantially all of the proceeds of such obligation are used to acquire railroad track and right-of-way from a railroad involved in a title 11 or similar proceeding (within the meaning of section 368(a)(3)(A) of such Code), and

(2) the Federal Railroad Administration provides joint financing for such acquisitions.

(c) SPECIAL RULES FOR SUBSECTION (a).—

(1) OBLIGATIONS SUBJECT TO CAP.—Any obligation described in subsection (a) shall be treated as a private activity bond for purposes of section 103(n) of the Internal Revenue Code of 1954.

Ante, p. 915.

(2) LIMITATION ON AMOUNT OF OBLIGATIONS TO WHICH SUBSECTION (a)(1) APPLIES.—The aggregate amount of obligations to which subsection (a)(1) applies shall not exceed $625,000,000

(3) LIMITATION ON PURPOSES.—Subsection (a)(1) shall only apply to obligations issued as part of an issue substantially all the proceeds of which are used to provide 1 or more of the following:

(A) Cable facilities.

(B) Small hydroelectric facilities.

(C) The acquisition of an interest in an electrical generating facility.

SEC. 630. EXTENSION OF SMALL ISSUE INDUSTRIAL DEVELOPMENT BOND EXCEPTION.

Subparagraph (N) of section 103(b)(6) (relating to termination date) is amended to read as follows:

26 USC 103.

"(N) TERMINATION DATES.—

"(i) IN GENERAL.—This paragraph shall not apply to any obligation issued after December 31, 1986 (including any obligations issued to refund an obligation issued on or before such date).

"(ii) OBLIGATIONS USED TO FINANCE MANUFACTURING FACILITIES.—In the case of any obligation which is part of an issue substantially all of the proceeds of which are to be used to provide a manufacturing facility

clause (i) shall be applied by substituting '1988' for '1986'.

"(iii) MANUFACTURING FACILITY.—For purposes of this subparagraph, the term 'manufacturing facility' means any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property).

26 USC 103 note.

SEC. 631. EFFECTIVE DATES.

(a) PRIVATE ACTIVITY BOND CAP.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by section 621 shall apply to obligations issued after December 31, 1983.

Ante, p. 915.

(2) INDUCEMENT RESOLUTION BEFORE JUNE 19, 1984.—The amendment made by section 621 shall not apply to any issue of obligations if—

(A) there was an inducement resolution (or other comparable preliminary approval) for the issue before June 19, 1984, and

(B) the issue is issued before January 1, 1985.

(3) CERTAIN PROJECTS PRELIMINARILY APPROVED BEFORE OCTOBER 19, 1983, GIVEN APPROVAL.—If—

(A) there was an inducement resolution (or other comparable preliminary approval) for a project before October 19, 1983, by any issuing authority,

(B) a substantial user of such project notifies the issuing authority within 30 days after the date of the enactment of this Act that it intends to claim its rights under this paragraph, and

(C) construction of such project began before October 19, 1983, or the substantial user was under a binding contract on such date to incur significant expenditures with respect to such project,

such issuing authority shall allocate its share of the limitation under section 103(n) of such Code for the calendar year during which the obligations were to be issued pursuant to such resolution (or other approval) first to such project. If the amount of obligations required by all projects which meet the requirements of the preceding sentence exceeds the issuing authority's share of the limitation under section 103(n) of such Code, priority under the preceding sentence shall be provided first to those projects for which substantial expenditures were incurred before October 19, 1983. If any issuing authority fails to meet the requirements of this paragraph, the limitation under section 103(n) of such Code for the issuing authority for the calendar year following such failure shall be reduced by the amount of obligations with respect to which such failure occurred.

Ante, p. 915.

(3) EXCEPTION FOR CERTAIN BONDS FOR A CONVENTION CENTER AND RESOURCE RECOVERY PROJECT.—In the case of any city, if—

(A) the city council of such city authorized a feasibility study for a convention center on June 10, 1982, and

(B) on November 4, 1983, a municipal authority acting for such city accepted a proposal for the construction of a facility that is capable of generating steam and electricity through the combustion of municipal waste,

the amendment made by section 621 shall not apply to any issue, issued during 1984, 1985, 1986, or 1987 and substantially all of the proceeds of which are to be used to finance the convention center (or access ramps and parking facilities therefor) described in subparagraph (A) or the facility described in subparagraph (B).

Ante, p. 915.

(b) PROPERTY FINANCED WITH TAX-EXEMPT BONDS REQUIRED TO BE DEPRECIATED ON STRAIGHT-LINE BASIS.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by section 628(b) shall apply to property placed in service after December 31, 1983, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after October 18, 1983.

Ante, p. 931.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 628(b) shall not apply with respect to facilities—

(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1983, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before October 19, 1983, the amendments made by section 628(b) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1984, the amendments made by section 628(b) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before October 19, 1983.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before October 19, 1983, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(c) OTHER PROVISIONS RELATING TO TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, the amendments made by this subtitle shall apply to obligations issued after December 31, 1983.

(2) OBLIGATIONS INVESTED IN FEDERALLY INSURED DEPOSITS.—Notwithstanding any other provision of this section, clause (ii) of section 103(h)(2)(B) of the Internal Revenue Code of 1954 (as amended by this subtitle) shall apply to obligations issued after April 14, 1983; except that such clause shall not apply to any

Ante, p. 918.

obligation issued pursuant to a binding contract in effect on March 4, 1983.

(3) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this subtitle (other than section 621) shall not apply to obligations with respect to facilities—

Ante, p. 915.

(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, or

(ii) with respect to which a binding contract to incur significant expenditures was entered into before October 19, 1983.

(B) FACILITIES.—Subparagraph (C) of subsection (b)(2)(A) shall apply for purposes of subparagraph (A) of this paragraph.

(4) REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—The amendment made by section 628(g) shall apply to refunding obligations issued after the date of the enactment of this Act; except that if substantially all the proceeds of the refunded issue were used to provide airports or docks, such amendment shall only apply to refunding obligations issued after December 31, 1984. In the case of any refunding obligation with respect to the Alabama State Docks Department or the Dade County Florida Airport, the preceding sentence shall be applied by substituting "December 31, 1985" for "December 31, 1984".

Ante, p. 931.

(d) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO CERTAIN PROPERTY.—The amendments made by this subtitle shall not apply to any property (and shall not apply to obligations issued to finance such property) if such property is described in any of the following paragraphs:

(1) Any property described in paragraph (5), (6), or (7) of section 31(g) of this Act.

Ante, p. 509.

(2) Any property described in paragraph (4), (8), or (17) of section 31(g) of this Act but only if the obligation is issued before January 1, 1985, and only if before June 19, 1984, the issuer had evidenced an intent to issue obligations exempt from taxation under the Internal Revenue Code of 1954 in connection with such property.

26 USC 1 *et seq.*

(3) Any property described in paragraph (3) of section 216(b) of the Tax Equity and Fiscal Responsibility Act of 1982.

96 Stat. 470.

(4) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

(A) a State public authority created pursuant to State legislation which took effect on June 18, 1973, took formal action before October 19, 1983, to commit development funds for such facility.

(B) such authority issues obligations for any such facility before January 1, 1987, and

(C) expenditures have been made for the development of any such facility before October 19, 1983.

(e) DETERMINATION OF SIGNIFICANT EXPENDITURE.—

(1) IN GENERAL.—For purposes of this section, the term "significant expenditures" means expenditures which equal or exceed the lesser of—

(A) $15,000,000, or

(B) 20 percent of the estimated cost of the facilities.

(2) CERTAIN GRANTS TREATED AS EXPENDITURES.—For purposes of paragraph (1), the amount of any UDAG grant preliminarily approved on May 5, 1981, or April 4, 1983, shall be treated as an expenditure with respect to the facility for which such grant was so approved.

(f) EXCEPTIONS FOR CERTAIN OTHER AMENDMENTS.—If—

(1) there was an inducement resolution (or other comparable preliminary approval) for an issue before June 19, 1984, by any issuing authority, and

(2) such issue is issued before January 1, 1985, the following amendments shall not apply:

(A) the amendments made by section 623, *Ante*, p. 921.

(B) the amendments made by subsections (a) and (b) of section 627 (except to the extent such amendments relate to farm land), *Ante*, p. 928.

(C) in the case of a race track, the amendment made by section 627(c), and

(D) the amendments made by section 628(c). *Ante*, p. 931.

SEC. 632. MISCELLANEOUS EXCEPTIONS AND SPECIAL RULES.

(a) EXCEPTION FROM PROVISIONS OTHER THAN ARBITRAGE AND FEDERAL GUARANTEES.—Notwithstanding any other provision of this subtitle, the amendments made by this subtitle (other than by section 622 (relating to Federal guarantees) and section 623 (relating to arbitrage)) shall not apply to the following obligations: *Ante*, p. 918.

(1) Obligations issued with respect to any waste-to-energy facility authorized by official action on April 10, 1980 and with respect to which a subsequent agreement was signed between a city government and the Department of the Army on December 27, 1982, to jointly pursue construction and operation of such facility.

(2) Obligations issued to finance a redevelopment program on 9 city blocks adjacent to a transit station but only if such program was approved on October 25, 1983.

(3) Obligations issued pursuant to an inducement resolution adopted on August 8, 1978, for a redevelopment plan for which a redevelopment trust fund was established on September 7, 1977.

(4) Obligations issued to finance a UDAG project which was preliminarily approved on December 29, 1982, and which received final approval on May 3, 1984.

(5) Obligations issued to finance a parking garage pursuant to an inducement resolution adopted on March 9, 1984, in connection with a project for which a UDAG grant application was made on January 31, 1984.

(6) Obligations which—

(A) are issued to finance a downtown development project with respect to which an urban development action grant is made but only if such grant—

(i) was preliminarily approved on November 3, 1983, and

(ii) received final approval before June 1, 1984, and

(B) are issued in connection with inducement resolutions that were adopted on December 21, 1982, July 5, 1983, and March 1, 1983,

but only to the extent the aggregate face amount of such obligations does not exceed $34,000,000.

(7) Obligations with respect to which an inducement resolution was adopted on March 5, 1984, for the purpose of acquiring existing airport facilities at more than 12 locations in 1 State but—

(A) only if the Civil Aeronautics Board certifies that such transaction would reduce the amount of Federal subsidies provided under section 419 of the Airline Deregulation Act of 1978, and

49 USC app. 1389.

(B) only to the extent the aggregate face amount of such obligations does not exceed $25,000,000.

(8) Obligations described in subsection (b).

(b) CERTAIN PARKING FACILITY BONDS.—For purposes of the Internal Revenue Code of 1954, any obligation issued with respect to a parking facility approved by an agency of a county government on December 1, 1982, as part of an urban revitalization plan shall be treated as an obligation described in section 103(b)(4)(D) of such Code.

26 USC 1 *et seq.*

(c) EXCEPTION TO CERTAIN BOND LIMITATIONS.—The amendments made by section 621 (relating to the limitations on amount of private activity bonds) and section 626(a) (relating to the prohibition on acquiring existing facilities) shall not apply to obligations issued before January 1, 1987, in connection with the Claymont, Delaware, regeneration plant of the Delaware Economic Development Authority, but only to the extent the aggregate face amount of such obligation does not exceed $30,000,000.

Ante, p. 915.
Ante, p. 926.

(d) CERTAIN OBLIGATIONS TREATED AS NOT FEDERALLY GUARANTEED.—For purposes of section 103(h) of the Internal Revenue Code of 1954, obligations (including refunding obligations) shall not be treated as federally guaranteed if—

Ante, p. 918.

(A) such obligations are issued with respect to any facility, and

(B) any obligation was issued on June 3, 1982 in the principal amount of $11,312,125 for the purpose of financing the development, study, or related costs incurred with respect to such facility.

(e) CERTAIN EXPENDITURES TREATED AS SIGNIFICANT EXPENDITURES.—For purposes of this title, expenditures of $850,000 incurred with respect to any project involving $15,000,000 shall be treated as significant expenditures if such expenditures were incurred pursuant to an agreement entered into on July 13, 1982, relating to the discharge of industrial waste after January 1, 1986.

(f) CERTAIN ORDINANCES TREATED AS INDUCEMENT RESOLUTIONS.—For purposes of this title, any ordinance passed on May 3, 1982, with respect to a planned development district shall be treated as an inducement resolution with respect to obligations issued in 1984 in connection with a mall project for such district.

(g) DELAYED EFFECTIVE DATE WITH RESPECT TO CERTAIN IDBS.—

(1) FERC PROJECTS.—Notwithstanding any other provision of this title, any amendments made by this title (other than the amendments to section 103(c) of the Internal Revenue Code of 1954) which, but for this paragraph, would apply to industrial development bonds issued after December 31, 1984, shall not apply to any of the following obligations issued before January 1, 1986:

(A) obligations issued with respect to Federal Energy Regulatory Commission project 4657, but only to the extent

the aggregate face amount of such obligations does not exceed $12,900,000;

(B) obligations issued with respect to Federal Energy Regulatory Commission project 2853, but only to the extent the aggregate face amount of such obligations does not exceed $28,600,000; or

(C) obligations issued with respect to Federal Energy Regulatory Commission project 4700, but only to the extent the aggregate face amount of such obligations does not exceed $3,850,000.

(2) PARK CENTRAL NEW TOWN IN TOWN PROJECT.—Notwithstanding any other provision of this title, any amendments made by this title (other than the amendments to section 103(c) of the Internal Revenue Code of 1954) which, but for this paragraph, would apply to industrial development bonds issued after December 31, 1984, shall not apply to any obligation issued before January 1, 1988, with respect to Park Central New Town In Town Project located in Port Arthur, Texas, but only to the extent the aggregate face amount of such obligations does not exceed $80,000,000.

Subtitle C—Miscellaneous Provisions

SEC. 641. CLARIFICATION OF TREATMENT OF CERTAIN EXEMPTIONS FOR PURPOSES OF THE FEDERAL ESTATE AND GIFT TAXES. 26 USC 2001 note.

(a) GENERAL RULE.—Nothing in any provision of law exempting any property (or interest therein) from taxation shall exempt the transfer of such property (or interest therein) from Federal estate, gift, and generation-skipping transfer taxes. In the case of any provision of law enacted after the date of the enactment of this Act, such provision shall not be treated as exempting the transfer of property from Federal estate, gift, and generation-skipping transfer taxes unless it refers to the appropriate provisions of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—The provisions of subsection (a) shall apply to the estates of decedents dying, gifts made, and transfers made on or after June 19, 1984.

"(2) TREATMENT OF CERTAIN TRANSFERS TREATED AS TAXABLE.—The provisions of subsection (a) shall also apply in the case of any transfer of property (or interest therein) if at any time there was filed an estate or gift tax return showing such transfer as subject to Federal estate or gift tax.

"(3) NO INFERENCE.—No inference shall arise from paragraphs (1) and (2) that any transfer of property (or interest therein) before June 19, 1984, is exempt from Federal estate and gift taxes.

SEC. 642. REPORTS WITH TRANSFERS OF PUBLIC HOUSING BONDS. 26 USC 2001 note.

(a) GENERAL RULE.—With respect to transfers of public housing bonds occurring after December 31, 1983, and before June 19, 1984, the taxpayer shall report the date and amount of such transfer and such other information as the Secretary of the Treasury or his delegate shall prescribe by regulations to allow the determination of the tax and interest due if it is ultimately determined that such transfers are subject to estate, gift, or generation-skipping tax.

(b) PENALTY FOR FAILURE TO REPORT.—Any taxpayer failing to provide the information required by subsection (a) shall be liable for a penalty equal to 25 percent of the excess of (1) the estate, gift, or generation-skipping tax that is payable assuming that such transfers are subject to tax, over (2) the tax payable assuming such transfers are not so subject.

SEC. 643. TAX-EXEMPT STATUS OF OBLIGATIONS OF CERTAIN EDUCATIONAL ORGANIZATIONS.

(a) IN GENERAL.—For purposes of section 103 of the Internal Revenue Code of 1954, a qualified educational organization shall be treated as a State governmental unit, but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business (determined by applying section 513(a) of such Code to such organization).

(b) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of subsection (a), the term "qualified educational organization" means a college or university created on February 22, 1855, by specific act of the legislature of the State within which such college or university is located.

(c) EFFECTIVE DATE.—This section shall apply to obligations issued after December 31, 1953.

SEC. 644. LOCAL FURNISHING OF ELECTRICITY OR GAS.

(a) GENERAL RULE.—For the purposes of section 103(b)(4)(E), facilities for the local furnishing of electric energy also shall include a facility that is part of a system providing service to the general populace (i) if at least 97 percent (measured both by total number of metered customers and by their annual consumption on a kilowatt hour basis) of the retail customers of such system are located in two contiguous counties, and (ii) if the remainder of such customers are located in a portion of a third contiguous county which portion is located on a peninsula not directly connected by land to the rest of the county of which it is a part.

(b) ELECTION TO ALLOCATE TO 1984 ONE-HALF OF STATE LIMIT FOR 1985, 1986, AND 1987.—Solely for purposes of issuing obligations described in subsection (a), the issuing authorities of a State may elect (at such time and in such manner as the Secretary of the Treasury shall by regulations prescribe) to use in 1984 one-half of the amount which would have been the State limit for the calendar years 1985, 1986, and 1987.

SEC. 645. LOCAL FURNISHING WHERE FACILITY INITIALLY AUTHORIZED BY FEDERAL GOVERNMENT.

For the purpose of section 103(b)(4)(E), facilities for the local furnishing of electric energy also shall include a facility that is part of a system providing service to the general populace—

(i) if the facility was initially authorized by the Federal Government in 1962;

(ii) if the facility receives financing of at least 25 percent by an exempt person;

(iii) if the electric energy generated by the facility is purchased by an electric cooperative qualified as a rural electric borrower under 7 U.S.C. section 901 et seq. and if;

(iv) the facility is located in a noncontiguous State.

SEC. 646. TREASURY DEPARTMENT DECISIONS AFFECTING TAX-EXEMPT BONDS.

20 USC 1087-1 note.

(a) The Secretary of Education and the Secretary of the Treasury shall within 90 days of the date of enactment of this provision, establish procedures under which issuers affected by any decision of the Secretary of Education or his delegate under section 7 of the Student Loan Consolidation and Technical Amendments Act of 1983 may request and obtain a review of such decision by the Secretary of the Treasury or his delegate followed by a written report to the Secretary of Education and to such person with respect to such review to be filed no later than 60 days of the request for review (unless the person requesting such review consents to an extension of time).

20 USC 1087-1 and note, 1087-1a.

(b) Nothing in this section shall affect the exemption from income taxation of interest on any student loan bond or any issuer of such bonds.

SEC. 647. SPECIAL RULE FOR POSSESSIONS AND DISTRICT OF COLUMBIA.

Notwithstanding any other provision of law, in the case of obligations issued before July 1, 1987—

(1) the Virgin Islands and American Samoa shall have authority to issue industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954), and

(2) the District of Columbia Housing Finance Agency shall have the authority to issue obligations described in section 103(b)(4)(A) of such Code and to issue mortgage subsidy bonds (as defined in section 103A of such Code).

SEC. 648. SPECIAL ARBITRAGE RULE.

Securities or obligations are not described in section 103(c)(2) (A) or (B) of the Internal Revenue Code of 1954 and are not subject to yield restrictions to the extent that on the date of issue of a bond issue which is payable from the investment earnings on such securities or obligations—

(1) such securities or obligations are held in a fund which, except to the extent of the investment earnings on such securities or obligations, cannot be used, under State constitutional or statutory restrictions continuously in effect since October 9, 1969, to pay debt service on the bond issue or to finance the facilities that are to be financed with the proceeds of the bonds,

(2) the fund has received no substantial discretionary contributions after October 9, 1969,

(3) the issuer (A) had a practice of issuing bonds secured by the investment earnings of the fund during the period commencing January 1, 1960, and ending on October 9, 1969, and (B) has had a continuous practice of issuing bonds secured by the investment earnings of the fund at least once during each 5-year period beginning on October 9, 1969, and

(4) the amount of securities or obligations benefitting from this rule cannot exceed the principal amount of bonds (to which such securities or other obligations would, but for this rule, be allocated) which could be issued under applicable laws restricting the amount of bonds that can be issued (but not restrictions on the purposes for which bonds can be issued) in effect on October 9, 1969, as applied to the facts on the day of issue.

TITLE VII—TECHNICAL CORRECTIONS

26 USC 31 note.

SEC. 701. COORDINATION WITH OTHER TITLES.

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Amendments Related to the Tax Equity and Fiscal Responsibility Act of 1982

SEC. 711. TECHNICAL CORRECTIONS OF PROVISIONS RELATING TO INDIVIDUALS.

(a) AMENDMENTS RELATED TO SECTION 201.—

26 USC 55.

(1) DEFINITION OF REGULAR TAX.—Paragraph (2) of section 55(f) (defining regular tax) is amended by striking out "sections 72(m)(5)(B)" and inserting in lieu thereof "sections 47(a), 72(m)(5)(B)".

(2) SPECIAL ELECTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS LIMITED TO WELLS LOCATED IN THE UNITED STATES.—

26 USC 58.

Subparagraph (A) of section 58(i)(4) (relating to special election for intangible drilling and development cost not allocable to interest as limited partner) is amended by inserting "(with respect to wells located in the United States)" after "intangible drilling costs".

(3) 3-YEAR AMORTIZATION FOR CIRCULATION EXPENSES.—

26 USC 57.

(A) Subparagraph (B) of section 57(a)(6) (relating to circulation and research and experimental expenditures) is amended to read as follows:

"(B) the amount which would have been allowable for the taxable year with respect to expenditures paid or incurred during such taxable year if—

"(i) the circulation expenditures described in section 173 had been capitalized and amortized ratably over the 3-year period beginning with the taxable year in which such expenditures were made, or

"(ii) the research and experimental expenditures described in section 174 had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made."

26 USC 58.

(B) Paragraph (1) of section 58(i) (relating to optional 10-year writeoff of certain tax preferences) is amended by striking out "10-year period" and inserting in lieu thereof "10-year period (3-year period in the case of circulation expenditures described in section 173)".

26 USC 173.

(C) Subsection (b) of section 173 is amended by striking out "10-year" and inserting in lieu thereof "3-year".

(4) LOSSES TREATED AS INVESTMENT LOSSES.—Subparagraph (B)

26 USC 55.

of section 55(e)(8) is amended to read as follows:

"(B) INCOME AND LOSSES TAKEN INTO ACCOUNT IN COMPUTING QUALIFIED NET INVESTMENT INCOME.—Any income or loss derived from a limited business interest shall be taken

into account in computing qualified net investment income."

(5) TREATMENT OF ALCOHOL FUELS CREDIT.—Subparagraph (c) of section 55(b)(1) (defining alternative minimum taxable income) is amended by striking out "section 667" and inserting in lieu thereof "section 87 or 667". 26 USC 55.

(b) AMENDMENT RELATED TO SECTION 202.—Paragraph (5) of section 213(d) (relating to definitions) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (4)". *Ante*, p. 847.

(c) AMENDMENTS RELATED TO SECTION 203.—

(1) CLARIFICATION OF ADJUSTED GROSS INCOME IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (2) of section 165(h) (relating to casualty and theft losses) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph: 26 USC 165.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of paragraph (1), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income."

(2) COORDINATION OF SECTION 165(h) WITH SECTION 1231.—

(A) COORDINATION FOR 1984 AND SUBSEQUENT YEARS.—

(i) CLARIFICATION OF LOSSES TO WHICH SECTION 165(c)(3) APPLIES.—Paragraph (3) of section 165(c) (relating to limitation on loss of individuals) is amended by striking out "trade or business" and inserting in lieu thereof "trade or business or a transaction entered into for profit".

(ii) AMENDMENT OF SECTION 165(h).—Subsection (h) of section 165 (relating to casualty and theft losses) is amended to read as follows:

"(h) TREATMENT OF CASUALTY GAINS AND LOSSES.—

"(1) $100 LIMITATION PER CASUALTY.—Any loss of an individual described in subsection (c)(3) shall be allowed only to the extent that the amount of the loss to such individual arising from each casualty, or from each theft, exceeds $100.

"(2) NET CASUALTY LOSS ALLOWED ONLY TO THE EXTENT IT EXCEEDS 10 PERCENT OF ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—If the personal casualty losses for any taxable year exceed the personal casualty gains for such taxable year, such losses shall be allowed for the taxable year only to the extent of the sum of—

"(i) the amount of the personal casualty gains for the taxable year, plus

"(ii) so much of such excess as exceeds 10 percent of the adjusted gross income of the individual.

"(B) SPECIAL RULE WHERE PERSONAL CASUALTY GAINS EXCEED PERSONAL CASUALTY LOSSES.—If the personal casualty gains for any taxable year exceed the personal casualty losses for such taxable year—

"(i) all such gains shall be treated as gains from sales or exchanges of capital assets, and

"(ii) all such losses shall be treated as losses from sales or exchanges of capital assets.

"(3) DEFINITIONS OF PERSONAL CASUALTY GAIN AND PERSONAL CASUALTY LOSS.—For purposes of this subsection—

"(A) PERSONAL CASUALTY GAIN.—The term 'personal casualty gain' means the recognized gain from any involuntary conversion of property which is described in subsection (c)(3) arising from fire, storm, shipwreck, or other casualty, or from theft.

"(B) PERSONAL CASUALTY LOSS.—The term 'personal casualty loss' means any loss described in subsection (c)(3). For purposes of paragraph (2), the amount of any personal casualty loss shall be determined after the application of paragraph (1).

"(4) SPECIAL RULES.—

"(A) PERSONAL CASUALTY LOSSES ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME TO THE EXTENT OF PERSONAL CASUALTY GAINS.—In any case to which paragraph (2)(A) applies, the deduction for personal casualty losses for any taxable year shall be treated as a deduction allowable in computing adjusted gross income to the extent such losses do not exceed the personal casualty gains for the taxable year.

"(B) JOINT RETURNS.—For purposes of this subsection, a husband and wife making a joint return for the taxable year shall be treated as 1 individual.

"(C) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of paragraph (2), the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(D) COORDINATION WITH ESTATE TAX.—No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return."

26 USC 1231.

(iii) SECTION 1231 NOT TO APPLY TO PERSONAL CASUALTY GAINS OR LOSSES.—Subsection (a) of section 1231 (relating to property used in the trade or business and involuntary conversions) is amended to read as follows:

"(a) GENERAL RULE.—

"(1) GAINS EXCEED LOSSES.—If—

"(A) the section 1231 gains for any taxable year, exceed

"(B) the section 1231 losses for such taxable year,

such gains and losses shall be treated as long-term capital gains or long-term capital losses, as the case may be.

"(2) GAINS DO NOT EXCEED LOSSES.—If—

"(A) the section 1231 gains for any taxable year, do not exceed

"(B) the section 1231 losses for such taxable year,

such gains and losses shall not be treated as gains and losses from sales or exchanges of capital assets.

"(3) SECTION 1231 GAINS AND LOSSES.—For purposes of this subsection—

"(A) SECTION 1231 GAIN.—The term 'section 1231 gain' means—

"(i) any recognized gain on the sale or exchange of property used in the trade or business, and

"(ii) any recognized gain from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) into other property or money of—

"(I) property used in the trade or business, or

"(II) any capital asset which is held for more than 1 year and is held in connection with a trade or business or a transaction entered into for profit.

"(B) SECTION 1231 LOSS.—The term 'section 1231 loss' means any recognized loss from a sale or exchange or conversion described in subparagraph (A).

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) In determining under this subsection whether gains exceed losses—

"(i) the section 1231 gains shall be included only if and to the extent taken into account in computing gross income, and

"(ii) the section 1231 losses shall be included only if and to the extent taken into account in computing taxable income, except that section 1211 shall not apply.

"(B) Losses (including losses not compensated for by insurance or otherwise) on the destruction, in whole or in part, theft or seizure, or requisition or condemnation of—

"(i) property used in the trade or business, or

"(ii) capital assets which are held for more than 1 year and are held in connection with a trade or business or a transaction entered into for profit,

shall be treated as losses from a compulsory or involuntary conversion.

"(C) In the case of any involuntary conversion (subject to the provisions of this subsection but for this sentence) arising from fire, storm, shipwreck, or other casualty, or from theft, of any—

"(i) property used in the trade or business, or

"(ii) any capital asset which is held for more than 1 year and is held in connection with a trade or business or a transaction entered into for profit,

this subsection shall not apply to such conversion (whether resulting in gain or loss) if during the taxable year the recognized losses from such conversions exceed the recognized gains from such conversions."

(iv) Sections 873(b)(1) and 931(d)(2)(B) are each amended by striking out ", for losses of property not connected with the trade or business if arising from certain casualties or theft," and inserting in lieu thereof "for losses". 26 USC 873, 931.

(v) EFFECTIVE DATE.—The amendments made by this subparagraph shall apply to taxable years beginning after December 31, 1983. 26 USC 165 note.

(B) TRANSITIONAL RULE.—In the case of taxable years beginning before January 1, 1984— 26 USC 165 note.

(i) For purposes of paragraph (1)(B) of section 165(h) of the Internal Revenue Code of 1954, adjusted gross *Ante*, p. 943.

income shall be determined without regard to the application of section 1231 of such Code to any gain or loss from an involuntary conversion of property described in subsection (c)(3) of section 165 of such Code arising from fire, storm, shipwreck, or other casualty or from theft.

(ii) Section 1231 of such Code shall be applied after the application of paragraph (1) of section 165(h) of such Code.

Ante, p. 943.
26 USC 6405.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 6405 (relating to refunds attributable to certain disaster losses) is amended by striking out "section 165(h)" and inserting in lieu thereof "section 165(i)".

SEC. 712. TECHNICAL CORRECTIONS OF PROVISIONS PRIMARILY RELATING TO BUSINESSES.

(a) AMENDMENTS RELATED TO SECTION 204.—

(1) CLARIFICATION OF ADDITIONAL AMOUNT TREATED AS ORDINARY INCOME UNDER SECTION 1250.—

26 USC 291.

(A) Paragraph (1) of section 291(a) (relating to section 1250 capital gain treatment) is amended—

(i) by striking out "under section 1250" in subparagraph (B) and inserting in lieu thereof "under section 1250 (determined without regard to this paragraph)", and

(ii) by striking out "which is ordinary income" and inserting in lieu thereof "which is ordinary income under section 1250".

26 USC 1250.

(B) Subsection (a) of section 1250 is amended by adding at the end thereof the following new paragraph:

"(4) CROSS REFERENCE.—

"For reduction in the case of corporations on capital gain treatment under this section, see section 291(a)(1)."

(2) INVESTMENT TAX CREDIT ALLOWED ONLY FOR MINERAL EXPLORATION AND DEVELOPMENT COSTS FOR DEPOSITS LOCATED IN THE UNITED STATES.—Clause (ii) of section 291(b)(2)(B) is amended by inserting "in the case of a deposit located in the United States," after "(ii)".

26 USC 291.

(3) CLARIFICATION OF COORDINATION WITH COST DEPLETION.—Paragraph (6) of section 291(b) (relating to coordination with cost depletion) is amended to read as follows:

"(6) COORDINATION WITH COST DEPLETION.—The portion of the adjusted basis of any property which is attributable to amounts to which paragraph (1) applied shall not be taken into account for purposes of determining depletion under section 611."

(4) CLARIFICATION OF DEFINITION OF INTEREST.—Subparagraph (B) of section 291(e)(1) (relating to interest on debt to carry tax-exempt obligations acquired after December 31, 1982) is amended by adding at the end thereof the following new clause:

"(iii) INTEREST.—For purposes of this subparagraph, the term 'interest' includes amounts (whether or not designated as interest) paid in respect of deposits, investment certificates, or withdrawable or repurchasable shares."

26 USC 48.

(b) AMENDMENT RELATED TO SECTION 205.—Subsection (q) of section 48 (relating to basis adjustment to section 38 property) is amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT IN BASIS OF INTEREST IN PARTNERSHIP OR S CORPORATION.—The adjusted basis of—

"(A) a partner's interest in a partnership, and

"(B) stock in an S corporation,

shall be appropriately adjusted to take into account adjustments made under this subsection in the basis of property held by the partnership or S corporation (as the case may be)."

(c) AMENDMENT RELATED TO SECTION 207.—Paragraph (4) of section 189(e) (defining residential real property) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph: 26 USC 189.

"(C) real property held by a cooperative housing corporation (as defined in section 216(b)) and used for dwelling purposes."

(d) AMENDMENTS RELATED TO SECTION 210.—

(1) SPECIAL RULE WHERE DEALER-LESSEE REQUIRED TO PURCHASE VEHICLE.—Paragraph (2) of section 210(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining terminal rental adjustment clause) is amended by adding at the end thereof the following new sentence: "Such term also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in the preceding sentence." 26 USC 168 note.

(2) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN THAT HE WAS OWNER.—Section 210 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION WHERE LESSEE TOOK POSITION ON RETURN.—Subsection (a) shall not apply to deny a deduction for interest paid or accrued claimed by a lessee with respect to a qualified motor vehicle agreement on a return of tax imposed by chapter 1 of the Internal Revenue Code of 1954 which was filed before the date of the enactment of this Act or to deny a credit for investment in depreciable property claimed by the lessee on such a return pursuant to an agreement with the lessor that the lessor would not claim the credit." 26 USC 1 *et seq.*

(e) AMENDMENT RELATED TO SECTION 211.—Subparagraph (A) of section 211(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to retention of old sections 907(b) and 904(f)(4) where taxpayer had separate basket foreign loss) is amended by striking out "the 8-year period" and inserting in lieu thereof "the 8-year period (or such shorter period as the taxpayer may select)". 26 USC 907 note.

(f) AMENDMENT RELATED TO SECTION 212.—Paragraph (1) of section 954(h) (defining foreign base company oil-related income) is amended by striking out "section 907(c)(2)" and inserting in lieu thereof "paragraphs (2) and (3) of section 907(c)". 26 USC 954.

(g) AMENDMENT RELATED TO SECTION 213.—The table contained in subparagraph (C) of section 936(a)(2) is amended by striking out "The percentage tax is:" and inserting in lieu thereof "The percentage is:". 26 USC 936.

(h) AMENDMENT RELATED TO SECTION 217.—Subsection (e) of section 217 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof 26 USC 103 note.

the following new sentence: "For purposes of applying section 168(f)(8)(D)(v) of the Internal Revenue Code of 1954, the amendments made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act."

(i) AMENDMENTS RELATED TO SECTION 222.—

Ante, p. 569.
26 USC 302.

(1) Sections 301(e)(2) and 302(f)(3) are each amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation".

26 USC 306.

(2) The paragraph heading of paragraph (1) of section 306(b) (relating to exceptions) is amended by striking out "INTEREST." and inserting in lieu thereof "INTEREST, ETC.".

26 USC 543.

(3) Paragraph (1) of section 543(a) (defining personal holding company income) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period.

(j) AMENDMENT RELATED TO SECTION 223.—Paragraph (1) of section

26 USC 311.

311(e) (defining qualified stock) is amended by adding at the end thereof the following new subparagraph:

"(C) RULES FOR PASSTHRU ENTITIES.—In the case of an S corporation, partnership, trust, or estate—

"(i) the determination of whether subparagraph (A) is satisfied shall be made at the shareholder, partner, or beneficiary level (rather than at the entity level), and

"(ii) the distribution shall be treated as made directly to the shareholders, partners, or beneficiaries in proportion to their respective interests in the entity."

(k) AMENDMENTS RELATED TO SECTION 224.—

(1) ASSETS TREATED AS SOLD AT FAIR MARKET VALUE.—

26 USC 338.

(A) IN GENERAL.—Paragraph (1) of section 338(a) (relating to general rule) is amended by inserting "at fair market value" after "acquisition date".

(B) BASIS OF ASSETS AFTER DEEMED PURCHASE.—Subsection (b) of section 338 (relating to price at which deemed sale made) is amended to read as follows:

"(b) BASIS OF ASSETS AFTER DEEMED PURCHASE.—

"(1) IN GENERAL.—For purposes of subsection (a), the assets of the target corporation shall be treated as purchased for an amount equal to the sum of—

"(A) the grossed-up basis of the purchasing corporation's recently purchased stock, and

"(B) the basis of the purchasing corporation's nonrecently purchased stock.

"(2) ADJUSTMENT FOR LIABILITIES AND OTHER RELEVANT ITEMS.—The amount described in paragraph (1) shall be adjusted under regulations prescribed by the Secretary for liabilities of the target corporation and other relevant items.

"(3) ELECTION TO STEP-UP THE BASIS OF CERTAIN TARGET STOCK.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, the basis of the purchasing corporation's nonrecently purchased stock shall be the basis amount determined under subparagraph (B) of this paragraph if the purchasing corporation makes an election to recognize gain as if such stock were sold on the acquisition date for an amount equal to the basis amount determined under subparagraph (B).

"(B) DETERMINATION OF BASIS AMOUNT.—For purposes of subparagraph (A), the basis amount determined under this subparagraph shall be an amount equal to the grossed-up basis determined under subparagraph (A) of paragraph (1) multiplied by a fraction—

"(i) the numerator of which is the percentage of stock (by value) in the target corporation attributable to the purchasing corporation's nonrecently purchased stock, and

"(ii) the denominator of which is 100 percent minus the percentage referred to in clause (i).

"(4) GROSSED-UP BASIS.—For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the corporation's recently purchased stock, multiplied by a fraction—

"(A) the numerator of which is 100 percent, minus the percentage of stock (by value) in the target corporation attributable to the purchasing corporation's nonrecently purchased stock, and

"(B) the denominator of which is the percentage of stock (by value) in the target corporation attributable to the purchasing corporation's recently purchased stock.

"(5) ALLOCATION AMONG ASSETS.—The amount determined under paragraphs (1) and (2) shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary.

"(6) DEFINITIONS OF RECENTLY PURCHASED STOCK AND NONRECENTLY PURCHASED STOCK.—For purposes of this subsection—

"(A) RECENTLY PURCHASED STOCK.—The term 'recently purchased stock' means any stock in the target corporation which is held by the purchasing corporation on the acquisition date and which was purchased by such corporation during the 12-month acquisition period.

"(B) NONRECENTLY PURCHASED STOCK.—The term 'nonrecently purchased stock' means any stock in the target corporation which is held by the purchasing corporation on the acquisition date and which is not recently purchased stock."

(2) COORDINATION WITH SECTION 333.—The last sentence of paragraph (1) of section 338(c) (relating to coordination with section 337 where purchasing corporation holds less than 100 percent of stock) is amended by striking out "such 1-year period" and inserting in lieu thereof "such 1-year period and section 333 does not apply to such liquidation". 26 USC 338.

(3) EXCEPTIONS TO DEEMED ELECTION RULE.—Paragraph (2) of section 338(e) (relating to exceptions) is amended—

(A) by striking out "(in whole or in part)" in subparagraph (B) and inserting in lieu thereof "wholly",

(B) by inserting "or" at the end of subparagraph (C), and

(C) by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following:

"(D) such acquisition is described in regulations prescribed by the Secretary and meets such conditions as such regulations may provide."

(4) TIME FOR MAKING ELECTION.—Paragraph (1) of section 338(g) (relating to election) is amended to read as follows:

"(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than the 15th day of the 9th month beginning after the month in which the acquisition date occurs."

(5) DEFINITION OF PURCHASE.—

26 USC 338.

(A) Subparagraph (B) of section 338(h)(3) (defining purchase) is amended to read as follows:

"(B) DEEMED PURCHASE UNDER SUBSECTION (a).—The term 'purchase' includes any deemed purchase under subsection (a)(2). The acquisition date for a corporation which is deemed purchased under subsection (a)(2) shall be determined under regulations prescribed by the Secretary."

(B) Paragraph (3) of section 338(h) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN STOCK ACQUISITIONS FROM RELATED CORPORATIONS.—

"(i) IN GENERAL.—Clause (iii) of subparagraph (A) shall not apply to an acquisition of stock from a related corporation if at least 50 percent in value of the stock of such related corporation was acquired by purchase (within the meaning of subparagraph (A) and (B)).

"(ii) CERTAIN DISTRIBUTIONS.—Clause (i) of subparagraph (A) shall not apply to an acquisition of stock described in clause (i) of this subparagraph if the corporation acquiring such stock—

"(I) made a qualified stock purchase of stock of the related corporation, and

"(II) made an election under this section (or is treated under subsection (e) as having made such an election) with respect to such qualified stock purchase.

"(iii) RELATED CORPORATION DEFINED.—For purposes of this subparagraph, a corporation is a related corporation if stock owned by such corporation is treated (under section 318(a) other than paragraph (4) thereof) as owned by the corporation acquiring the stock."

(C) Paragraph (1) of section 338(h) (defining 12-month acquisition period) is amended by inserting before the period at the end thereof the following: "(or, if any of such stock was acquired in an acquisition which is a purchase by reason of subparagraph (C) of paragraph (3), the date on which the acquiring corporation is first considered under section 318(a) (other than paragraph (4) thereof) as owning stock owned by the corporation from which such acquisition was made)."

(D) Clause (ii) of section 338(h)(3)(A) (defining purchase) is amended to read as follows:

"(ii) the stock is not acquired in an exchange to which section 351, 354, 355, or 356 applies and is not acquired in any other transaction described in regulations in which the transferor does not recognize the entire amount of the gain or loss realized on the transaction, and".

26 USC 318.

(E) Paragraph (4) of section 318(b) (relating to cross references) is amended to read as follows: "(4) section 338(h)(3) (defining purchase);".

(6) SPECIAL RULES FOR APPLYING SECTION 338.—

(A) Subsection (h) of section 338 (relating to definitions and special rules) is amended by striking out paragraph (7), by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively, and by inserting after paragraph (6) the following new paragraphs: 26 USC 338.

"(7) ADDITIONAL PERCENTAGE MUST BE ATTRIBUTABLE TO PURCHASE, ETC.—For purposes of subsection (c)(1), any increase in the maximum percentage of stock taken into account over the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date shall be taken into account only to the extent such increase is attributable to—

"(A) purchase, or

"(B) a redemption of stock of the target corporation—

"(i) to which section 302(a) applies, or

"(ii) in the case of a shareholder who is not a corporation, to which section 301 applies.

"(8) ACQUISITIONS BY AFFILIATED GROUP TREATED AS MADE BY 1 CORPORATION.—Except as provided in regulations prescribed by the Secretary, stock and asset acquisitions made by members of the same affiliated group shall be treated as made by 1 corporation."

(B) Paragraph (9) of section 338(h), as redesignated by subparagraph (A), is amended by striking out "paragraph (9)" and inserting in lieu thereof "paragraph (10)".

(C) Subsection (h) of section 338 is amended by adding at the end thereof the following new paragraphs:

"(11) ELECTIVE FORMULA FOR DETERMINING FAIR MARKET VALUE.—For purposes of subsection (a)(1), fair market value may be determined on the basis of a formula provided in regulations prescribed by the Secretary which takes into account liabilities and other relevant items.

"(12) SECTION 337 TO APPLY WHERE TARGET HAD ADOPTED PLAN FOR COMPLETE LIQUIDATION.—If—

"(A) during the 12-month period ending on the acquisition date the target corporation adopted a plan of complete liquidation,

"(B) such plan was not rescinded before the close of the acquisition date, and

"(C) the purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election) with respect to the target corporation,

then, subject to rules similar to the rules of subsection (c)(1), for purposes of section 337 (and other provisions which relate to section 337), the target corporation shall be treated as having distributed all of its assets as of the close of the acquisition date.

"(13) TAX ON DEEMED SALE NOT TAKEN INTO ACCOUNT FOR ESTIMATED TAX PURPOSES.—For purposes of section 6655, tax attributable to the sale described in subsection (a)(1) shall not be taken into account.

"(14) COORDINATION WITH SECTION 341.—For purposes of determining whether section 341 applies to a disposition within 1 year after the acquisition date of stock by a shareholder (other than the acquiring corporation) who held stock in the target corporation on the acquisition date, section 341 shall be applied without regard to this section.

"(15) COMBINED DEEMED SALE RETURN.—Under regulations prescribed by the Secretary, a combined deemed sale return may be filed by all target corporations acquired by a purchasing corporation on the same acquisition date if such target corporations were members of the same selling consolidated group (as defined in subparagraph (B) of paragraph (10))."

26 USC 338.

(7) Subsection (i) of section 338 (relating to regulations) is amended to read as follows:

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

"(1) regulations to ensure that the purpose of this section to require consistency of treatment of stock and asset sales and purchases may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations) and

"(2) regulations providing for the coordination of the provisions of this section with the provision of this title relating to foreign corporations and their shareholders."

(8) TREATMENT OF CERTAIN LIQUIDATIONS.—

26 USC 269.

(A) IN GENERAL.—Section 269 (relating to acquisitions made to evade or avoid income tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) CERTAIN LIQUIDATIONS AFTER QUALIFIED STOCK PURCHASES.—

"(1) IN GENERAL.—If—

"(A) there is a qualified stock purchase by a corporation of another corporation,

"(B) an election is not made under section 338 with respect to such purchase,

"(C) the acquired corporation is liquidated pursuant to a plan of liquidation adopted not more than 2 years after the acquisition date, and

"(D) the principal purpose for such liquidation is the evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance which the acquiring corporation would not otherwise enjoy,

then the Secretary may disallow such deduction, credit, or other allowance.

"(2) MEANING OF TERMS.—For purposes of paragraph (1), the terms 'qualified stock purchase' and 'acquisition date' have the same respective meanings as when used in section 338."

(B) CONFORMING AMENDMENT.—Subsection (c) of section 269 (as redesignated by subparagraph (A)) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (b)".

26 USC 269 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to liquidations after October 20, 1983, in taxable years ending after such date.

(9) AMENDMENTS NOT TO APPLY TO ACQUISITIONS BEFORE SEPTEMBER 1, 1982.—

26 USC 338 note.

(A) IN GENERAL.—The amendments made by this subsection shall not apply to any qualified stock purchase (as defined in section 338(d)(3) of the Internal Revenue Code of 1954) where the acquisition date (as defined in section 338(h)(2) of such Code) is before September 1, 1982.

(B) EXTENSION OF TIME FOR MAKING ELECTION.—In the case of any qualified stock purchase described in subparagraph (A), the time for making an election under section 338 of such Code shall not expire before the close of the 60th day after the date of the enactment of this Act.

(10) SPECIAL RULES FOR DEEMED PURCHASES UNDER PRIOR LAW.—If, before October 20, 1983, a corporation was treated as making a qualified stock purchase (as defined in section 338(d)(3) of the Internal Revenue Code of 1954), but would not be so treated under the amendments made by paragraphs (5) and (6) of this subsection, the amendments made by such paragraphs shall not apply to such purchase unless such corporation elects (at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe) to have the amendments made by such paragraphs apply. 26 USC 338 note.

(l) AMENDMENTS RELATED TO SECTION 226.—

(1) AMOUNT CONSTITUTING DIVIDEND.—Paragraph (2) of section 304(b) (relating to amount constituting dividend) is amended to read as follows: 26 USC 304.

"(2) AMOUNT CONSTITUTING DIVIDEND.—In the case of any acquisition of stock to which subsection (a) applies, the determination of the amount which is a dividend (and the source thereof) shall be made as if the property were distributed—

"(A) by the acquiring corporation to the extent of its earnings and profits, and

"(B) then by the issuing corporation to the extent of its earnings and profits."

(2) COORDINATION WITH SECTION 351.—Subparagraph (A) of section 304(b)(3) (relating to coordination with section 351) is amended by striking out "(and not part III)" and inserting in lieu thereof "(and not section 351 and not so much of sections 357 and 358 as relates to section 351)".

(3) CERTAIN ASSUMPTIONS OF LIABILITY.—

(A) The first sentence of clause (i) of section 304(b)(3)(B) (relating to certain assumptions of liability, etc.) is amended by striking out "Subsection (a)" and inserting in lieu thereof "In the case of an acquisition described in section 351, subsection (a)".

(B) Subparagraph (B) of section 304(b)(3) (relating to coordination with section 351) is amended by adding at the end thereof the following new clause:

"(iii) CLAUSE (i) DOES NOT APPLY TO STOCK ACQUIRED FROM RELATED PERSON EXCEPT WHERE COMPLETE TERMINATION.—Clause (i) shall apply only to stock acquired by the transferor from a person—

"(I) none of whose stock is attributable to the transferor under section 318(a) (other than paragraph (4) thereof), or

"(II) who satisfies rules similar to the rules of section 302(c)(2) with respect to both the acquiring and the issuing corporations (determined as if such person were a distributee of each such corporation)."

(4) DISTRIBUTIONS INCIDENT TO FORMATION OF BANK HOLDING COMPANIES.—Subparagraph (C) of section 304(b)(3) (relating to distributions incident to formation of bank holding companies) is amended by adding at the end thereof the following new

sentence: "For purposes of this subparagraph, any assumption of (or acquisition of stock subject to) a liability under subparagraph (B) shall not be treated as a distribution of property."

(5) CONSTRUCTIVE OWNERSHIP.—

26 USC 304.

(A) Paragraph (3) of section 304(c) (relating to constructive ownership) is amended to read as follows:

"(3) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of determining control under this section.

"(B) MODIFICATION OF 50-PERCENT LIMITATIONS IN SECTION 318.—For purposes of subparagraph (A)—

26 USC 318.

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '5 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '5 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owned in such corporation bears to the value of all stock in such corporation."

26 USC 306.

(B) Paragraph (4) of section 306(c) is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of applying the preceding sentence to paragraph (3), the rules of section 304(c)(3)(B) shall apply."

Supra.

(6) CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGE.—Paragraph (3) of section 306(c) (relating to certain stock acquired in section 351 exchange) is amended by striking out the last sentence and inserting in lieu thereof the following: "Rules similar to the rules of section 304(b)(2) shall apply—

Ante, p. 953.

"(A) for purposes of the preceding sentence, and

"(B) for purposes of determining the application of this section to any subsequent disposition of stock which is section 306 stock by reason of an exchange described in the preceding sentence."

26 USC 304 note.

(7) EFFECTIVE DATES FOR AMENDMENTS MADE BY PARAGRAPHS (1) AND (3).—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by paragraphs (1) and (3) shall apply to stock acquired after June 18, 1984, in taxable years ending after such date.

(B) ELECTION BY TAXPAYER TO HAVE AMENDMENTS APPLY EARLIER.—Any taxpayer may elect, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, to have the amendments made by paragraphs (1) and (3) apply as if included in section 226 of the Tax Equity and Fiscal Responsibility Act of 1982.

96 Stat. 490.

(C) SPECIAL RULE FOR CERTAIN TRANSFERS TO FORM BANK HOLDING COMPANY.—Except as provided in subparagraph (D), the amendments made by paragraphs (1) and (3) shall not apply to transfers pursuant to an application to form a

BHC (as defined in section 304(b)(3)(D)(ii) of the Internal Revenue Code of 1954) filed with the Federal Reserve Board before June 18, 1984, if—

(i) such BHC was formed not later than the 90th day after the date of the last required approval of any regulatory authority to form such BHC, and

(ii) such BHC did not elect (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) not to have the provisions of this subparagraph apply.

(D) AMENDMENTS TO APPLY TO CERTAIN LIABILITIES INCURRED BEFORE OCTOBER 20, 1983.—The amendment made by paragraph (3)(A) shall apply to the acquisition of any stock to the extent the liability assumed, or to which such stock is subject, was incurred by the transferor after October 20, 1983.

(m) AMENDMENT RELATED TO SECTION 229.—Subsection (c) of section 229 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to modification of regulations on the completed contract method of accounting) is amended by adding at the end thereof the following new paragraph: 26 USC 451 note.

"(4) UNDERPAYMENTS OF ESTIMATED TAX FOR 1982.—To the extent provided in regulations, no addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 for the taxpayer's first taxable year ending after December 31, 1982, by reason of a long-term contract, but only with respect to installments required to be paid before April 13, 1983." *Ante*, p. 788.

(n) AMENDMENT RELATED TO SECTION 233.—Paragraph (11) of section 51(d) (defining members of economically disadvantaged families) is amended by adding at the end thereof the following new sentence: "Any such determination with respect to an individual who is a qualified summer youth employee or youth participating in a qualified cooperative education program with respect to any employer shall also apply for purposes of determining whether such individual is a member of another targeted group with respect to such employer." 26 USC 51.

SEC. 713. TECHNICAL CORRECTIONS OF PENSION PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 235.—

(1) ACTUARIAL ADJUSTMENTS MADE TO BENEFIT LIMIT RATHER THAN TO BENEFIT.—

(A) Subparagraph (C) of section 415(b)(2) (relating to adjustment to $90,000 limit where benefit begins before age 62) is amended by striking out the first sentence and inserting in lieu thereof the following: "If the retirement income benefit under the plan begins before age 62, the determination as to whether the $90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by reducing the limitation of paragraph (1)(A) so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $90,000 annual benefit beginning at age 62." 26 USC 415.

(B) Subparagraph (D) of section 415(b)(2) (relating to adjustment to $90,000 limitation where benefit begins after age 65) is amended to read as follows:

"(D) ADJUSTMENT TO $90,000 LIMIT WHERE BENEFIT BEGINS AFTER AGE 65.—If the retirement income benefit under the plan begins after age 65, the determination as to whether the $90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by increasing the limitation of paragraph (1)(A) so that such limitation (as so increased) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $90,000 annual benefit beginning at age 65."

26 USC 415.

(C)(i) Clauses (i) and (iii) of section 415(b)(2)(E) are each amended by striking out "any benefit" and inserting in lieu thereof "any benefit or limitation".

(ii) Clause (ii) of section 415(b)(2)(E) is amended by striking out "any benefit" and inserting in lieu thereof "any limitation".

(2) DEFINITION OF CURRENT ACCRUED BENEFIT IN THE CASE OF COLLECTIVELY BARGAINED PLANS.—Clause (i) of section 235(g)(4)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining current accrued benefit) is amended by adding at the end thereof the following new sentence: "In the case of any plan described in the first sentence of paragraph (5), the preceding sentence shall be applied by substituting for 'January 1, 1983' the applicable date determined under paragraph (5)."

26 USC 415 note.

(3) TRANSITION FRACTION ONLY APPLIES TO PLANS IN EXISTENCE BEFORE JULY 1, 1982.—Paragraph (6) of section 415(e) (relating to special transition rule for defined contribution fraction for years ending after December 31, 1982) is amended by adding at the end thereof the following new subparagraph:

26 USC 415.

"(C) PLAN MUST HAVE BEEN IN EXISTENCE ON OR BEFORE JULY 1, 1982.—This paragraph shall apply only to plans which were in existence on or before July 1, 1982."

(4) TREATMENT OF CERTAIN COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO BEFORE JULY 1, 1982.—Clause (ii) of section 235(g)(4)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 (defining current accrued benefit) is amended by adding at the end thereof the following new sentence: "For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement entered into before July 1, 1982, and ratified before September 3, 1982, shall be treated as a change made before July 1, 1982."

26 USC 415 note.

(b) AMENDMENTS RELATED TO SECTION 236.—

(1) EXCEPTION FOR CERTAIN LOANS NOT TO APPLY TO LOANS FROM DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—

26 USC 72.

(A) Subparagraph (A) of section 72(o)(3) (relating to amounts constructively received) is amended by striking out "subsection (p)" and inserting in lieu thereof "subsection (p) (other than the exception contained in paragraph (2) thereof)".

(B) Subparagraph (A) of section 72(p)(2) (relating to exception for certain loans) is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), the present value of the nonforfeitable accrued benefit shall be determined without regard to any accumulated deductible employee contributions (as defined in subsection (o)(5)(B))."

(2) DEFINITION OF REQUIRED PRINCIPAL PAYMENT.—Subparagraph (C) of section 236(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by inserting before the period at the end thereof the following: "or if such loan was payable on demand". 26 USC 72 note.

(3) REPEAL OF PROVISION TREATING CERTAIN LOAN REPAYMENTS AS CONTRIBUTIONS.—Subsection (f) of section 404 (relating to certain loan repayments considered as contributions) is hereby repealed. 26 USC 404.

(4) CLARIFICATION OF EXCEPTION FOR SMALL LOANS.—Clause (ii) of section 72(p)(2)(A) (relating to exception for certain loans) is amended to read as follows: 26 USC 72.

"(ii) the greater of (I) one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan, or (II) $10,000."

(c) AMENDMENTS RELATED TO SECTION 237.—

(1) AMENDMENTS CONFORMING TO LIMITING TO KEY EMPLOYEES THE PENALTY FOR PREMATURE DISTRIBUTIONS.—

(A) Clause (i) of section 72(m)(5)(A) is amended by striking out "as an owner-employee" and inserting in lieu thereof "as a key employee".

(B) The paragraph heading of section 72(m)(5) is amended by striking out "OWNER-EMPLOYEES" and inserting in lieu thereof "KEY EMPLOYEES".

(C) Sections 46(a)(4), 53(a), and 901(a) are each amended by striking out "tax on premature distributions to owner-employees" and inserting in lieu thereof "tax on premature distributions to key employees". *Ante*, p. 834, 838. 26 USC 901.

(2) CORRECTION OF CROSS REFERENCE TO DEFINITION OF BANK.—

(A) Subsection (f) of section 401 is amended by striking out "(as defined in subsection (d)(1))" and inserting in lieu thereof "(as defined in section 408(n))". 26 USC 401.

(B) Subsection (h) of section 408 is amended by striking out "(as defined in section 401(d)(1))" and inserting in lieu thereof "(as defined in subsection (n))". 26 USC 408.

(3) LIMITATION ON ROLLOVERS TO APPLY ONLY TO KEY EMPLOYEES.—Clause (ii) of section 402(a)(5)(E) (relating to self-employed individuals and owner-employees) is amended to read as follows: *Ante*, p. 869.

"(ii) KEY EMPLOYEES.—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to contributions made on behalf of the employee while he was a key employee in a top-heavy plan. For purposes of the preceding sentence, the terms 'key employee' and 'top-heavy plan' have the same respective meanings as when used in section 416."

(d) AMENDMENTS RELATED TO SECTION 238.—

(1) REPEAL OF SECTION 72(m)(9).—Paragraph (9) of section 72(m) (relating to return of excess contributions before due date of return) is hereby repealed. 26 USC 72.

(2) INCREASE IN AMOUNT OF DEDUCTION FOR SIMPLIFIED EMPLOYEE PENSIONS.—Clause (ii) of section 219(b)(2)(A) (relating to special rules for employer contributions under simplified employee pensions) is amended by striking out "but not in excess of 26 USC 219.

$15,000" and inserting in lieu thereof "but not in excess of the limitation in effect under section 415(c)(1)(A)".

26 USC 401.

(3) REPEAL OF SECTION 401(e).—Subsection (e) of section 401 (relating to contributions for premiums on annuity, etc., contracts) is hereby repealed.

(4) REPEAL OF SECTION 404(a)(9).—

26 USC 404.

(A) Subsection (a) of section 404 is amended by striking out paragraph (9) and by redesignating paragraph (10) as paragraph (9).

26 USC 415.

(B) Subparagraph (C) of section 415(c)(6) is amended—

(i) by striking out "paragraph (10) of section 404(a)" and inserting in lieu thereof "paragraph (9) of section 404(a)",

(ii) by striking out "section 404(a)(10)(A)" and inserting in lieu thereof "section 404(a)(9)(A)", and

(iii) by striking out "section 404(a)(10)(B)" and inserting in lieu thereof "section 404(a)(9)(B)".

(5) REPEAL OF SECTION 404(h)(4).—Paragraph (4) of section 404(h) (relating to effect on self-employed individuals or shareholder employees) is hereby repealed.

26 USC 404.

(6) DETERMINATION OF EARNED INCOME OF SELF-EMPLOYED FOR PURPOSES OF SECTION 404(a)(8)(D).—Subparagraph (D) of section 404(a)(8) is amended by striking out "the earned income of such individual" and inserting in lieu thereof "the earned income of such individual (determined without regard to the deductions allowed by this section and section 405(c))".

Ante, p. 848.

(7) REPEAL OF SECTION 415(c)(7).—

26 USC 415.

(A) Subsection (c) of section 415 is amended by striking out paragraph (7) and by redesignating paragraph (8) as paragraph (7).

(B) Subclause (II) of section 415(e)(3)(B)(ii) is amended by striking out "subsection (c)(7) or (8)" and inserting in lieu thereof "subsection (c)(7)".

26 USC 404 note.

(8) COORDINATION OF REPEALS OF CERTAIN SECTIONS.—Sections 404(e) and 1379(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) shall not apply to any plan to which section 401(j) of such Code applies (or would apply but for its repeal).

26 USC 1 note.

(9) AMENDMENT OF SECTION 404(e).—Subsection (e) of section 404 is amended by striking out "under this section" and inserting in lieu thereof "under paragraph (1), (2), or (3) of subsection (a)".

26 USC 404.

(e) AMENDMENT RELATED TO SECTION 239.—Subparagraph (B) of section 101(b)(3) (relating to treatment of self-employed individuals for exclusion of employees' death benefits) is amended to read as follows:

26 USC 101.

"(B) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—In the case of any amount paid or distributed—

"(i) by a trust described in section 401(a) which is exempt from tax under section 501(a), or

"(ii) under a plan described in section 403(a),

the term 'employee' includes a self-employed individual described in section 401(c)(1)."

(f) AMENDMENTS RELATED TO SECTION 240.—

(1) DEFINITION OF KEY EMPLOYEE.—

(A) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by striking out "any participant in an employer plan" and inserting in lieu thereof "an employee". 26 USC 416.

(B) Clause (ii) of section 416(i)(1)(A) is amended to read as follows:

"(ii) 1 of the 10 employees having annual compensation from the employer of more than the limitation in effect under section 415(c)(1)(A) and owning (or considered as owning within the meaning of section 318) the largest interests in the employer,".

(C) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if 2 employees have the same interest in the employer, the employee having greater annual compensation from the employer shall be treated as having a larger interest."

(D) Subparagraph (C) of section 416(i)(1) is amended by striking out "DETERMINING 5-PERCENT OR 1-PERCENT OWNERS" in the subparagraph heading and inserting in lieu thereof "DETERMINING OWNERSHIP IN THE EMPLOYER".

(2) TREATMENT OF SIMPLIFIED EMPLOYEE PENSIONS.—Paragraph (1) of section 408(k) (defining simplified employee pension) is amended to read as follows: 26 USC 408.

"(1) IN GENERAL.—For purposes of this title, the term 'simplified employee pension' means an individual retirement account or individual retirement annuity—

"(A) with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subsection are met, and

"(B) if such account or annuity is part of a top-heavy plan (as defined in section 416), with respect to which the requirements of section 416(c)(2) are met."

(3) CLARIFICATION OF TRANSITIONAL RULE.—Paragraph (3) of section 235(g) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new sentence: "A similar rule shall apply with respect to the last plan year beginning before January 1, 1984, for purposes of applying section 416(h) of the Internal Revenue Code of 1954." 26 USC 415 note.

(4) TREATMENT OF DISTRIBUTIONS FROM TERMINATED PLANS.—Paragraph (3) of section 416(g) (relating to distributions during last 5 years taken into account) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to distributions under a terminated plan which if it had not been terminated would have been required to be included in an aggregation group." 26 USC 416.

(5) CLARIFICATION OF COST-OF-LIVING ADJUSTMENTS.—

(A) IN GENERAL.—Paragraph (2) of section 416(d) (relating to cost-of-living adjustments) is amended by striking out "in the same manner" and inserting in lieu thereof "at the same time and in the same manner".

(B) SIMPLIFIED EMPLOYEE PENSIONS.—Subparagraph (C) of section 408(k)(3) (relating to contributions must bear uniform relationship to total compensation) is amended by adding at the end thereof the following new sentence: "The Secretary shall annually adjust the $200,000 amount contained in the preceding sentence at the same time and in 26 USC 408.

the same manner as he adjusts the dollar amount contained in section 415(c)(1)(A)."

(6) CLERICAL AMENDMENTS.—

26 USC 416.

(A) Subsection (f) of section 416 is amended by striking out "require" and inserting in lieu thereof "required".

(B) Clause (iii) of section 416(i)(1)(B) is amended by striking out "subparagraph (A)(ii)(II)" and inserting in lieu thereof "subparagraph (A)(ii)".

(g) AMENDMENTS RELATED TO SECTION 243.—

(1) EFFECTIVE DATE FOR PROVISIONS RELATED TO INHERITED INDIVIDUAL RETIREMENT PLANS.—Subsection (c) of section 243 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

26 USC 408 note.

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to individuals dying after December 31, 1983."

(2) CLERICAL AMENDMENT.—The subparagraph (C) of section 408(d)(3) which was added by section 335(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982 is redesignated as subparagraph (D).

26 USC 408.

(h) AMENDMENT RELATED TO SECTION 247.—Subsection (a) of section 247 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to existing personal service corporations may liquidate under section 333 during 1983 and 1984) is amended by inserting "which is in existence on September 3, 1982," after "section 535(c)(2)(B) of the Internal Revenue Code of 1954)".

26 USC 333 note.

(i) AMENDMENT RELATED TO SECTION 248.—Paragraph (2) of section 414(n) (defining leased employee) is amended by striking out "any person" in the material preceding subparagraph (A) and inserting in lieu thereof "any person who is not an employee of the recipient and".

26 USC 414.

(j) AMENDMENT RELATED TO SECTION 249.—Subparagraph (D) of section 408(k)(3) (relating to treatment of certain contributions and taxes) is amended by striking out the second and third sentences and inserting in lieu thereof the following: "If the employer does not maintain an integrated plan at any time during the taxable year, OASDI contributions (as defined in section 401(l)(2)) may, for purposes of this paragraph, be taken into account as contributions by the employer to the employee's simplified employee pension, but only if such contributions are so taken into account with respect to each employee maintaining a simplified employee pension."

26 USC 408.

(k) AMENDMENTS RELATED TO SECTION 253.—

(1) LIMITATION OF PROFIT-SHARING AND STOCK BONUS PLANS.—Subparagraph (C) of section 415(c)(3) is amended by striking out "In the case of a participant" and inserting in lieu thereof "In the case of a participant in a profit-sharing or stock bonus plan".

26 USC 415.

(2) CLARIFICATION OF RULE THAT CONTRIBUTIONS BE NONFORFEITABLE.—Subparagraph (C) of section 415(c)(3) (relating to special rules for permanent and total disability) is amended by striking out the last sentence and inserting in lieu thereof the following: "This subparagraph shall apply only if contributions made with respect to amounts treated as compensation under this subparagraph are nonforfeitable when made."

SEC. 714. MISCELLANEOUS PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 255.—Subsection (c) of section 811 (relating to special rule for dividends to policyholders under

Ante, p. 740.

reinsurance contracts) is amended by striking out "conventional coinsurance contract" and inserting in lieu thereof "reinsurance contract".

(b) AMENDMENT RELATED TO SECTION 281A.—Paragraph (2) of section 281A(b) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)". 26 USC 7275 note.

(c) AMENDMENT RELATED TO SECTION 292.—Paragraph (2) of section 7430(a) (relating to awarding of court costs and certain fees) is amended by striking out "including the Tax Court" and inserting in lieu thereof "including the Tax Court and the United States Claims Court". 26 USC 7430.

(d) AMENDMENT RELATED TO SECTION 309.—Paragraph (2) of section 6042(b) (relating to exceptions from dividend reporting requirements) is amended to read as follows: 26 USC 6042.

"(2) EXCEPTIONS.—For purposes of this section, the term 'dividend' does not include any distribution or payment—

"(A) to the extent provided in regulations prescribed by the Secretary—

"(i) by a foreign corporation, or

"(ii) to a foreign corporation, a nonresident alien, or a partnership not engaged in a trade or business in the United States and composed in whole or in part of nonresident aliens, or

"(B) except to the extent otherwise provided in regulations prescribed by the Secretary, to any person described in section 6049(b)(4)." 97 Stat. 370.

(e) AMENDMENTS RELATED TO SECTION 311.— 26 USC 6049.

(1) IN GENERAL.—Section 6045(c) (relating to returns of brokers) is amended by adding at the end thereof the following new paragraph: 26 USC 6045.

"(4) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof."

(2) NO PENALTY FOR PAYMENTS BEFORE JANUARY 1, 1985.—No penalty shall be imposed under the Internal Revenue Code of 1954 with respect to any person required (by reason of the amendment made by paragraph (1)) to file a return under section 6045 of such Code with respect to any payment before January 1, 1985. 26 USC 6045 note. 26 USC 1 *et seq.*

(f) AMENDMENT RELATED TO SECTION 314.—Subparagraph (E) of section 6678(a)(3) is amended by striking out "section 6053(c)" and inserting in lieu thereof "section 6053". 97 Stat. 381. 26 USC 6678.

(g) AMENDMENTS RELATED TO SECTION 320.—

(1) PERMITTING THE JOINDER OF REFUND AND INJUNCTIVE ACTIONS WITH RESPECT TO CERTAIN PENALTIES.—Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection: 26 USC 7422.

"(i) SPECIAL RULE FOR ACTIONS WITH RESPECT TO TAX SHELTER PROMOTER AND UNDERSTATEMENT PENALTIES.—No action or proceeding may be brought in the United States Claims Court for any refund or credit of a penalty imposed by section 6700 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 (relating to penalties for aiding and abetting understatement of tax liability)."

(2) AMENDMENT TO TITLE 28.—Chapter 91 of title 28, United States Code, is amended by adding at the end thereof the following new section:

28 USC 1509.

"§ 1509. No jurisdiction in cases involving refunds of tax shelter promoter and understatement penalties

"The United States Claims Court shall not have jurisdiction to hear any action or proceeding for any refund or credit of any penalty imposed under section 6700 of the Internal Revenue Code of 1954 (relating to penalty for promoting abusive tax shelters, etc.) or section 6701 of such Code (relating to penalties for aiding and abetting understatement of tax liability)."

(3) CONFORMING AMENDMENT.—The table of sections for chapter 91 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1509. No jurisdiction in cases involving refunds of tax shelter promoter and understatement penalties."

28 USC 1509 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any claim for refund or credit filed after the date of the enactment of this Act.

(h) AMENDMENTS RELATED TO SECTION 323.—

26 USC 5684.

(1) Subsection (b) of section 5684 is amended—

(A) by striking out "SECTION 6660" in the heading and inserting in lieu thereof "SECTION 6662", and

(B) by striking out "section 6660(a)" in the text and inserting in lieu thereof "section 6662(a)".

26 USC 5761.

(2) Subsection (c) of section 5761 is amended—

(A) by striking out "SECTION 6660" in the heading and inserting in lieu thereof "SECTION 6662", and

(B) by striking out "section 6660(a)" in the text and inserting in lieu thereof "section 6662(a)".

26 USC 6661.

(3) Clause (ii) of section 6661(b)(2)(A) (defining understatement) is amended by inserting ", reduced by any rebate (within the meaning of section 6211(b)(2))" after "return".

26 USC 7609.

(i) AMENDMENT RELATED TO SECTION 333.—Section 7609(c)(1) (relating to summons to which section applies) is amended by striking out "section 7602" and inserting in lieu thereof "section 7602(a)".

(j) AMENDMENTS RELATED TO SECTION 334.—

(1) CLARIFICATION THAT DEATH BENEFIT EXCLUSION APPLIES TO DISTRIBUTIONS UNDER SECTION 403(b).—Subparagraph (C) of section 3405(b)(2) (relating to special rule for distributions by reason of death) is amended to read as follows:

26 USC 3405.

"(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASON OF DEATH.—In the case of any nonperiodic distribution from or under any plan or contract described in section 401(a), 403(a), or 403(b)—

"(i) which is made by reason of a participant's death, and

"(ii) with respect to which the requirements of clauses (ii) and (iv) of subsection (d)(4)(A) are met, subparagraph (A) or (B) (as the case may be) shall be applied by taking into account the exclusion from gross income provided by section 101(b) (whether or not allowable)."

(2) CLARIFICATION OF CREDIT FOR WITHHELD AMOUNTS.—Paragraph (1) of section 31(a) is amended by striking out "under

Ante, p. 826.
26 USC 31.

section 3402 as tax on the wages of any individual" and inserting in lieu thereof "as tax under chapter 24".

(3) PENALTY FOR FAILURE TO GIVE NOTICE.—Section 6652 (relating to penalty for failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection: 26 USC 6652.

"(i) FAILURE TO GIVE NOTICE TO RECIPIENTS OF CERTAIN PENSION, ETC., DISTRIBUTIONS.—In the case of each failure to provide notice as required by section 3405(d)(10)(B), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to $10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $5,000."

(4) EXCEPTION FOR AMOUNTS PAID TO NONRESIDENT ALIENS.—Subparagraph (B) of section 3405(d)(1) (relating to exceptions) is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause: 26 USC 3405. *Ante*, p. 891.

"(iii) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount or which would be so subject but for a tax treaty." 26 USC 1441.

(5) CLARIFICATION OF AMOUNT WITHHELD WHERE EMPLOYER SECURITY DISTRIBUTED.—Paragraph (8) of section 3405(d) (relating to maximum amount withheld) is amended by adding at the end thereof the following new sentence: "No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of employer securities of the employer corporation (within the meaning of section 402(a)(3)) and cash (not in excess of $200) in lieu of fractional shares."

(k) AMENDMENT RELATED TO SECTION 337.—Subsection (d) of section 982 (relating to admissibility of documentation maintained in foreign countries) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3). 26 USC 982.

(l) AMENDMENT RELATED TO SECTION 339.—Paragraph (1) of section 6038A(c) (defining control) is amended by striking out "section 6038(d)(1)" and inserting in lieu thereof "section 6038(e)(1)". 26 USC 6038A.

(m) AMENDMENT RELATED TO SECTION 345.—Subsection (b) of section 345 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by striking out "taking effect on" and inserting in lieu thereof "taking effect on or after". 26 USC 6621 note.

(n) AMENDMENTS RELATED TO SECTION 346.—

(1) CLERICAL AMENDMENT.—Subparagraph (B) of section 346(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows: 26 USC 6601.

"(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out 'the last day of' each place it appears and inserting in lieu thereof 'the filing date for'."

(2) INTEREST ON REFUNDS CAUSED BY CARRYBACKS.—

26 USC 6611.

(A) Paragraph (3) of section 6611(f) (relating to refund of tax caused by carryback, etc.) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICATION OF SUBPARAGRAPH (B) WHERE SECTION 6411(a) CLAIM FILED.—For purposes of subparagraph (B)(i)(II), if a taxpayer—

"(i) files a claim for refund of any overpayment described in paragraph (1) or (2) with respect to the taxable year to which a loss or credit is carried back, and

"(ii) subsequently files an application under section 6411(a) with respect to such overpayment,

then the claim for overpayment shall be treated as having been filed on the date the application under section 6411(a) was filed."

Ante, p. 846.

(B) The last sentence of section 6411(a) is amended by striking out "An" and inserting in lieu thereof "Except for purposes of applying section 6611(f)(3)(B), an".

(o) AMENDMENT RELATED TO SECTION 349.—Subsection (b) of section 6331 is amended by striking out "subsection (d)(3)" and inserting in lieu thereof "subsection (e)".

26 USC 6331.

(p) AMENDMENTS RELATED TO TITLE IV.—

(1) EXTENSION OF PARTNERSHIP AUDIT PROVISIONS TO ENTITIES FILING PARTNERSHIP RETURNS, ETC.—Subchapter C of chapter 63 (relating to tax treatment of partnership items) is amended by adding at the end thereof the following new section:

26 USC 6233.

"SEC. 6233. EXTENSION TO ENTITIES FILING PARTNERSHIP RETURNS, ETC.

"(a) GENERAL RULE.—If a partnership return is filed by an entity for a taxable year but it is determined that the entity is not a partnership for such year, then, to the extent provided in regulations, the provisions of this subchapter are hereby extended in respect of such year to such entity and its items and to persons holding an interest in such entity.

"(b) SIMILAR RULES IN CERTAIN CASES.—If for any taxable year—

"(1) an entity files a return as an S corporation but it is determined that the entity was not an S corporation for such year, or

"(2) a partnership return or S corporation return is filed but it is determined that there is no entity for such taxable year,

then, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(2) TECHNICAL AND CLERICAL AMENDMENTS.—

26 USC 6230.

(A) Subparagraph (B) of section 6230(c)(1) is amended by striking out "(or erroneously computed the amount of any such credit or refund)".

26 USC 6231.

(B) Paragraph (9) of section 6231(a) is amended by striking out "electing small business corporation" and inserting in lieu thereof "S corporation".

(C) Subparagraph (A) of section 6231(d)(1) is amended to read as follows:

"(A) in the case of a partner whose entire interest in the partnership is disposed of during such partnership taxable year, as of the moment immediately before such disposition, or".

(D) Subsection (f) of section 6231 is amended by striking out "such deduction or credit" and inserting in lieu thereof "such loss or credit". 26 USC 6231.

(E) The table of sections for subpart C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6233. Extension to entities filing partnership returns, etc."

(F) Paragraph (3) of section 6501(q) is amended to read as follows: 26 USC 6501.

"(3) CROSS REFERENCE.—

"For extension of period for windfall profit tax items of partnerships, see section 6229 as made applicable by section 6232."

(G) Paragraph (3) of section 6511(h) is amended to read as follows: 26 USC 6511.

"(3) CROSS REFERENCE.—

"For period of limitation for windfall profit tax items of partnerships, see section 6227(a) and subsections (c) and (d) of section 6230 as made applicable by section 6232."

(H) Subsection (h) of section 7422 is amended by striking out "section 6131(a)(3)" and inserting in lieu thereof "section 6231(a)(3)". 26 USC 7422.

(I) Subparagraph (B) of section 6231(b)(2) (relating to items cease to be partnership items in certain cases) is amended by striking out "section 6227(b)" and inserting in lieu thereof "section 6227(c)". 26 USC 6231.

(q) ESTATES AND TRUSTS AND S CORPORATIONS REQUIRED TO PROVIDE INFORMATION TO CERTAIN BENEFICIARIES AND SHAREHOLDERS.—

(1) ESTATES AND TRUSTS.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by adding after section 6034 the following new section:

"SEC. 6034A. INFORMATION TO BENEFICIARIES OF ESTATES AND TRUSTS. 26 USC 6034A.

"The fiduciary of any estate or trust making the return required to be filed under section 6012(a) for any taxable year shall, on or before the date on which such return was filed, furnish to each beneficiary—

"(1) who receives a distribution from such estate or trust with respect to such taxable year, or

"(2) to whom any item with respect to such taxable year is allocated,

a statement containing such information shown on such return as the Secretary may prescribe."

(2) S CORPORATIONS.—Section 6037 (relating to return of S corporation) is amended— 26 USC 6037.

(A) by striking out "Every" and inserting in lieu thereof "(a) In General.—Every", and

(B) by adding at the end thereof the following new subsection:

"(b) COPIES TO SHAREHOLDERS.—Each S corporation required to file a return under subsection (a) for any taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a shareholder at any time during such taxable year a copy of such information shown on such return as may be required by regulations."

97 Stat. 381.
26 USC 6678.

(3) PENALTY FOR FAILURE TO PROVIDE INFORMATION.—Section 6678(a)(3) (relating to failure to furnish certain statements) is amended by striking out "or" at the end of subparagraph (D), by inserting "or" at the end of subparagraph (E), and by adding after subparagraph (E) the following new subparagraph:

Ante, p. 965.

"(F) section 6031(b), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),".

(4) CONFORMING AMENDMENT.—The table of sections for subpart A of III of subchapter A of chapter 61 is amended by adding after the item relating to section 6034 the following new item:

"Sec. 6034A. Information to beneficiaries of estates and trusts."

26 USC 6034A note.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1984.

26 USC 31 note.

SEC. 715. EFFECTIVE DATE.

Any amendment made by this subtitle shall take effect as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendment relates.

26 USC 1 note.

Subtitle B—Amendments Related to Subchapter S Revision Act of 1982; Etc.

SEC. 721. TECHNICAL CORRECTIONS OF SUBCHAPTER S REVISION ACT OF 1982.

(a) LIMITATION ON RECOGNITION OF GAIN IN THE CASE OF CERTAIN DISTRIBUTIONS.—

26 USC 1363.

(1) Section 1363 (relating to effect of election on corporation) is amended by adding at the end thereof the following new subsection:

"(e) SUBSECTION (d) NOT TO APPLY TO COMPLETE LIQUIDATIONS AND REORGANIZATIONS.—Subsection (d) shall not apply to any distribution—

"(1) of property in complete liquidation of the corporation, or

"(2) to the extent it consists of property permitted by section 354, 355, or 356 to be received without the recognition of gain."

(2) Subsection (d) of section 1363 is amended by striking out "If" and inserting in lieu thereof "Except as provided in subsection (e), if".

(b) COORDINATION WITH RULES RELATING TO INCOME FROM DISCHARGE OF INDEBTEDNESS.—

(1) Paragraph (2) of section 1363(c) (relating to elections of the S corporation) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

26 USC 108.

(2) Subsection (d) of section 108 (relating to income from discharge of indebtedness) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, by striking out paragraph (6), and by inserting after paragraph (5) the following new paragraphs:

"(6) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT PARTNER LEVEL.—In the case of a partnership, subsections (a), (b), and (c) shall be applied at the partner level.

"(7) SPECIAL RULES FOR S CORPORATION.—

"(A) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT CORPORATE LEVEL.—In the case of an S corporation, subsections (a), (b), and (c) shall be applied at the corporate level.

"(B) REDUCTION IN CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—In the case of an S corporation, for purposes of subparagraph (A) of subsection (b)(2), any loss or deduction which is disallowed for the taxable year of the discharge under section 1366(d)(1) shall be treated as a net operating loss for such taxable year. The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(C) applies to such discharge.

"(C) COORDINATION WITH BASIS ADJUSTMENTS UNDER SECTION 1367(b)(2).—For purposes of subsection (e)(6), a shareholder's adjusted basis in indebtedness of an S corporation shall be determined without regard to any adjustments made under section 1367(b)(2)."

(c) TREATMENT OF INACTIVE SUBSIDIARIES.—Paragraph (6) of section 1361(c) (relating to ownership of stock in certain inactive corporations) is amended to read as follows: 26 USC 1361.

"(6) OWNERSHIP OF STOCK IN CERTAIN INACTIVE CORPORATIONS.—For purposes of subsection (b)(2)(A), a corporation shall not be treated as a member of an affiliated group during any period within a taxable year by reason of the ownership of stock in another corporation if such other corporation—

"(A) has not begun business at any time on or before the close of such period, and

"(B) does not have gross income for such period."

(d) TREATMENT OF WORTHLESS DEBT.—Paragraph (3) of section 1367(b) (relating to coordination with section 165(g)) is amended to read as follows: 26 USC 1367.

"(3) COORDINATION WITH SECTIONS 165(g) AND 166(d).—This section and section 1366 shall be applied before the application of sections 165(g) and 166(d) to any taxable year of the shareholder or the corporation in which the security or debt becomes worthless."

(e) ADJUSTMENT TO EARNINGS AND PROFITS FOR RECAPTURE UNDER SECTION 47.—

(1) Subsection (d) of section 1371 (relating to coordination with investment credit recapture) is amended by adding at the end thereof the following new paragraph: 26 USC 1371.

"(3) ADJUSTMENT TO EARNINGS AND PROFITS FOR AMOUNT OF RECAPTURE.—Paragraph (1) of subsection (c) shall not apply to any increase in tax under section 47 for which the S corporation is liable."

(2) Paragraph (1) of section 1371(c) is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2) and (3) and subsection (d)(3)".

(f) QUALIFIED SUBCHAPTER S TRUSTS.—

(1) GRACE PERIOD.—Subparagraph (D) of section 1361(d)(2) (relating to grade period) is amended by striking out "60 days" and inserting in lieu thereof "15 days and 2 months". 26 USC 1361.

(2) DEFINITION OF QUALIFIED SUBCHAPTER S TRUST.—Subsection (d) of section 1361 (relating to special rule for qualified subchapter S trust) is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) QUALIFIED SUBCHAPTER S TRUST.—For purposes of this subsection, the term 'qualified subchapter S trust' means a trust—

"(A) the terms of which require that—

"(i) during the life of the current income beneficiary, there shall be only 1 income beneficiary of the trust,

"(ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary,

"(iii) the income interest of the current income beneficiary in the trust shall terminate on the earlier of such beneficiary's death or the termination of the trust, and

"(iv) upon the termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to such beneficiary, and

"(B) all of the income (within the meaning of section 643(b)) of which is distributed (or required to be distributed) currently to 1 individual who is a citizen or resident of the United States.

"(4) TRUST CEASING TO BE QUALIFIED.—

"(A) FAILURE TO MEET REQUIREMENTS OF PARAGRAPH (3)(A).—If a qualified subchapter S trust ceases to meet any requirement of paragraph (3)(A), the provisions of this subsection shall not apply to such trust as of the date it ceases to meet such requirement.

"(B) FAILURE TO MEET REQUIREMENTS OF PARAGRAPH (3)(B).—If any qualified subchapter S trust ceases to meet any requirement of paragraph (3)(B) but continues to meet the requirements of paragraph (3)(A), the provisions of this subsection shall not apply to such trust as of the first day of the first taxable year beginning after the first taxable year for which it failed to meet the requirements of paragraph (3)(B)."

26 USC 1361.

(3) TECHNICAL AMENDMENT.—Clause (i) of section 1361(d)(2)(B) (relating to separate election with respect to each S corporation) is amended by striking out "S corporation" each place it appears and inserting in lieu thereof "corporation".

(g) COORDINATION WITH SECTION 338.—

26 USC 1362.

(1) Paragraph (6) of section 1362(e) (relating to treatment of S termination year) is amended by adding at the end thereof the following new subparagraph:

"(C) PARAGRAPH (2) NOT TO APPLY TO ITEMS RESULTING FROM SECTION 338.—Paragraph (2) shall not apply with respect to any item resulting from the application of section 338."

(2) Paragraph (2) of section 1362(e) is amended by striking out "as provided in paragraph (3)" and inserting in lieu thereof "as provided in paragraph (3) and subparagraphs (C) and (D) of paragraph (6)."

(h) ELECTION TO HAVE ITEMS ASSIGNED TO SHORT TAXABLE YEAR UNDER NORMAL ACCOUNTING RULES.—Subparagraph (B) of section 1362(e)(3) (relating to election to have items assigned to each short taxable year under normal accounting rules) is amended to read as follows:

"(B) SHAREHOLDERS MUST CONSENT TO ELECTION.—An election under this subsection shall be valid only if all persons

who are shareholders in the corporation at any time during the S short year and all persons who are shareholders in the corporation on the first day of the C short year consent to such election."

(i) ELECTION TO HAVE NEW PASSIVE INCOME RULES NOT APPLY DURING 1982.—Paragraph (3) of section 6(b) of the Subchapter S Revision Act of 1982 (relating to new passive income rules apply to taxable years beginning during 1982) is amended by adding at the end thereof the following new sentences: "The preceding sentence shall not apply in the case of any corporation which elects (at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe) to have such sentence not apply. Subsection (e) shall not apply to any termination resulting from an election under the preceding sentence." 26 USC 1361 note.

(j) S CORPORATION TREATED AS PARTNERSHIP FOR PURPOSES OF SECTION 318.—Paragraph (5) of section 318(a) (relating to constructive ownership of stock) is amended by adding at the end thereof the following new subparagraphs: 26 USC 318.

"(E) S CORPORATION TREATED AS PARTNERSHIP.—For purposes of this subsection—

"(i) an S corporation shall be treated as a partnership, and

"(ii) any shareholder of the S corporation shall be treated as a partner of such partnership.

The preceding sentence shall not apply for purposes of determining whether stock in the S corporation is constructively owned by any person."

(k) CLARIFICATION OF TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—Subsection (e) of section 6 of the Subchapter S Revision Act of 1982 (relating to treatment of certain elections under prior law) is amended by striking out "any termination" and inserting in lieu thereof "any termination or revocation". 26 USC 1361 note.

(l) ELECTION FOR CERTAIN SHORT TAXABLE YEARS.—

(1) Subsection (b) of section 1362 (relating to when subchapter S election made) is amended by adding at the end thereof the following new paragraph: 26 USC 1362.

"(4) TAXABLE YEARS OF 2½ MONTHS OR LESS.—For purposes of this subsection, an election for a taxable year made not later than 2 months and 15 days after the first day of the taxable year shall be treated as timely made during such year."

(2) Paragraph (3) of section 1362(b) is amended by striking out "on or before the last day of such taxable year" and inserting in lieu thereof "on or before the 15th day of the 3rd month of the following taxable year".

(m) TAXABLE YEAR OF EXISTING S CORPORATIONS.—Paragraph (1) of section 1378(c) (relating to existing S corporations required to use permitted year after 50-percent shift in ownership) is amended by striking out "which includes December 31, 1982" and inserting in lieu thereof "which includes December 31, 1982 (or which is an S corporation for a taxable year beginning during 1983 by reason of an election made on or before October 19, 1982)". 26 USC 1378.

(n) REFERENCES TO PRIOR LAW.—Subsection (b) of section 1379 (relating to references to prior law included) is amended to read as follows: 26 USC 1379.

"(b) REFERENCES TO PRIOR LAW INCLUDED.—Any references in this title to a provision of this subchapter shall, to the extent not inconsistent with the purposes of this subchapter, include a refer-

ence to the corresponding provision as in effect before the enactment of the Subchapter S Revision Act of 1982."

26 USC 1 note.

(o) ELECTION TO TREAT DISTRIBUTIONS AS DIVIDENDS DURING CERTAIN POST-TERMINATION TRANSITION PERIODS.—Subsection (e) of section 1371 (relating to coordination with subchapter C) is amended to read as follows:

26 USC 1371.

"(e) CASH DISTRIBUTIONS DURING POST-TERMINATION TRANSITION PERIOD.—

"(1) IN GENERAL.—Any distribution of money by a corporation with respect to its stock during a post-termination transition period shall be applied against and reduce the adjusted basis of the stock, to the extent that the amount of the distribution does not exceed the accumulated adjustments account.

"(2) ELECTION TO DISTRIBUTE EARNINGS FIRST.—An S corporation may elect to have paragraph (1) not apply to all distributions made during a post-termination transition period described in section 1377(b)(1)(A). Such election shall not be effective unless all shareholders of the S corporation to whom distributions are made by the S corporation during such post-termination transition period consent to such election."

(p) CORPORATE PREFERENCE RULES APPLIED TO S CORPORATIONS WHICH WERE RECENT C CORPORATIONS.—Subsection (b) of section 1363 (relating to computation of corporation's taxable income) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

26 USC 1363.

"(4) section 291 shall apply if the S corporation (or any predecessor) was a C corporation for any of the 3 immediately preceding taxable years."

26 USC 1378.

(q) TREATMENT OF STOCK HELD BY ESTATE OF QUALIFIED TRANSFEROR.—Clause (i) of section 1378(c)(3)(B) (relating to existing S corporations required to use permitted year after 50-percent shift in ownership) is amended by striking out "who held" and inserting in lieu thereof "who (or whose estate) held".

(r) AMENDMENTS RELATED TO ACCUMULATED ADJUSTMENTS ACCOUNT.—

26 USC 1368.

(1) Subparagraph (A) of section 1368(e)(1) (defining accumulated adjustments account) is amended by striking out "(except that" and all that follows through the end thereof and inserting in lieu thereof the following: "(except that no adjustment shall be made for income (and related expenses) which is exempt from tax under this title and the phrase '(but not below zero)' shall be disregarded in section 1367(b)(2)(A))".

(2) Subsection (c) of section 1368 (relating to S corporation having earnings and profits) is amended by adding at the end thereof the following new sentence: "Except to the extent provided in regulations, if the distributions during the taxable year exceed the amount in the accumulated adjustments account at the close of the taxable year, for purposes of this subsection, the balance of such account shall be allocated among such distributions in proportion to their respective sizes."

(s) SPECIAL RULES FOR CERTAIN EXPENSES OF S CORPORATIONS.—Paragraph (1) of section 267(f) (as in effect on the day before the date of the enactment of this Act) is amended by striking out all that follows subparagraph (B) and inserting in lieu thereof the following: "then any deduction allowable under such sections in respect of

26 USC 267.

such amount shall be allowable as of the day as of which such amount is includible in the gross income of the person to whom the payment is made (or, if later, as of the day on which it would be so allowable but for this paragraph)."

(t) PRO RATA ALLOCATION FOR S TERMINATION YEAR NOT TO APPLY IF 50-PERCENT CHANGE IN OWNERSHIP.—Paragraph (6) of section 1362(e) (relating to special rules) is amended by adding at the end thereof the following new subparagraph: *Ante*, p. 968.

"(D) PRO RATA ALLOCATION FOR S TERMINATION YEAR NOT TO APPLY IF 50-PERCENT CHANGE IN OWNERSHIP.—Paragraph (2) shall not apply to an S termination year if there is a sale or exchange of 50 percent or more of the stock in such corporation during such year."

(u) TREATMENT OF PREDECESSOR CORPORATION UNDER SECTION 1374.—Paragraph (2) of section 1374(c) (relating to exception for new corporations) is amended— 26 USC. 1374.

(1) by striking out "(and any predecessor corporation)" in subparagraph (A), and

(2) by adding at the end thereof the following new sentence: "To the extent provided in regulations, an S corporation and any predecessor corporation shall be treated as 1 corporation for purposes of this paragraph and paragraph (1)."

(v) AUTHORITY TO WAIVE TAX ON PASSIVE INVESTMENT INCOME.—Section 1375 (relating to tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts) is amended by adding at the end thereof the following new subsection: 26 USC 1375.

"(d) WAIVER OF TAX IN CERTAIN CASES.—If the S corporation establishes to the satisfaction of the Secretary that—

"(1) it determined in good faith that it had no subchapter C earnings and profits at the close of a taxable year, and

"(2) during a reasonable period of time after it was determined that it did have subchapter C earnings and profits at the close of such taxable year such earnings and profits were distributed,

the Secretary may waive the tax imposed by subsection (a) for such taxable year."

(w) APPLICATION OF DEBT RESTORATION RULES.—Subparagraph (B) of section 1367(b)(2) (relating to adjustments in basis of indebtedness) is amended by striking out "for any taxable year there is" and inserting in lieu thereof "for any taxable year beginning after December 31, 1982, there is". 26 USC 1367.

(x) CLERICAL AMENDMENTS.—

(1) Clause (i) of section 48(k)(5)(D) is amended by striking out "electing small business corporation" and inserting in lieu thereof "S corporation". 26 USC 48.

(2) Subparagraph (B) of section 465(a)(1) (relating to limitation to amount at risk) is amended by striking out "a corporation" and inserting in lieu thereof "a C corporation". 26 USC 465.

(3) Subsection (e) of section 1371 (relating to cash distributions during post-termination transition period) is amended by inserting before the period at the end thereof the following: "(within the meaning of section 1368(e))". *Ante*, p. 970.

(4) Paragraph (2) of section 6659(f) is amended by striking out "section 465(a)(1)(C)" and inserting in lieu thereof "section 465(a)(1)(B)". *Ante*, p. 694.

26 USC 6362.

(5) Subparagraph (C) of section 6362(d)(2) is amended by striking out "electing small business corporation (within the meaning of section 1371(a))" and inserting in lieu thereof "an S corporation".

26 USC 1361 note.

(y) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, any amendment made by this section shall take effect as if included in the Subchapter S Revision Act of 1982.

26 USC 1 note.

(2) AMENDMENT MADE BY SUBSECTION (b)(2).—Subparagraph (C) of section 108(d)(7) of the Internal Revenue Code of 1954 (as amended by subsection (b)(2)) shall apply to contributions to capital after December 31, 1980, in taxable years ending after such date.

Ante, p. 966.

(3) AMENDMENT MADE BY SUBSECTION (g)(1).—If—

(A) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after October 19, 1982, and before the date of the enactment of this Act, and

(B) the purchasing corporation establishes by clear and convincing evidence that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, paragraph (2) of section 1362(e) of such Code would apply,

then the amendment made by paragraph (1) of subsection (g) shall not apply to such qualified stock purchase.

(4) AMENDMENTS MADE BY SUBSECTION (l).—The amendments made by subsection (l) shall apply to any election under section 1362 of the Internal Revenue Code of 1954 (or any corresponding provision of prior law) made after October 19, 1982.

(5) AMENDMENT MADE BY SUBSECTION (t).—If—

(A) on or before the date of the enactment of this Act 50 percent or more of the stock of an S corporation has been sold or exchanged in 1 or more transactions, and

(B) the person (or persons) acquiring such stock establish by clear and convincing evidence that such acquisitions were negotiated on the contemplation that paragraph (2) of section 1362(e) of the Internal Revenue Code of 1954 would apply to the S termination year in which such sales or exchanges occur,

then the amendment made by subsection (t) shall not apply to such S termination year.

SEC. 722. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO TECHNICAL CORRECTIONS ACT OF 1982.—

26 USC 57.

(1) Paragraph (12) of section 57(a) (relating to accelerated cost recovery deduction) is amended—

(A) by striking out "(or, in the case of property described in section 167(k), under section 167)" in subparagraph (A), and

(B) by inserting "(or, in the case of property described in section 167(k), under section 167)" after "section 168(a)" in subparagraph (B).

Ante, p. 620.

(2) Subparagraph (A) of section 1256(g)(1) (defining foreign currency contract) is amended by inserting after "delivery of" the following: ", or the settlement of which depends on the value of,".

(3) Subclause (I) of section 306(a)(8)(A)(ii) of the Technical Corrections Act of 1982 is amended by striking out "the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982" and inserting in lieu thereof "September 1, 1982". 26 USC 338 note.

(4)(A) Subparagraph (A) of section 172(b)(2) (relating to amount of carrybacks and carryovers) is amended by striking out "and (6)" and inserting in lieu thereof "and (5)". 26 USC 172.

(B) Subsection (d) of section 172 (relating to modifications) is amended by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(5) Subsection (b) of section 5684 is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)". 26 USC 5684.

(6) Any amendment made by this subsection shall take effect as if included in the provisions of the Technical Corrections Act of 1982 to which such amendment relates. 26 USC 57 note. 26 USC 1 note.

(7)(A) If—

(i) there is an overpayment of tax imposed by section 4986 of the Internal Revenue Code of 1954 for any period before January 1, 1983, by reason of section 201(h)(1)(E) of the Technical Corrections Act of 1982,

(ii) refund of such overpayment is payable to the partners of a partnership, and 26 USC 4996 note.

(iii) such partners are obligated to pay over any such refund to 1 or more organizations referred to in such section 201(h)(1)(E),

such partnership shall be treated as authorized to act for each person who was a partner at any time in such partnership in claiming and paying over such refund.

(B) Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of the overpayment referred to in subparagraph (A)(i) shall not expire before the date 1 year after the date of the enactment of this Act.

(b) COORDINATION OF CERTAIN AMENDMENTS MADE BY HIGHWAY REVENUE ACT OF 1982 AND PUBLIC LAW 97-473.—For purposes of applying the amendments made by section 547 of the Highway Revenue Act of 1982 and the amendment made by section 202(b)(2) of Public Law 97-473, Public Law 97-473 shall be deemed to have been enacted immediately before the Highway Revenue Act of 1982. 26 USC 103 note. 96 Stat. 2199. 96 Stat. 2608. 26 USC 1 note.

(c) NO DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE REQUIRED WHERE ONLY ONE POLITICAL COMMITTEE.—Effective for taxable years beginning after December 31, 1981, subparagraph (B) of section 527(h)(2) (relating to special rule for principal campaign committees) is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate." 26 USC 527.

(d) AMOUNT OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE IN CASE OF FISCAL YEAR TAXPAYER.—

(1) Subparagraph (A) of section 44D(b)(1) (relating to credit for producing fuel from a nonconventional source) is amended by striking out "in which the taxable year begins" and inserting in lieu thereof "in which the sale occurs". *Ante*, p. 826. 26 USC 44D.

(2) Paragraph (2) of section 44D(b) is amended by striking out "in which a taxable year begins" and inserting in lieu thereof "in which the sale occurs".

26 USC 440 note.

(3) The amendments made by this subsection shall apply to taxable years ending after December 31, 1979.

(e) BASIS ADJUSTMENTS IN PARTNERSHIP INTERESTS AND SUBCHAPTER S STOCK FOR PERCENTAGE DEPLETION.—

26 USC 705.

(1) PARTNERSHIP INTERESTS.—Paragraph (3) of section 705(a) (relating to determination of basis of partner's interest) is amended to read as follows:

"(3) decreased (but not below zero) by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such partner under section 613A(c)(7)(D)."

26 USC 1367.

(2) SUBCHAPTER S STOCK.—Subparagraph (E) of section 1367(a)(2) (relating to adjustments to basis of stock of shareholders, etc.) is amended to read as follows:

"(E) the amount of the shareholder's deduction for depletion for any oil and gas property held by the S corporation to the extent such deduction does not exceed the proportionate share of the adjusted basis of such property allocated to such shareholder under section 613A(c)(13)(B)."

(3) EFFECTIVE DATE.—

26 USC 705 note.

(A) The amendment made by paragraph (1) shall take effect on January 1, 1975.

26 USC 1367 note.

(B) The amendment made by paragraph (2) shall apply to taxable years beginning after December 31, 1982.

(f) CLARIFICATION OF INCREASE IN BASIS FOR GAIN RECOGNIZED ON TRANSFER TO PARTNERSHIP.—

26 USC 722, 723.

(1) IN GENERAL.—Sections 722 and 723 are each amended by striking out "gain recognized" and inserting in lieu thereof "gain recognized under section 721(b)".

26 USC 722 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 2131 of the Tax Reform Act of 1976.

90 Stat. 1922.

(g) AMENDMENTS RELATED TO INCOME TAXES OF CERTAIN MILITARY AND CIVILIAN EMPLOYEES OF THE UNITED STATES DYING AS A RESULT OF INJURIES SUSTAINED OVERSEAS.—

26 USC 692 note.

(1) EFFECTIVE DATE.—Paragraph (1) of section 1(b) of Public Law 98-259 is amended by striking out "December 31, 1979" and inserting in lieu thereof "November 17, 1978".

26 USC 692.

Ante, p. 142.

(2) REQUIREMENT THAT EMPLOYMENT RELATIONSHIP EXIST AT TIME OF INJURY.—Paragraph (1) of section 692 (relating to certain military and civilian employees of the United States dying as a result of injuries sustained overseas) is amended by striking out "as a result of wounds or injury incurred" and inserting in lieu thereof "as a result of wounds or injury which was incurred while the individual was a military or civilian employee of the United States and which was incurred".

(3) CLARIFICATION OF DEFINITION OF TERRORISTIC ACTIVITY AGAINST THE UNITED STATES.—Subparagraph (A) of section 692(c)(2) (defining terroristic or military action) is amended to read as follows:

"(A) any terroristic activity which a preponderance of the evidence indicates was directed against the United States or any of its allies, and".

26 USC 692 note.

(4) TREATMENT OF DIRECTOR GENERAL OF MULTINATIONAL FORCE IN SINAI.—For purposes of section 692(c) of the Internal Revenue Code of 1954, the Director General of the Multinational Force

and Observers in the Sinai who died on February 15, 1984, shall be treated as if he were a civilian employee of the United States while he served as such Director General.

(5) EFFECTIVE DATE.— 26 USC 692 note.

(A) IN GENERAL.—The amendments made by this subsection shall take effect as if they were included in the amendments made by section 1 of Public Law 98-259. *Ante*, p. 142.

(B) STATUTE OF LIMITATIONS WAIVED.—Notwithstanding section 6511 of the Internal Revenue Code of 1954, the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendments made by this subsection shall not expire before the date 1 year after the date of the enactment of this Act.

(h) AMENDMENTS TO THE INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983.—

(1) BROKER NOTIFICATION OF PAYOR.—

(A) Subparagraph (A) of section 3406(d)(2) (relating to special rules for readily tradable instruments) is amended— 97 Stat. 371. 26 USC 3406.

(i) by inserting "the payor was notified by a broker under subparagraph (B) or" after "if (and only if)", and

(ii) by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(B) Subparagraph (B) of section 3406(d)(2) is amended to read as follows:

"(B) BROKER NOTIFIES PAYOR.—If—

"(i) a payee acquires any readily tradable instrument through a broker, and

"(ii) with respect to such acquisition—

"(I) the payee fails to furnish his TIN to the broker in the manner required under subsection (a)(1)(A),

"(II) the Secretary notifies such broker before such acquisition that the TIN furnished by the payee is incorrect,

"(III) the Secretary notifies such broker before such acquisition that such payee is subject to withholding under subsection (a)(1)(C), or

"(IV) the payee does not provide a certification to such broker under subparagraph (C),

such broker shall, within such period as the Secretary may prescribe by regulations (but not later than 15 days after such acquisition), notify the payor that such payee is subject to withholding under subparagraph (A), (B), (C), or (D) of subsection (a)(1), respectively."

(2) NOTIFIED PAYEE UNDERREPORTING.—Paragraph (1) of section 3406(c) (relating to notified payee underreporting) is amended by striking out "(but not the reasons therefor)" and inserting in lieu thereof "(but not the reasons for the withholding under subsection (a)(1)(C))".

(3) APPLICATION WITH TRUSTS.—Section 643 (relating to definitions applicable to trusts) is amended by adding at the end thereof the following new subsection: *Ante*, p. 597.

"(d) COORDINATION WITH BACK-UP WITHHOLDING.—Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under section 3406— *Supra*.

"(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(c) (on the basis of their respective shares of any such payment taken into account under this subchapter),

Ante, p. 826.
97 Stat. 379.

"(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit has been paid to him by the estate or trust, and

"(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries."

(4) COORDINATION OF PENSION AND BACK-UP WITHHOLDING.—

26 USC 3405.

(A) Section 3405(d) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) FAILURE TO PROVIDE CORRECT TIN.—If—

"(A) a payee fails to furnish his TIN to the payor in the manner required by the Secretary, or

"(B) the Secretary notifies the payor before any payment or distribution that the TIN furnished by the payee is incorrect,

no election under subsection (a)(2) or (b)(3) shall be treated as in effect and subsection (a)(4) shall not apply to such payee."

26 USC 6041.

(B) Section 6041(a) (relating to information at source) is amended by inserting "6047(e)," after "6044(a)(1),".

26 USC 643 note.

(5) EFFECTIVE DATES.—

(A) Except as provided in this paragraph, the amendments made by this subsection shall apply as if included in the amendments made by the Interest and Dividend Tax Compliance Act of 1983.

26 USC 1 note.

(B) The amendments made by paragraph (4) shall apply to payments or distributions after December 31, 1984, unless the payor elects to have such amendments apply to payments or distributions before January 1, 1985.

Subtitle C—Amendments Relating to Highway Revenue Act of 1982

SEC. 731. VALUE OF USED COMPONENTS FURNISHED BY FIRST USER NOT TAKEN INTO ACCOUNT IN DETERMINING PRICE.

26 USC 4052.

Subparagraph (B) of section 4052(b)(1) (relating to determination of price) is amended by striking out "and" at the end of clause (ii) and by inserting after clause (iii) the following new clause:

"(iv) the value of any component of such article if—

"(I) such component is furnished by the first user of such article, and

"(II) such component has been used before such furnishing, and".

SEC. 732. CLARIFICATION OF APPLICATION OF GASOLINE EXCISE TAX TO GASOHOL, ETC.

(a) GASOLINE EXCISE TAX TO APPLY TO GALLON OF GASOHOL.—

26 USC 4081.

(1) IN GENERAL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied—

"(A) by substituting '4 cents' for '9 cents' in the case of the sale of any gasohol (the gasoline in which was not taxed under subparagraph (B)), and

"(B) by substituting '4⅔ cents' for '9 cents' in the case of the sale of any gasoline for use in producing gasohol.

For purposes of this paragraph, the term 'gasohol' means any mixture of gasoline if at least 10 percent of such mixture is alcohol."

(2) LATER SEPARATION OF GASOLINE.—Paragraph (2) of section 4081(c) is amended— 26 USC 4081.

(A) by striking out "at the rate of 4 cents a gallon" and inserting in lieu thereof "at a rate equivalent to 4 cents a gallon", and

(B) by striking out "5 cents a gallon" and inserting in lieu thereof "4⅔ cents a gallon".

(3) CREDIT OR REFUND.—Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "5 cents" and inserting in lieu thereof "4⅔ cents". 26 USC 6427.

(b) LOWER FLOOR STOCKS TAX ON GASOHOL.—Subsection (a) of section 521 of the Highway Revenue Act of 1982 is amended by inserting "(4 cents a gallon in the case of a gallon of gasohol, as defined in section 4081(c))" after "5 cents a gallon". 26 USC 4061 note.

SEC. 733. CERTAIN CHAIN OPERATORS OF RETAIL GASOLINE STATIONS TREATED AS PRODUCERS.

(a) IN GENERAL.—Subsection (d) of section 4082 (defining wholesale distributor) is amended to read as follows: 26 USC 4082.

"(d) WHOLESALE DISTRIBUTOR.—As used in subsection (a), the term 'wholesale distributor' includes—

"(1) any person who—

"(A) sells gasoline to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks, or

"(B) purchases gasoline from a producer and distributes such gasoline to 10 or more retail gasoline stations under common management with such person,

"(2) but only if such person elects to register with respect to the tax imposed by section 4081.

Such term does not include any person who (excluding the term 'wholesale distributor' from subsection (a)) is a producer or importer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act. 26 USC 4082 note.

SEC. 734. OTHER TECHNICAL AMENDMENTS.

(a) FLOOR STOCKS REFUNDS FOR TIRES TAXED AT LOWER RATE AFTER JANUARY 1, 1984.—

(1) IN GENERAL.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by inserting "(or will be subject to a lower rate of tax under such section)" after "and which will not be subject to tax under such section". 26 USC 4061 note.

(2) AMOUNT OF REFUND LIMITED TO REDUCTION IN TAX, ETC.—

(A) IN GENERAL.—Subsection (b) of section 523 of the Highway Revenue Act of 1982 (relating to floor stocks

refunds for tires) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR TIRES TAXED AT LOWER RATE AFTER JANUARY 1, 1984.—In the case of any tire which is a tax-repealed article solely by reason of the amendment made by subsection (a)(1) or (d) of section 734 of the Tax Reform Act of 1984—

Ante, p. 977.

"(A) the amount of the credit or refund under subsection (a) shall not exceed the excess of—

"(i) the tax imposed with respect to such tire by section 4071(a) as in effect on December 31, 1983, over

"(ii) the tax which would have been imposed with respect to such tire by section 4071(a) on January 1, 1984, and

"(B) paragraph (1) of section 522(a) shall be applied—

26 USC 4061 note.

"(i) by substituting 'January 1, 1985' for 'July 1, 1983', and

"(ii) by substituting 'April 1, 1985' for 'October 1, 1983' each place it appears."

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 523(b) of such Act is amended by striking out "In the case of" and inserting in lieu thereof "Except as provided in paragraph (3), in the case of".

26 USC 4061 note.

(b) OVERPAYMENTS OF TAX ON TRUCKS, ETC., AND TIRES.—

(1) TRUCKS, ETC.—

26 USC 6416.

(A) IN GENERAL.—Subsection (b) of section 6416 (relating to special cases in which tax payments considered overpayments) is amended by inserting after paragraph (5) the following new paragraph:

"(6) TRUCK CHASSIS, BODIES, AND SEMITRAILERS USED FOR FURTHER MANUFACTURE.—If—

"(A) the tax imposed by section 4051 has been paid with respect to the sale of any article, and

"(B) before any other use, such article is by any person used as a component part of another article taxable under section 4051 manufactured or produced by him,

such tax shall be deemed to be an overpayment by such person. For purposes of the preceding sentence, an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used."

(B) TECHNICAL AMENDMENT.—Subparagraph (B) of section 6416(a)(2) is amended by striking out "or (5)" and inserting in lieu thereof "(5), or (6)".

(2) TIRES.—

(A) IN GENERAL.—Paragraph (4) of section 6416(b) (relating to tires) is amended to read as follows:

"(4) TIRES.—If—

"(A) the tax imposed by section 4071 has been paid with respect to the sale of any tire by the manufacturer, producer, or importer thereof, and

"(B) such tire is sold by any person on or in connection with, or with the sale of, any other article, such tax shall be deemed to be an overpayment by such person if such other article is—

"(i) an automobile bus chassis or an automobile bus body, or

"(ii) by such person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft."

(B) TECHNICAL AMENDMENTS.—

(i) Paragraph (2) of section 6416(b) is amended by striking out subparagraph (E). 26 USC 6416. *Post*, p. 984.

(ii) Paragraph (3) of section 6416(b) (relating to tax-paid articles used for further manufacture, etc.) is amended by striking out subparagraph (C).

(iii) Subparagraph (C) of section 6416(a)(1) is amended by striking out ", (b)(3) (C) or (D), or (b)(4)".

(iv) Subparagraph (B) of section 6416(a)(2), as amended by paragraph (1)(B), is amended by inserting "(4)," before "(5)". *Ante*, p. 978.

(v) Paragraph (3) of section 6416(a) is amended to read as follows:

"(3) SPECIAL RULE.—For purposes of this subsection, in any case in which the Secretary determines that an article is not taxable, the term 'ultimate purchaser' (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this paragraph is filed on or before the date for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date on such determination." *Post*, p. 980.

(c) ALLOWANCE OF TAX-FREE SALES OF GASOLINE FOR USE IN NONCOMMERCIAL AVIATION.—

(1) IN GENERAL.—Section 4082 (relating to definitions with respect to the tax on gasoline) is amended by adding at the end thereof the following new subsection: 26 USC 4082.

"(e) CERTAIN SELLERS OF GASOLINE FOR USE IN NONCOMMERCIAL AVIATION TREATED AS PRODUCERS.—For purposes of this subpart, the term 'producer' includes any person who regularly sells gasoline to owners, lessees, or operators of aircraft for use as fuel in such aircraft in noncommercial aviation (as defined in section 4041(c)(4))."

(2) REFUNDS.—Section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively, and by inserting after subsection (i) the following new subsection: 26 USC 6427. *Post*, p. 1005.

"(j) SPECIAL RULES WITH RESPECT TO NONCOMMERCIAL AVIATION.—For purposes of subsection (a), in the case of gasoline—

"(1) on which tax was imposed under section 4041(c)(2),

"(2) on which tax was not imposed under section 4081, and

"(3) which was not used as an off-highway business use (within the meaning of section 6421(d)(2)),

the amount of the payment under subsection (a) shall be an amount equal to the amount of gasoline used as described in subsection (a) or resold multiplied by the rate equal to the excess of the rate of tax imposed by section 4041(c)(2) over the rate of tax imposed by section 4081."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act. 26 USC 4082 note.

26 USC 4061 note.

(d) FLOOR STOCKS REFUNDS FOR TREAD RUBBER.—Paragraph (1) of section 523(b) of the Highway Revenue Act of 1982 (relating to floor stocks refunds for tires) is amended by adding at the end thereof the following new sentence: "Any tread rubber which was subject to tax under section 4071(a)(4) as in effect on December 31, 1983, and which on January 1, 1984, is part of a retread tire which is held by a dealer and has not been used and is intended for sale shall be treated as a tax-repealed article for purposes of subsection (a) of section 522."

26 USC 4061 note.

(e) PENALTIES, ETC., TO APPLY TO FLOOR STOCKS TAXES.—Subsection (c) of section 521 of the Highway Revenue Act of 1982 is amended by adding at the end thereof the following: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 or 4071(a) (whichever is appropriate) shall apply to the floor stocks taxes imposed by this section."

26 USC 4061 note.

(f) NO 1984 SHORT TAXABLE PERIOD FOR OWNER-OPERATORS.—Subsection (a) of section 4481 (relating to tax on use of certain vehicles), as in effect before the amendments made by the Highway Revenue Act of 1982, is amended by striking out the last sentence.

26 USC 4481.

26 USC 1 note.

(g) CLARIFICATION OF SECONDARY LIABILITY OF INSTALLERS OF PARTS AND ACCESSORIES PURCHASED SEPARATELY.—The text of section 4051(b)(3) is amended to read as follows: "The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by paragraph (1)."

26 USC 4051.

(h) NO INFERENCE FOR PAST PERIODS TO BE DRAWN FROM AMENDMENT RELATING TO CUSTOMARY USE OF TRAILERS.—The subsection heading of subsection (c) of section 513 of the Highway Revenue Act of 1982 is amended by striking out "Clarification of".

96 Stat. 2177.

(i) WIRE TRANSFER TO FEDERAL RESERVE BANK REQUIRED WHERE EXTENSION OF PAYMENT DUE DATE FOR CERTAIN FUEL TAXES.—Subsection (a) of section 518 of the Highway Revenue Act of 1982 (relating to extension of payment due date for certain fuel taxes) is amended by striking out "any government depository authorized under section 6302 of such Code" and inserting in lieu thereof ", except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, any Federal Reserve Bank".

26 USC 4081 note.

(j) CREDIT OR REFUND OF RETAIL TAX ON TRUCKS AND TRAILERS WHERE PRICE READJUSTMENTS.—Subparagraph (A) of section 6416(b)(1) (relating to price readjustments) is amended by inserting "or by section 4051" after "by chapter 32".

26 USC 6416.

SEC. 735. REPEAL OF CERTAIN PROVISIONS MADE OBSOLETE BY HIGHWAY REVENUE ACT OF 1982.

(a) DELETION OF TERMINATED MANUFACTURERS EXCISE TAX ON MOTOR VEHICLES.—

(1) Part I of subchapter A of chapter 32 is amended by striking out sections 4061, 4062, and 4063.

26 USC 4061–4063.

(2) The part heading and the table of sections for such part I are amended to read as follows:

26 USC prec. 4064.

"PART I—GAS GUZZLERS

"Sec. 4064. Gas guzzlers tax."

(3) The table of parts for subchapter A of chapter 32 is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Gas guzzlers."

(b) CROSS-REFERENCES TO TERMINATED MANUFACTURERS EXCISE TAX ON MOTOR VEHICLES STATED AS PART OF RETAIL TAX.—

(1) EXEMPTIONS.—Section 4053 (relating to exemptions from retail tax on heavy trucks, etc.) is amended to read as follows:

"SEC. 4053. EXEMPTIONS. 26 USC 4053.

"No tax shall be imposed by section 4051 on any of the following articles:

"(1) CAMPER COACHES BODIES FOR SELF-PROPELLED MOBILE HOMES.—Any article designed—

"(A) to be mounted or placed on automobile trucks, automobile truck chassis, or automobile chassis, and

"(B) to be used primarily as living quarters or camping accommodations.

"(2) FEED, SEED, AND FERTILIZER EQUIPMENT.—Any body primarily designed—

"(A) to process or prepare seed, feed, or fertilizer for use on farms,

"(B) to haul feed, seed, or fertilizer to and on farms,

"(C) to spread feed, seed, or fertilizer on farms,

"(D) to load or unload feed, seed, or fertilizer on farms, or

"(E) for any combination of the foregoing.

"(3) HOUSE TRAILERS.—Any house trailer.

"(4) AMBULANCES, HEARSES, ETC.—Any ambulance, hearse, or combination ambulance-hearse.

"(5) CONCRETE MIXERS.—Any article designed—

"(A) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis, and

"(B) to be used to process or prepare concrete.

"(6) TRASH CONTAINERS, ETC.—Any box, container, receptacle, bin or other similar article—

"(A) which is designed to be used as a trash container and is not designed for the transportation of freight other than trash, and

"(B) which is not designed to be permanently mounted on or permanently affixed to an automobile truck chassis or body.

"(7) RAIL TRAILERS AND RAIL VANS.—Any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car. For purposes of the preceding sentence, piggy-back trailer or semitrailer shall not be treated as designed for use as a railroad car."

(2) CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.—Subsection (c) of section 4052 (relating to definitions and special rules) is amended to read as follows: 26 USC 4052.

"(c) CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE.—

"(1) IN GENERAL.—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article by reason of merely combining such article with any item listed in paragraph (2).

"(2) ITEMS.—The items listed in this paragraph are any coupling device (including any fifth wheel), wrecker crane, loading and unloading equipment (including any crane, hoist, winch, or power liftgate), aerial ladder or tower, snow and ice control equipment, earthmoving, excavation and construction equipment, spreader, sleeper cab, cab shield, or wood or metal floor."

(c) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 48.

(1) Clause (i) of section 48(l)(16)(B) (defining qualified intercity bus) is amended to read as follows:

"(i) the chassis of which is an automobile bus chassis and the body of which is an automobile bus body,".

26 USC 4071.

(2)(A) The first sentence of section 4071(b) is amended by striking out "or inner tube" and by striking out "or tube" each place it appears.

(B) The first sentence of section 4071(c) is amended by striking out "on total weight," and all that follows and inserting in lieu thereof "on total weight exclusive of metal rims or rim bases."

(C) Subsection (e) of section 4071 is amended—

(i) by striking out "or inner tubes (other than bicycle tires and inner tubes)",

(ii) by striking out "and inner tubes" in paragraphs (1) and (2), and

(iii) by striking out the last sentence and inserting in lieu thereof the following: "This subsection shall not apply with respect to the sale of an automobile bus chassis or an automobile bus body."

(D) Subsection (f) of section 4071 (relating to imported recapped or retreaded United States tires) is hereby repealed.

26 USC 4072.

(3) Section 4072 (relating to definitions) is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

26 USC 4073.

(4) Section 4073 (relating to exemptions) is amended to read as follows:

"SEC. 4073. EXEMPTION FOR TIRES WITH INTERNAL WIRE FASTENING.

"The tax imposed by section 4071 shall not apply to tires of extruded tiring with an internal wire fastening agent."

26 USC prec. 4071.

(5)(A) The heading for part II of subchapter A of chapter 32 is amended by striking out "**AND TUBES**".

(B) The table of parts for subchapter A of chapter 32 is amended by striking out "and tubes" in the item relating to part II.

(C) The item relating to section 4073 in the table of sections for part II of subchapter A of chapter 32 is amended to read as follows:

"Sec. 4073. Exemption for tires with internal wire fastening."

26 USC 4216.

(6)(A) Paragraph (1) of section 4216(b) (defining constructive sale price) is amended—

(i) by striking out "(other than an article the sale of which is taxable under section 4061(a))" in the second sentence, and

(ii) by striking out the third sentence.

(B) Paragraph (2) of section 4216(b) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (B), and by redesignating subparagraph (D) as subparagraph (C).

(C) Subsection (b) of section 4216 is amended by striking out paragraph (5).

(D) Paragraph (3) of section 4216(b) is amended by striking out "paragraphs (4) and (5)" and inserting in lieu thereof "paragraph (4)".

(E) Paragraph (6) of section 4216(b) is redesignated as paragraph (5) and is amended by striking out "(1), (3), and (5)" and inserting in lieu thereof "(1) and (3)".

(F) Subsection (f) of section 4216 (relating to certain trucks incorporating used components) is hereby repealed. 26 USC 4216.

(7)(A) Subsection (b) of section 4218 (relating to use by manufacturer or importer considered as sale) is amended— 26 USC 4218.

(i) by striking out "or inner tube", and

(ii) by striking out "Except as provided in subsection (d), if" and inserting in lieu thereof "If".

(B) The heading for subsection (b) of section 4218 is amended by striking out "and Tubes".

(C) Section 4218 is amended by striking out subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(D) Subsection (a) of section 4218 is amended by striking out "(other than an article specified in subsection (b), (c), or (d))" and inserting in lieu thereof "(other than a tire taxable under section 4071)".

(8)(A) Subsection (a) of section 4221 (relating to tax-free sales) is amended by inserting "(or under section 4051 on the first retail sale)" after "manufacturer". 26 USC 4221.

(B) Subsection (c) of section 4221 is amended by striking out "section 4063(a) (6) or (7), 4063(b), 4063(e)," and inserting in lieu thereof "section 4053(a)(6)".

(C) Paragraph (1) of section 4221(d) (defining manufacturer) is amended by inserting before the period ", and, in the case of the tax imposed by section 4051, includes the retailer with respect to the first retail sale".

(D) Paragraph (6) of section 4221(d) (relating to use in further manufacture) is amended—

(i) by striking out subparagraph (B) and the last sentence,

(ii) by striking out "(other than an article referred to in subparagraph (B))" in subparagraph (A),

(iii) by redesignating subparagraph (C) as subparagraph (B), and

(iv) by adding "or" at the end of subparagraph (A).

(E) Paragraph (2) of section 4221(e) is amended—

(i) by striking out "or inner tube" each place it appears; and

(ii) by striking out "or tube" each place it appears.

(F) The heading for paragraph (2) of section 4221(e) is amended by striking out "AND TUBES".

(G) Subsection (e) of section 4221 is amended by striking out paragraphs (4), (5), and (6) and inserting in lieu thereof the following:

"(3) TIRES USED ON INTERCITY, LOCAL, AND SCHOOL BUSES.—Under regulations prescribed by the Secretary, the tax imposed by section 4071 shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus."

(9) Subsection (d) of section 4222 is amended by striking out "4063(a)(7), 4063(b), 4063(e)," and inserting in lieu thereof "4053(a)(6),". 26 USC 4222.

(10) Paragraph (1) of section 4223(b) is amended by striking out "section 4218(e)" and inserting in lieu thereof "4218(c)". 26 USC 4223.

(11) Paragraph (2) of section 4227 is amended by striking out "and tubes". 26 USC 4227.

(12)(A) So much of paragraph (1) of section 6412(a) (relating to floor stock refunds) as precedes "there shall be credited or refunded" is amended to read as follows: 26 USC 6412.

"(1) TIRES AND GASOLINE.—Where before October 1, 1988, any article subject to the tax imposed by section 4071 or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale,".

26 USC 6412.

(B) Paragraph (1) of section 6412(a) is amended by striking out the last sentence.

(C) Subparagraph (A) of section 6412(a)(2) is amended to read as follows:

"(A) The term 'dealer' includes a wholesaler, jobber, distributor, or retailer."

(D) Subsection (c) of section 6412 is amended by striking out "4061, 4071," and inserting in lieu thereof "4071".

26 USC 6416.

(13)(A) Subparagraph (C) of section 6416(b)(1) (relating to adjustment of tire price) is amended by striking out "section 4071(a) (1) or (2) or section 4071(b)" and inserting in lieu thereof "subsection (a) or (b) of section 4071".

Ante, p. 979.

(B) Paragraph (2) of section 6416(b) is amended by striking out subparagraph (F) and all that follows to the end thereof and inserting in lieu thereof the following:

Ante, p. 983.

"(E) in the case of any tire taxable under section 4071(a), sold to any person for use as described in section 4221(e)(3); or

"(F) in the case of gasoline, used or sold for use in the production of special fuels referred to in section 4041.

Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064."

(C) Paragraph (3) of section 6416(b) is amended by striking out all subparagraphs and the last sentence thereof and inserting in lieu thereof the following:

"(A) in the case of any article other than gasoline taxable under section 4081, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

26 USC 4061 *et seq.*

"(i) another article taxable under chapter 32, or

Ante, p. 980.

"(ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him; or

"(B) in the case of gasoline taxable under section 4081, such gasoline is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him."

(D) Subparagraph (B) of section 6416(a)(2) is amended by striking out "or (B)".

(E) Section 6416 is amended by striking out subsections (c) and (g) and by redesignating subsections (e), (f), (h), and (i) as subsections (c), (d), (e), and (f), respectively.

(F) Subparagraph (A) of section 6416(b)(2) is amended by striking out "(except in any case to which subsection (g) applies)".

26 USC 6511.

(14) Section 6511 is amended by striking out subsection (i) and by redesignating subsection (j) as subsection (i).

26 USC 9502.

(15) Paragraph (3) of section 9502(b) is amended by striking out "under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of types used on aircraft" and inserting in lieu

thereof "under section 4071 with respect to tires of the types used on aircraft".

(16) Sections 1366(f)(1) and 6401(b) are each amended by striking out ", special fuels, and lubricating oil" and inserting in lieu thereof "and special fuels". 26 USC 1366. *Ante*, p. 846.

SEC. 736. EFFECTIVE DATE. 26 USC 4051 note.

Except as otherwise provided in this subtitle, any amendment made by this subtitle shall take effect as if included in the provisions of the Highway Revenue Act of 1982 to which such amendment relates. 26 USC 1 note.

TITLE VIII—FOREIGN SALES CORPORATIONS

SEC. 801. FOREIGN SALES CORPORATIONS.

(a) IN GENERAL.—Part III of subchapter N of chapter 1 (relating to income from sources outside the United States) is amended by inserting after subpart B the following new subpart:

"Subpart C—Taxation of Foreign Sales Corporations

"Sec. 921. Exempt foreign trade income excluded from gross income.
"Sec. 922. FSC defined.
"Sec. 923. Exempt foreign trade income.
"Sec. 924. Foreign trading gross receipts.
"Sec. 925. Transfer pricing rules.
"Sec. 926. Distributions to shareholders.
"Sec. 927. Other definitions and special rules.

"SEC. 921. EXEMPT FOREIGN TRADE INCOME EXCLUDED FROM GROSS INCOME. 26 USC 921.

"(a) EXCLUSION.—Exempt foreign trade income of a FSC shall be treated as foreign source income which is not effectively connected with the conduct of a trade or business within the United States.

"(b) PROPORTIONATE ALLOCATION OF DEDUCTIONS TO EXEMPT FOREIGN TRADE INCOME.—Any deductions of the FSC properly apportioned and allocated to the foreign trade income derived by a FSC from any transaction shall be allocated between—

"(1) the exempt foreign trade income derived from such transaction, and

"(2) the foreign trade income (other than exempt foreign trade income) derived from such transaction, on a proportionate basis.

"(c) DENIAL OF CREDITS.—Notwithstanding any other provision of this chapter, no credit (other than a credit allowable under section 27(a), 33, or 34) shall be allowed under this chapter to any FSC. *Ante*, pp. 826, 832.

"(d) FOREIGN TRADE INCOME, INVESTMENT INCOME, AND CARRYING CHARGES TREATED AS EFFECTIVELY CONNECTED WITH UNITED STATES BUSINESS.—For purposes of this chapter—

"(1) all foreign trade income of a FSC other than—

"(A) exempt foreign trade income, and

"(B) section 923(a)(2) non-exempt income, *Post*, p. 986.

"(2) all interest, dividends, royalties, and other investment income received or accrued by a FSC, and

"(3) all carrying charges received or accrued by a FSC,

shall be treated as income effectively connected with a trade or business conducted through a permanent establishment of such

corporation within the United States. Income described in paragraph (1) shall be treated as derived from sources within the United States.

26 USC 922.

"SEC. 922. FSC DEFINED.

"(a) FSC DEFINED.—For purposes of this title, the term 'FSC' means any corporation—

"(1) which—

"(A) was created or organized—

"(i) under the laws of any foreign country which meets the requirements of section 927(e)(3), or

Post, p. 991.

"(ii) under the laws applicable to any possession of the United States,

"(B) has no more than 25 shareholders at any time during the taxable year,

"(C) does not have any preferred stock outstanding at any time during the taxable year,

"(D) during the taxable year—

"(i) maintains an office located outside the United States in a foreign country which meets the requirements of section 927(e)(3) or in any possession of the United States,

"(ii) maintains a set of the permanent books of account (including invoices) of such corporation at such office, and

"(iii) maintains at a location within the United States the records which such corporation is required to keep under section 6001,

"(E) at all times during the taxable year, has a board of directors which includes at least one individual who is not a resident of the United States, and

"(F) is not a member, at any time during the taxable year, of any controlled group of corporations of which a DISC is a member, and

"(2) which has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a FSC.

"(b) SMALL FSC DEFINED.—For purposes of this title, a FSC is a small FSC with respect to any taxable year if—

"(1) such corporation has made an election (at the time and in the manner provided in section 927(f)(1)) which is in effect for the taxable year to be treated as a small FSC, and

"(2) such corporation is not a member, at any time during the taxable year, of a controlled group of corporations which includes a FSC unless such other FSC has also made an election under paragraph (1) which is in effect for such year.

26 USC 923.

"SEC. 923. EXEMPT FOREIGN TRADE INCOME.

"(a) EXEMPT FOREIGN TRADE INCOME.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'exempt foreign trade income' means the aggregate amount of all foreign trade income of a FSC for the taxable year which is described in paragraph (2) or (3).

"(2) INCOME DETERMINED WITHOUT REGARD TO ADMINISTRATIVE PRICING RULES.—In the case of any transaction to which paragraph (3) does not apply, 32 percent of the foreign trade income

derived from such transaction shall be treated as described in this paragraph. For purposes of the preceding sentence, foreign trade income shall not include any income properly allocable to excluded property described in subparagraph (B) of section 927(a)(2) (relating to intangibles).

Post, p. 991.

"(3) INCOME DETERMINED WITH REGARD TO ADMINISTRATIVE PRICING RULES.—In the case of any transaction with respect to which paragraph (1) or (2) of section 925(a) (or the corresponding provisions of the regulations prescribed under section 925(b)) applies, 16/23 of the foreign trade income derived from such transaction shall be treated as described in this paragraph.

Post, p. 990.

"(4) SPECIAL RULE FOR FOREIGN TRADE INCOME ALLOCABLE TO A COOPERATIVE.—

"(A) IN GENERAL.—In any case in which a qualified cooperative is a shareholder of a FSC, paragraph (3) shall be applied with respect to that portion of the foreign trade income of such FSC for any taxable year which is properly allocable to the marketing of agricultural or horticultural products (or the providing of related services) by such cooperative by substituting '100 percent' for '16/23'.

"(B) PARAGRAPH ONLY TO APPLY TO AMOUNTS FSC DISTRIBUTES.—Subparagraph (A) shall not apply for any taxable year unless the FSC distributes to the qualified cooperative the amount which (but for such subparagraph) would not be treated as exempt foreign trade income. Any distribution under this subparagraph for any taxable year—

"(i) shall be made before the due date for filing the return of tax for such taxable year, but

"(ii) shall be treated as made on the last day of such taxable year.

"(5) SPECIAL RULE FOR MILITARY PROPERTY.—Under regulations prescribed by the Secretary, that portion of the foreign trading gross receipts of the FSC for the taxable year attributable to the disposition of, or services relating to, military property (within the meaning of section 995(b)(3)(B)) which may be treated as exempt foreign trade income shall equal 50 percent of the amount which (but for this paragraph) would be treated as exempt foreign trade income.

"(b) FOREIGN TRADE INCOME DEFINED.—For purposes of this subpart, the term 'foreign trade income' means the gross income of a FSC attributable to foreign trading gross receipts.

"SEC. 924. FOREIGN TRADING GROSS RECEIPTS.

26 USC 924.

"(a) IN GENERAL.—Except as otherwise provided in this section, for purposes of this subpart, the term 'foreign trading gross receipts' means the gross receipts of any FSC which are—

"(1) from the sale, exchange, or other disposition of export property,

"(2) from the lease or rental of export property for use by the lessee outside the United States,

"(3) for services which are related and subsidiary to—

"(A) any sale, exchange, or other disposition of export property by such corporation, or

"(B) any lease or rental of export property described in paragraph (2) by such corporation,

"(4) for engineering or architectural services for construction projects located (or proposed for location) outside the United States, or

"(5) for the performance of managerial services for an unrelated FSC or DISC in furtherance of the production of foreign trading gross receipts described in paragraph (1), (2), or (3).

Paragraph (5) shall not apply to a FSC for any taxable year unless at least 50 percent of its gross receipts for such taxable year is derived from activities described in paragraph (1), (2), or (3).

"(b) FOREIGN MANAGEMENT AND FOREIGN ECONOMIC PROCESS REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) a FSC shall be treated as having foreign trading gross receipts for the taxable year only if the management of such corporation during such taxable year takes place outside the United States as required by subsection (c), and

"(B) a FSC has foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as required by subsection (d).

"(2) EXCEPTION FOR SMALL FSC.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any small FSC.

"(B) LIMITATION ON AMOUNT OF FOREIGN TRADING GROSS RECEIPTS OF SMALL FSC TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—Any foreign trading gross receipts of a small FSC for the taxable year which exceed $5,000,000 shall not be taken into account in determining the exempt foreign trade income of such corporation and shall not be taken into account under any other provision of this subpart.

"(ii) ALLOCATION OF LIMITATION.—If the foreign trading gross receipts of a small FSC exceed the limitation of clause (i), the corporation may allocate such limitation among such gross receipts in such manner as it may select (at such time and in such manner as may be prescribed in regulations).

"(iii) RECEIPTS OF CONTROLLED GROUP AGGREGATED.—For purposes of applying clauses (i) and (ii), all small FSC's which are members of the same controlled group of corporations shall be treated as a single corporation.

"(iv) ALLOCATION OF LIMITATION AMONG MEMBERS OF CONTROLLED GROUP.—The limitation under clause (i) shall be allocated among the foreign trading gross receipts of small FSC's which are members of the same controlled group of corporations in a manner provided in regulations prescribed by the Secretary.

"(c) REQUIREMENT THAT FSC BE MANAGED OUTSIDE THE UNITED STATES.—The management of a FSC meets the requirements of this subsection for the taxable year if—

"(1) all meetings of the board of directors of the corporation, and all meetings of the shareholders of the corporation, are outside the United States,

"(2) the principal bank account of the corporation is maintained outside the United States at all times during the taxable year, and

"(3) all dividends, legal and accounting fees, and salaries of officers and members of the board of directors of the corporation disbursed during the taxable year are disbursed out of bank accounts of the corporation maintained outside the United States.

"(d) REQUIREMENT THAT ECONOMIC PROCESSES TAKE PLACE OUTSIDE THE UNITED STATES.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to the gross receipts of a FSC derived from any transaction if—

"(A) such corporation (or any person acting under a contract with such corporation) has participated outside the United States in the solicitation (other than advertising), the negotiation, or the making of the contract relating to such transaction, and

"(B) the foreign direct costs incurred by the FSC attributable to the transaction equal or exceed 50 percent of the total direct costs attributable to the transaction.

"(2) ALTERNATIVE 85-PERCENT TEST.—A corporation shall be treated as satisfying the requirements of paragraph (1)(B) with respect to any transaction if, with respect to each of at least 2 paragraphs of subsection (e), the foreign direct costs incurred by such corporation attributable to activities described in such paragraph equal or exceed 85 percent of the total direct costs attributable to activities described in such paragraph.

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

"(A) TOTAL DIRECT COSTS.—The term 'total direct costs' means, with respect to any transaction, the total direct costs incurred by the FSC attributable to activities described in subsection (e) performed at any location by the FSC or any person acting under a contract with such FSC.

"(B) FOREIGN DIRECT COSTS.—The term 'foreign direct costs' means, with respect to any transaction, the portion of the total direct costs which are attributable to activities performed outside the United States.

"(4) RULES FOR COMMISSIONS, ETC.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (e) in the case of commissions, rentals, and furnishing of services.

"(e) ACTIVITIES RELATING TO DISPOSITION OF EXPORT PROPERTY.—The activities referred to in subsection (d) are—

"(1) advertising and sales promotion,

"(2) the processing of customer orders and the arranging for delivery of the export property,

"(3) transportation from the time of acquisition by the FSC (or, in the case of a commission relationship, from the beginning of such relationship for such transaction) to the delivery to the customer,

"(4) the determination and transmittal of a final invoice or statement of account and the receipt of payment, and

"(5) the assumption of credit risk.

"(f) CERTAIN RECEIPTS NOT INCLUDED IN FOREIGN TRADING GROSS RECEIPTS.—

"(1) CERTAIN RECEIPTS EXCLUDED ON BASIS OF USE; SUBSIDIZED RECEIPTS AND RECEIPTS FROM RELATED PARTIES EXCLUDED.—The term 'foreign trading gross receipts' shall not include receipts of a FSC from a transaction if—

"(A) the export property or services—

"(i) are for ultimate use in the United States, or

"(ii) are for use by the United States or any instrumentality thereof and such use of export property or services is required by law or regulation,

"(B) such transaction is accomplished by a subsidy granted by the United States or any instrumentality thereof, or

"(C) such receipts are from another FSC which is a member of the same controlled group of corporations of which such corporation is a member.

"(2) INVESTMENT INCOME; CARRYING CHARGES.—The term 'foreign trading gross receipts' shall not include any investment income or carrying charges.

26 USC 925.

"SEC. 925. TRANSFER PRICING RULES.

"(a) IN GENERAL.—In the case of a sale of export property to a FSC by a person described in section 482, the taxable income of such FSC and such person shall be based upon a transfer price which would allow such FSC to derive taxable income attributable to such sale (regardless of the sales price actually charged) in an amount which does not exceed the greatest of—

"(1) 1.83 percent of the foreign trading gross receipts derived from the sale of such property by such FSC,

"(2) 23 percent of the combined taxable income of such FSC and such person which is attributable to the foreign trading gross receipts derived from the sale of such property by such FSC, or

"(3) taxable income based upon the sale price actually charged (but subject to the rules provided in section 482).

Paragraphs (1) and (2) shall apply only if the FSC meets the requirements of subsection (c) with respect to the sale.

"(b) RULES FOR COMMISSIONS, RENTALS, AND MARGINAL COSTING.—The Secretary shall prescribe regulations setting forth—

"(1) rules which are consistent with the rules set forth in subsection (a) for the application of this section in the case of commissions, rentals, and other income, and

"(2) rules for the allocation of expenditures in computing combined taxable income under subsection (a)(2) in those cases where a FSC is seeking to establish or maintain a market for export property.

"(c) REQUIREMENTS FOR USE OF ADMINISTRATIVE PRICING RULES.—A sale by a FSC meets the requirements of this subsection if—

Ante, p. 987.

"(1) all of the activities described in section 924(e) attributable to such sale, and

"(2) all of the activities relating to the solicitation (other than advertising), negotiation, and making of the contract for such sale,

have been performed by such FSC (or by another person acting under a contract with such FSC).

"(d) LIMITATION ON GROSS RECEIPTS PRICING RULE.—The amount determined under subsection (a)(1) with respect to any transaction shall not exceed 2 times the amount which would be determined under subsection (a)(2) with respect to such transaction.

"(e) TAXABLE INCOME.—For purposes of this section, the taxable income of a FSC shall be determined without regard to section 921.

Ante, p. 985.

"(f) SPECIAL RULE FOR COOPERATIVES.—In any case in which a qualified cooperative sells export property to a FSC, in computing the combined taxable income of such FSC and such organization for purposes of subsection (a)(2), there shall not be taken into account any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

"SEC. 926. DISTRIBUTIONS TO SHAREHOLDERS. 26 USC 926.

"(a) DISTRIBUTIONS MADE FIRST OUT OF FOREIGN TRADE INCOME.—For purposes of this title, any distribution to a shareholder of a FSC by such FSC which is made out of earnings and profits shall be treated as made—

"(1) first, out of earnings and profits attributable to foreign trade income, to the extent thereof, and

"(2) then, out of any other earnings and profits.

"(b) DISTRIBUTIONS BY FSC TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS TREATED AS UNITED STATES CONNECTED.—For purposes of this title, any distribution by a FSC which is made out of earnings and profits attributable to foreign trade income to any shareholder of such corporation which is a foreign corporation or a nonresident alien individual shall be treated as a distribution—

"(1) which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States, and

"(2) of income which is derived from sources within the United States.

"(c) FSC INCLUDES FORMER FSC.—For purposes of this section, the term 'FSC' includes a former FSC.

"SEC. 927. OTHER DEFINITIONS AND SPECIAL RULES. 26 USC 927.

"(a) EXPORT PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'export property' means property—

"(A) manufactured, produced, grown, or extracted in the United States by a person other than a FSC,

"(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business, by, or to, a FSC, for direct use, consumption, or disposition outside the United States, and

"(C) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States.

For purposes of subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation.

"(2) EXCLUDED PROPERTY.—The term 'export property' shall not include—

"(A) property leased or rented by a FSC for use by any member of a controlled group of corporations of which such FSC is a member,

"(B) patents, inventions, models, designs, formulas, or processes whether or not patented, copyrights (other than films, tapes, records, or similar reproductions, for commer-

cial or home use), good will, trademarks, trade brands, franchises, or other like property,

"(C) oil or gas (or any primary product thereof), or

"(D) products the export of which is prohibited or curtailed to effectuate the policy set forth in paragraph (2)(C) of section 3 of the Export Administration Act of 1979 (relating to the protection of the domestic economy).

50 USC app. 2402.

"(3) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, he may by Executive order designate the property as in short supply. Any property so designated shall not be treated as export property during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President's determination that the property is no longer in short supply.

"(4) QUALIFIED COOPERATIVE.—The term 'qualified cooperative' means any organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products.

"(b) GROSS RECEIPTS.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'gross receipts' means—

"(A) the total receipts from the sale, lease, or rental of property held primarily for sale, lease, or rental in the ordinary course of trade or business, and

"(B) gross income from all other sources.

"(2) GROSS RECEIPTS TAKEN INTO ACCOUNT IN CASE OF COMMISSIONS.—In the case of commissions on the sale, lease, or rental of property, the amount taken into account for purposes of this subpart as gross receipts shall be the gross receipts on the sale, lease, or rental of the property on which such commissions arose.

"(c) INVESTMENT INCOME.—For purposes of this subpart, the term 'investment income' means—

"(1) dividends,

"(2) interest,

"(3) royalties,

"(4) annuities,

"(5) rents (other than rents from the lease or rental of export property for use by the lessee outside of the United States),

"(6) gains from the sale or exchange of stock or securities,

"(7) gains from futures transactions in any commodity on, or subject to the rules of, a board of trade or commodity exchange (other than gains which arise out of a bona fide hedging transaction reasonably necessary to conduct the business of the FSC in the manner in which such business is customarily conducted by others),

"(8) amounts includible in computing the taxable income of the corporation under part I of subchapter J, and

"(9) gains from the sale or other disposition of any interest in an estate or trust.

"(d) OTHER DEFINITIONS.—For purposes of this subpart—

"(1) CARRYING CHARGES.—The term 'carrying charges' means—

"(A) carrying charges, and

"(B) under regulations prescribed by the Secretary, any amount in excess of the price for an immediate cash sale and any other unstated interest.

"(2) TRANSACTION.—

"(A) IN GENERAL.—The term 'transaction' means—

"(i) any sale, exchange, or other disposition,

"(ii) any lease or rental, and

"(iii) any furnishing of services.

"(B) GROUPING OF TRANSACTIONS.—To the extent provided in regulations, any provision of this subpart which, but for this subparagraph, would be applied on a transaction-by-transaction basis may be applied by the taxpayer on the basis of groups of transactions based on product lines or recognized industry or trade usage. Such regulations may permit different groupings for different purposes.

"(3) UNITED STATES DEFINED.—The term 'United States' includes the Commonwealth of Puerto Rico.

"(4) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears therein, and

"(B) section 1563(b) shall not apply.

"(5) POSSESSIONS.—The term 'possession of the United States' means Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

"(6) SECTION 923(A)(2) NON-EXEMPT INCOME.—The term 'section 923(a)(2) non-exempt income' means any foreign trade income from a transaction with respect to which paragraph (1) or (2) of section 925(a) does not apply and which is not exempt foreign trade income.

Ante, p. 986.

Ante, p. 990.

"(e) SPECIAL RULES.—

"(1) SOURCE RULES FOR RELATED PERSONS.—Under regulations, the income of a person described in section 482 from a transaction giving rise to foreign trading gross receipts of a FSC which is treated as from sources outside the United States shall not exceed the amount which would be treated as foreign source income earned by such person if the pricing rule under section 994 which corresponds to the rule used under section 925 with respect to such transaction applied to such transaction.

"(2) PARTICIPATION IN INTERNATIONAL BOYCOTTS, ETC.—Under regulations prescribed by the Secretary, the exempt foreign trade income of a FSC for any taxable year shall be limited under rules similar to the rules of clauses (i) and (ii) of section 995(b)(1)(F).

"(3) EXCHANGE OF INFORMATION REQUIREMENTS.—For purposes of this title, the term 'FSC' shall not include any corporation which was created or organized under the laws of any foreign country unless, at the time such corporation was created or organized, there was in effect between such country and the United States—

"(A) a bilateral or multilateral agreement described in section 274(h)(6)(C), or

97 Stat. 395.
26 USC 274.

"(B) an income tax treaty with respect to which the Secretary certifies that the exchange of information pro-

gram with such country under such treaty carries out the purposes of this paragraph.

"(4) DISALLOWANCE OF TREATY BENEFITS.—Any corporation electing to be treated as a FSC under subsection (f)(1) may not claim any benefits under any income tax treaty between the United States and any foreign country.

"(5) EXEMPTION FROM CERTAIN OTHER TAXES.—No tax shall be imposed by any jurisdiction described in subsection (d)(5) on any foreign trade income derived before January 1, 1987.

"(f) ELECTION OF STATUS AS FSC (AND AS SMALL FSC).—

"(1) ELECTION.—

"(A) TIME FOR MAKING.—An election by a corporation under section 922(a)(2) to be treated as a FSC, and an election under section 922(b)(1) to be a small FSC, shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Ante, p. 986.

"(B) MANNER OF ELECTION.—An election under subparagraph (A) shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on the first day of the first taxable year for which such election is effective consent to such election.

"(2) EFFECT OF ELECTION.—If a corporation makes an election under paragraph (1), then the provisions of this subpart shall apply to such corporation for the taxable year of the corporation for which made and for all succeeding taxable years.

"(3) TERMINATION OF ELECTION.—

"(A) REVOCATION.—An election under this subsection made by any corporation may be terminated by revocation of such election for any taxable year of the corporation after the first taxable year of the corporation for which the election is effective. A termination under this paragraph shall be effective with respect to such election—

"(i) for the taxable year in which made, if made at any time during the first 90 days of such taxable year, or

"(ii) for the taxable year following the taxable year in which made, if made after the close of such 90 days, and

for all succeeding taxable years of the corporation. Such termination shall be made in such manner as the Secretary shall prescribe by regulations.

"(B) CONTINUED FAILURE TO BE A FSC.—If a corporation is not a FSC for each of any 5 consecutive taxable years of the corporation for which an election under this subsection is effective, the election to be a FSC shall be terminated and not be in effect for any taxable year of the corporation after such 5th year.".

(b) DIVIDEND RECEIVED DEDUCTION FOR DOMESTIC CORPORATIONS.—

26 USC 245.

(1) IN GENERAL.—Section 245 (relating to dividends received from certain foreign corporations) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC. The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)), or *Ante*, p. 986. *Ante*, p. 991.

"(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'foreign trade income' and 'exempt foreign trade income' have the meaning given such terms by section 923.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 246(b) (relating to limitation on aggregate amount of deduction) is amended by striking out "245" each place it appears and inserting in lieu thereof "subsection (a) or (b) of section 245". 26 USC 246.

(B) Subsection (d) of section 245 (relating to property distributions), as redesignated by paragraph (1), is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "this section". *Ante*, p. 994.

(c) CLARIFICATION OF INFORMATION EXCHANGE AGREEMENTS.—Subparagraph (D) of section 274(h)(6) (relating to coordination with section 6103) is amended— 97 Stat. 395. 26 USC 274.

(1) by adding at the end thereof the following new sentence: "The Secretary may exercise his authority under subchapter A of chapter 78 to carry out any obligation of the United States under an agreement referred to in subparagraph (C).", and 26 USC 7601 *et seq.*

(2) by striking out the heading thereof and inserting in lieu thereof "COORDINATION WITH OTHER PROVISIONS.—".

(d) CONFORMING AMENDMENTS.—

(1) Section 901 (relating to foreign tax credit) is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection: 26 USC 901.

"(h) TAXES PAID WITH RESPECT TO FOREIGN TRADE INCOME.—No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC, other than section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).". *Ante*, p. 986. *Ante*, p. 991.

(2) Paragraph (1) of section 904(d) (relating to application of section in case of certain interest income and dividends from a DISC) as amended— 26 USC 904.

(A) by striking out "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) taxable income attributable to foreign trade income (within the meaning of section 923(b)),

"(D) distributions from a FSC (or former FSC) out of earnings and profits attributable to foreign trade income (within the meaning of section 923(b)), and

Ante, p. 986.

"(E) income other than income described in subparagraph (A), (B), (C), or (D).", and

(C) by striking out the heading and inserting in lieu thereof:

"(d) SEPARATE APPLICATION OF SECTION WITH RESPECT TO CERTAIN INTEREST INCOME AND INCOME FROM DISC, FORMER DISC, FSC, OR FORMER FSC.—".

26 USC 906.

(3) Subsection (b) of section 906 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(5) No credit shall be allowed under this section for any income, war profits, and excess profits taxes paid or accrued with respect to the foreign trade income (within the meaning of section 923(b)) of a FSC.".

26 USC 951.

(4) Section 951 (relating to amounts included in gross income of shareholders) is amended by adding at the end thereof the following new subsection:

"(e) FOREIGN TRADE INCOME NOT TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—The foreign trade income of a FSC and any deductions which are apportioned or allocated to such income shall not be taken into account under this subpart. For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States.

Ante, p. 985.

"(2) FOREIGN TRADE INCOME.—For purposes of this subsection, the term 'foreign trade income' has the meaning given such term by section 923(b), but does not include section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)).".

Ante, p. 986.
Ante, p. 991.

26 USC 275.

(5) Paragraph (4) of section 275(a) (relating to disallowance of deduction for certain taxes) is amended to read as follows:

"(4) Income, war profits, and excess profits taxes imposed by the authority of any foreign country or possession of the United States if—

"(A) the taxpayer chooses to take to any extent the benefits of section 901, or

"(B) such taxes are paid or accrued with respect to foreign trade income (within the meaning of section 923(b)) of a FSC.".

26 USC 1248.

(6) Subsection (d) of section 1248 (relating to exclusions from earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(6) FOREIGN TRADE INCOME.—Earnings and profits of the foreign corporation attributable to foreign trade income (within the meaning of section 923(b)) of a FSC.".

Ante, p. 986.

26 USC 934.

(7) Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended by adding at the end thereof the following new subsection:

"(f) FSC.—Subsection (a) shall not apply in the case of a Virgin Islands corporation which is a FSC.".

26 USC 956.

(8) Paragraph (2) of section 956(b) (defining United States property) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and

"and", and by adding at the end thereof the following new subparagraph:

"(I) to the extent provided in regulations prescribed by the Secretary, property which is otherwise United States property which is held by a FSC and which is related to the export activities of such FSC.".

(9) Subparagraph (B) of section 7651(5), as amended by this Act, is amended by inserting "or subpart C of part III of subchapter N of chapter 1" after "881(b)(1)". 26 USC 7651.

(10) Section 996(g) (relating to effectively connected income) is amended by inserting "and which are derived from sources within the United States" after "United States". 26 USC 996.

(11) Section 936(f) (relating to DISC or former DISC ineligible for credit) is amended to read as follows: 26 USC 936.

"(f) LIMITATION ON CREDIT FOR DISC'S AND FSC'S.—No credit shall be allowed under this section to a corporation for any taxable year—

"(1) for which it is a DISC or former DISC, or

"(2) in which it owns at any time stock in a—

"(A) DISC or former DISC, or

"(B) FSC or former FSC."

(12) Section 6011(c) (relating to returns of DISC's and former DISC's) is amended— 26 USC 6011.

(A) by inserting "or a FSC or former FSC" after "former DISC" in paragraph (1), and

(B) by inserting "and FSC's and Former FSC's" after "Former DISC's" in the heading thereof.

(13) Section 6072(c) (relating to returns by nonresident alien individuals and foreign corporations) is amended by inserting "or a FSC or former FSC" after "United States". 26 USC 6072.

(14) Section 6501(g)(3) (relating to income tax returns of DISC's) is amended by striking out "section 6011(e)(2)" and inserting in lieu thereof "section 6011(c)(2)". 26 USC 6501.

(15)(A) Section 6686 (relating to failure of DISC to file returns) is amended— 26 USC 6686.

(i) by striking out "section 6011(e)" and inserting in lieu thereof "section 6011(c)", and

(ii) by striking out the heading thereof and inserting in lieu thereof the following:

"SEC. 6686. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION BY DISC OR FSC."

(B) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6686 and inserting in lieu thereof the following new item:

"Sec. 6686. Failure to file returns or supply information by DISC or FSC."

SEC. 802. INTEREST CHARGE DISC.

(a) INTEREST CHARGE ON DEFERRED TAX.—Section 995 (relating to taxation of DISC income to shareholders) is amended— 26 USC 995.

(1) by striking out subsections (e) and (f),

(2) by redesignating subsection (g) as subsection (e), and

(3) by adding at the end thereof the following new subsection:

"(f) INTEREST ON DISC-RELATED DEFERRED TAX LIABILITY.—

"(1) IN GENERAL.—A shareholder of a DISC shall pay for each taxable year interest in an amount equal to the product of—

"(A) the shareholder's DISC-related deferred tax liability for such year, and

"(B) the base period T-bill rate.

"(2) SHAREHOLDER'S DISC-RELATED DEFERRED TAX LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'shareholder's DISC-related deferred tax liability' means, with respect to any taxable year of a shareholder of a DISC, the excess of—

"(i) the amount which would be the tax liability of the shareholder for the taxable year if the deferred DISC income of such shareholder for such taxable year were included in gross income as ordinary income, over

"(ii) the actual amount of the tax liability of such shareholder for such taxable year.

Determinations under the preceding sentence shall be made without regard to carrybacks to such taxable year.

"(B) ADJUSTMENTS FOR LOSSES, CREDITS, AND OTHER ITEMS.—The Secretary shall prescribe regulations which provide such adjustments—

"(i) to the accounts of the DISC, and

"(ii) to the amount of any carryover or carryback of the shareholder,

as may be necessary or appropriate in the case of net operating losses, credits, and carryovers, and carrybacks of losses and credits.

"(C) TAX LIABILITY.—The term 'tax liability' means the amount of the tax imposed by this chapter for the taxable year reduced by credits allowable against such tax (other than credits allowable under sections 31, 32, and 34).

Ante, p. 826.

"(3) DEFERRED DISC INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'deferred DISC income' means, with respect to any taxable year of a shareholder, the excess of—

"(i) the shareholder's pro rata share of accumulated DISC income (for periods after 1984) of the DISC as of the close of the computation year, over

"(ii) the amount of the distributions-in-excess-of-income for the taxable year of the DISC following the computation year.

"(B) COMPUTATION YEAR.—For purposes of applying subparagraph (A) with respect to any taxable year of a shareholder, the computation year is the taxable year of the DISC which ends with (or within) the taxable year of the shareholder which precedes the taxable year of the shareholder for which the amount of deferred DISC income is being determined.

"(C) DISTRIBUTIONS-IN-EXCESS-OF-INCOME.—For purposes of subparagraph (A), the term 'distributions-in-excess-of-income' means, with respect to any taxable year of a DISC, the excess (if any) of—

"(i) the amount of actual distributions to the shareholder out of accumulated DISC income, over

"(ii) the shareholder's pro rata share of the DISC income for such taxable year.

"(3) BASE PERIOD T-BILL RATE.—For purposes of this subsection, the term 'base period T-bill rate' means the annual rate of

interest determined by the Secretary to be equivalent to the average investment yield of United States Treasury bills with maturities of 52 weeks which were auctioned during the 1-year period ending on September 30 of the calendar year ending with (or of the most recent calendar year ending before) the close of the taxable year of the shareholder.

"(4) SHORT YEARS.—The Secretary shall prescribe such regulations as may be necessary for the application of this subsection to short years of the DISC, the shareholder, or both.

"(5) PAYMENT AND ASSESSMENT AND COLLECTION OF INTEREST.—The interest accrued during any taxable year which a shareholder is required to pay under paragraph (1) shall be treated, for purposes of this title, as interest payable under section 6601 and shall be paid by the shareholder at the time the tax imposed by this chapter for such taxable year is required to be paid.".

(b) TAXABLE INCOME IN EXCESS OF $10,000,000 DEEMED DISTRIBUTED.—

(1) IN GENERAL.—Subparagraph (E) of section 995(b)(1) (relating to based period export gross receipts) is amended to read as follows: 26 USC 995.

"(E) the taxable income of the DISC attributable to qualified export receipts of the DISC for the taxable year which exceed $10,000,000,".

(2) AGGREGATION OF RECEIPTS.—Subsection (b) of section 995 (relating to deemed distributions) is amended by adding at the end thereof the following new paragraph:

"(4) AGGREGATION OF QUALIFIED EXPORT RECEIPTS.—

"(A) IN GENERAL.—For purposes of applying paragraph (1)(E), all DISC's which are members of the same controlled group shall be treated as a single corporation.

"(B) ALLOCATION.—The dollar amount under paragraph (1)(E) shall be allocated among the DISC's which are members of the same controlled group in a manner provided in regulations prescribed by the Secretary.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a)(1) of section 992 (relating to definition of DISC) is amended— 26 USC 992.

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) such corporation is not a member of any controlled group of which a FSC is a member.".

(2) Paragraph (3) of section 993(a) (relating to controlled groups) is amended by striking out "such term by" and inserting in lieu thereof "the term 'controlled group of corporations' by". 26 USC 993.

(3) Subsection (c) of section 999 (relating to international boycott factor) is amended by striking out "995(b)(1)(F)(ii)" each place it appears and inserting in lieu thereof "995(b)(1)(F)(i)". 26 USC 999.

(4) The table of subparts of part III of subchapter N of chapter 1 is amended by inserting after the item relating to subpart B the following new item:

"Subpart C. Taxation of foreign sales corporations."

SEC. 803. TAXABLE YEAR OF DISC AND FSC REQUIRED TO CONFORM TO TAXABLE YEAR OF MAJORITY SHAREHOLDER.

26 USC 441.

(a) IN GENERAL.—Subsection (b) of section 441 (relating to period for computation of taxable income) is amended—

(1) by striking out "or" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(4) in the case of a FSC or DISC filing a return for a period of at least 12 months, the period determined under subsection (h).".

(b) DETERMINATION OF TAXABLE YEAR.—Section 441 is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF FSC'S AND DISC'S.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any FSC or DISC shall be the taxable year of that shareholder (or group of shareholders with the same 12-month taxable year) who has the highest percentage of voting power.

"(2) SPECIAL RULE WHERE MORE THAN ONE SHAREHOLDER (OR GROUP) HAS HIGHEST PERCENTAGE.—If 2 or more shareholders (or groups) have the highest percentage of voting power under paragraph (1), the taxable year of the FSC or DISC shall be the same 12-month period as that of any such shareholder (or group).

"(3) SUBSEQUENT CHANGES OF OWNERSHIP.—The Secretary shall prescribe regulations under which paragraphs (1) and (2) shall apply to a change of ownership of a corporation after the taxable year of the corporation has been determined under paragraph (1) or (2) only if such change is a substantial change of ownership.

"(4) VOTING POWER DETERMINED.—For purposes of this subsection, voting power shall be determined on the basis of total combined voting power of all classes of stock of the corporation entitled to vote.".

SEC. 804. REPORTING REQUIREMENTS.

26 USC 921 note.

(a) IN GENERAL.—The Secretary of the Treasury shall, for calendar year 1985 and each second calendar year thereafter, submit a report to the Congress within 27½ months following the close of such calendar year setting forth an analysis of the operation and effect of the provisions of this title.

(b) REPEAL OF DISC REPORTING REQUIREMENTS.—

26 USC 991 note.

(1) IN GENERAL.—Section 806 of the Revenue Act of 1971 (relating to submission of annual reports to Congress) is hereby repealed.

26 USC 991 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to reports for calendar years after 1984.

SEC. 805. EFFECTIVE DATE; TRANSITION RULES.

26 USC 921 note.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this title shall apply to transactions after December 31, 1984, in taxable years ending after such date.

(2) SPECIAL RULE FOR CERTAIN CONTRACTS.—To the extent provided in regulations prescribed by the Secretary, subsections (c) and (d) of section 924 of the Internal Revenue Code of 1954 (as added by this title) shall not apply to—

Ante, p. 987.

(A) any contract with respect to which the taxpayer uses the completed contract method of accounting and which—

(i) was entered into before March 16, 1984, or

(ii) was entered into after March 15, 1984, and before January 1, 1985, pursuant to a written plan to enter into such contract which was in effect on March 15, 1984,

(B) any contract which was entered into before March 16, 1984, except that this subparagraph shall only apply to the first 2 taxable years of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury may designate, or

(C) any contract which was entered into after March 15, 1984, and before January 1, 1985, except that this subparagraph shall only apply to the first taxable year of the FSC ending after January 1, 1985, or such later taxable years as the Secretary of the Treasury may designate.

(3) SECTION 801(d)(10).—The amendment made by section 801(d)(10) shall apply to distributions on or after June 22, 1984. *Ante*, p. 985.

(4) SECTION 803.—The amendments made by section 803 shall apply to any DISC established after March 21, 1984. *Ante*, p. 1000.

(b) TRANSITION RULES FOR DISC'S.— 26 USC 991 note.

(1) CLOSE OF 1984 TAXABLE YEARS OF DISC'S.—

(A) IN GENERAL.—For purposes of applying the Internal Revenue Code of 1954, the taxable year of each DISC which begins before January 1, 1985, and which (but for this paragraph) would include January 1, 1985, shall close on December 31, 1984. For purposes of such Code, the requirements of section 992(a)(1)(B) of such Code (relating to percentage of qualified export assets on last day of the taxable year) shall not apply to any taxable year ending on December 31, 1984. 26 USC 1 *et seq.*

(B) UNDERPAYMENTS OF ESTIMATED TAX.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, no addition to tax shall be made under section 6654 or 6655 of such Code with respect to any underpayment of any installment required to be paid before April 13, 1985, to the extent the underpayment was created or increased by reason of subparagraph (A). *Ante*, p. 788.

(2) EXEMPTION OF ACCUMULATED DISC INCOME FROM TAX.—

(A) IN GENERAL.—For purposes of applying the Internal Revenue Code of 1954 with respect to actual distributions made after December 31, 1984, by a DISC or former DISC which was a DISC on December 31, 1984, any accumulated DISC income of a DISC or former DISC (within the meaning of section 996(f)(1) of such Code) which is derived before January 1, 1985, shall be treated as previously taxed income (within the meaning of section 996(f)(2) of such Code) with respect to which there had previously been a deemed distribution to which section 996(e)(1) of such Code applied.

(B) EXCEPTION FOR DISTRIBUTION OF AMOUNTS PREVIOUSLY DISQUALIFIED.—Subparagraph (A) shall not apply to the distribution of any accumulated DISC income of a DISC or former DISC to which section 995(b)(2) of such Code applied by reason of any revocation or disqualification (other than a

revocation which under regulations prescribed by the Secretary results solely from the provisions of this title.

(3) INSTALLMENT TREATMENT OF CERTAIN DEEMED DISTRIBUTIONS OF SHAREHOLDERS.—

(A) IN GENERAL.—Notwithstanding section 995(b) of such Code, if a shareholder of a DISC elects the application of this paragraph, any qualified distribution shall be treated, for purposes of such Code, as received by such shareholder in 10 equal installments on the last day of each of the 10 taxable years of such shareholder which begins after the first taxable year of such shareholder beginning in 1984. The preceding sentence shall apply without regard to whether the DISC exists after December 31, 1984.

(B) QUALIFIED DISTRIBUTION.—The term 'qualified distribution' means any distribution which a shareholder is deemed to have received by reason of section 995(b) of such Code with respect to income derived by the DISC in the first taxable year of the DISC beginning—

(i) in 1984, and

(ii) after the date in 1984 on which the taxable year of such shareholder begins.

(C) SHORTER PERIOD FOR INSTALLMENTS.—The Secretary of the Treasury or his delegate may by regulations provide for the election by any shareholder to be treated as receiving a qualified distribution over such shorter period as the taxpayer may elect.

(D) ELECTIONS.—Any election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

(4) TREATMENT OF TRANSFERS FROM DISC TO FSC.—Except to the extent provided in regulations, section 367 of such Code shall not apply to transfers made before January 1, 1986 (or, if later, the date 1 year after the date on which the corporation ceases to be a DISC), to a FSC of qualified export assets (as defined in section 993(b) of such Code) held on August 4, 1983, by a DISC in a transaction described in section 351 or 368(a)(1) of such Code.

(5) DEEMED TERMINATION OF A DISC.—Under regulations prescribed by the Secretary, if any controlled group of corporations of which a DISC is a member establishes a FSC, then any DISC which is a member of such group shall be treated as having terminated its DISC status.

(6) DEFINITIONS.—For purposes of this subsection, the terms "DISC" and "former DISC" have the respective meanings given to such terms by section 992 of such Code.

26 USC 991 note.

(c) SPECIAL RULE FOR EXPORT TRADE CORPORATIONS.—

(1) IN GENERAL.—If, before January 1, 1985, any export trade corporation—

Ante, p. 991.

(A) makes an election under section 927(f)(1) of the Internal Revenue Code of 1954 to be treated as a FSC, or

(B) elects not to be treated as an export trade corporation with respect to taxable years beginning after December 31, 1984,

rules similar to the rules of paragraphs (2) and (4) of subsection (b) shall apply to such export trade corporation.

(2) TREATMENT OF TRANSFERS TO FSC.—In the case of any export trade corporation which—

(A) makes an election described in paragraph (1), and

(B) transfers before January 1, 1986, any portion of its property to a FSC in a transaction described in section 351 or 368(a)(1),

then, subject to such rules as the Secretary of the Treasury or his delegate may prescribe based on principles similar to the principles of section 505 (a) and (b) of the Revenue Act of 1971, no income, gain, or loss shall be recognized on such transfer or on the distribution of any stock of the FSC received (or treated as received) in connection with such transfer. 26 USC 970 note.

(3) EXPORT TRADE CORPORATION.—For purposes of this subsection, the term "export trade corporation" has the meaning given such term by section 971 of the Internal Revenue Code of 1954.

TITLE IX—HIGHWAY REVENUE PROVISIONS

Subtitle A—Provisions Relating to Heavy Vehicle Use Tax

SEC. 901. REDUCTION OF HEAVY VEHICLE USE TAX.

(a) GENERAL RULE.—Subsection (a) of section 4481 (as amended by section 513(a) of the Highway Revenue Act of 1982) is amended to read as follows: 26 USC 4481.

"(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds at the rate specified in the following table:

"Taxable gross weight:	Rate of tax:
"At least 55,000 pounds, but not over 75,000 pounds.	$100 per year plus $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
Over 75,000 pounds	$550."

(b) SPECIAL RULES IN THE CASE OF CERTAIN OWNER-OPERATORS.— 26 USC 4481 note.

(1) SPECIAL RULE FOR TAXABLE PERIOD BEGINNING ON JULY 1, 1984.—In the case of a small owner-operator, the amount of the tax imposed by section 4481 of the Internal Revenue Code of 1954 on the use of any highway motor vehicle subject to tax under section 4481(a) of such Code (as amended by subsection (a)) for the taxable period which begins on July 1, 1984, shall be the lesser of—

(A) $3 for each 1,000 pounds of taxable gross weight (or fraction thereof), or

(B) the amount of the tax which would be imposed under such section 4481(a) without regard to this paragraph.

(2) EXEMPTION FOR VEHICLES USED FOR LESS THAN 5,000 MILES (AND CERTAIN OTHER AMENDMENTS) TO TAKE EFFECT ON JULY 1, 1984.—In the case of a small owner-operator, notwithstanding subsection (f)(2) of section 513 of the Highway Revenue Act of 1982, the amendments made by subsections (b), (c), and (d) of such section shall take effect on July 1, 1984. 26 USC 4481 note.

(3) SMALL OWNER-OPERATOR DEFINED.—For purposes of this subsection, the term "small owner-operator" has the meaning given such term by section 513(f)(2) of the Highway Revenue Act of 1982.

26 USC 4481 note.

(4) TAXABLE GROSS WEIGHT.—For purposes of this subsection, the term 'taxable gross weight' has the same meaning as when used in section 4481 of the Internal Revenue Code of 1954.

26 USC 4481 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) (and the provisions of subsection (b)) shall take effect on July 1, 1984.

SEC. 902. SPECIAL RULE FOR TRUCKS USED IN LOGGING.

26 USC 4483.

(a) IN GENERAL.—Section 4483 (relating to exemptions from highway use tax) is amended by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

"(e) REDUCTION IN TAX FOR TRUCKS USED IN LOGGING.—The tax imposed by section 4481 shall be reduced by 25 percent with respect to any highway motor vehicle if—

"(1) the exclusive use of such vehicle during any taxable period is the transportation, to and from a point located on a forested site, of products harvested from such forested site, and

"(2) such vehicle is registered (under the laws of the State in which such vehicle is required to be registered) as a highway motor vehicle used in the transportation of harvested forest products.".

26 USC 4483 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1984.

SEC. 903. SPECIAL RULE FOR CERTAIN AGRICULTURAL VEHICLES.

(a) IN GENERAL.—Subsection (d) of section 4483 (relating to exemptions from highway use tax) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) 7,500-MILES EXEMPTION FOR AGRICULTURAL VEHICLES.—

"(A) IN GENERAL.—In the case of an agricultural vehicle, paragraphs (1) and (2) shall be applied by substituting '7,500' for '5,000' each place it appears.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) AGRICULTURAL VEHICLE.—The term 'agricultural vehicle' means any highway motor vehicle—

"(I) used primarily for farming purposes, and

"(II) registered (under the laws of the State in which such vehicle is required to be registered) as a highway motor vehicle used for farming purposes.

"(ii) FARMING PURPOSES.—The term 'farming purposes' means the transporting of any farm commodity to or from a farm or the use directly in agricultural production.

"(iii) FARM COMMODITY.—The term 'farm commodity' means any agricultural or horticultural commodity, feed, seed, fertilizer, livestock, bees, poultry, fur-bearing animals, or wildlife.".

26 USC 4483 note.

96 Stat. 2177.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 513 of the Highway Revenue Act of 1982.

Subtitle B—Provisions Relating to Fuel Taxes

SEC. 911. INCREASE IN DIESEL FUEL TAX.

(a) GENERAL RULE.—Paragraph (1) of section 4041(a) (relating to diesel fuel) is amended by striking out "9 cents" and inserting in lieu thereof "15 cents". 26 USC 4041.

(b) INCOME TAX CREDIT FOR PURCHASE OF DIESEL-POWERED AUTOMOBILE OR LIGHT TRUCK.—Section 6427 (relating to fuels not used for taxable purposes), as amended by this Act, is amended by redesignating subsections (g), (h), (i), (j), (k), (l), and (m) as subsections (h), (i), (j), (k), (l), (m), and (n), respectively, and by inserting after subsection (f) the following new subsection: *Ante*, p. 979.

"(g) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (j), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an anount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—Except as provided in paragraph (6), this subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1988.

"(6) SPECIAL RULE FOR CERTAIN VEHICLES HELD ON JANUARY 1, 1985.—

"(A) IN GENERAL.—In the case of any person holding a qualified diesel-powered highway vehicle on January 1, 1985—

"(i) such person shall be treated as if he originally purchased such vehicle on December 31, 1984, but

"(ii) the amount payable under paragraph (1) to such person for such vehicle shall be the applicable fraction of the diesel fuel differential amount.

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is the fraction determined in accordance with the following table:

"If the model year of the vehicle is:	The applicable fraction is:
1984 or 1985	1
1983	5/6
1982	4/6
1981	3/6
1980	2/6
1979	1/6

In the case of a 1978 or earlier model year vehicle, the applicable fraction shall be zero.

"(7) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO HIGHWAY TRUST FUND.—

26 USC 9503.

(A) TRANSFERS TO MASS TRANSIT ACCOUNT.—Paragraph (2) of section 9503(e) (relating to transfers to Mass Transit Account) is amended to read as follows:

"(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account the mass transit portion of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983. For purposes of the preceding sentence, the term 'mass transit portion' means an amount determined at the rate of 1 cent for each gallon with respect to which tax was imposed under section 4041 or 4081."

(B) INCOME TAX CREDITS PAYABLE OUT OF HIGHWAY TRUST FUND.—Clause (ii) of section 9503(c)(2)(A) is amended by striking out "used before October 1, 1988" and inserting in lieu thereof "used before October 1, 1988 (or with respect to qualified diesel-powered highway vehicles purchased before January 1, 1988)".

(2) CONFORMING AMENDMENTS TO INCOME TAX CREDIT.—

26 USC 39.

(A) Subsections (a)(4) and (b) of section 39 (as in effect before the enactment made by title IV of this Act) are each amended by striking out "6427(i)" and inserting in lieu thereof "6427(j)".

26 USC 6427.

(B) Subsections (a), (b)(1), (c), (d), (e)(1), and (f)(1) of section 6427 are each amended by striking out "(i)" and inserting in lieu thereof "(j)".

Ante, p. 1005.

(C) Subsection (h)(1) of section 6427 (as redesignated by subsection (c)) is amended—

(i) by striking out "or (f)" and inserting in lieu thereof "(f), or (g)", and

(ii) by striking out "fuel used" each place it appears and inserting in lieu thereof "fuel used (or a qualified diesel powered highway vehicle purchased)".

(D) Subsection (h)(2)(A) of section 6427 (as so redesignated) is amended—

(i) by striking out "and (e)" in clause (i) and inserting in lieu thereof "(e), and (g)", and

(ii) by striking out "fuel used" each place it appears and inserting in lieu thereof "fuel used (or a qualified diesel powered highway vehicle purchased)".

(E) Subsection (k)(2) of section 6427 (as so redesignated) is amended by striking out "(g)(2)" and inserting in lieu thereof "(h)(2)". *Ante*, p. 1005.

(F) Subsection (m) of section 6427 (as so redesignated) is amended by striking out "and (d)" each place it appears and inserting in lieu thereof "(d), and (g)".

(G) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(h)(2)" each place it appears and inserting in lieu thereof "6427(i)(2)". 26 USC 7210, 7603–7605, 7609, 7610.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 1984. 26 USC 6427 note.

SEC. 912. DECREASE IN TAX IMPOSED ON GASOHOL.

(a) AMENDMENT OF SECTION 4041.—Paragraph (1) of section 4041(k) (relating to fuels containing alcohol) is amended to read as follows: 26 USC 4041.

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3))—

"(A) subsection (a)(1) shall be applied by substituting '9 cents' for '15 cents', and

"(B) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(C) no tax shall be imposed by subsection (c).".

(b) AMENDMENTS OF SECTION 4081.—Subsection (c) of section 4081 (relating to imposition of tax on petroleum products), as amended by title VII of this Act, is amended— 26 USC 4081.

(A) by striking out "4 cents" each place it appears and inserting in lieu thereof "3 cents",

(B) by striking out "4⅔ cents" and inserting in lieu thereof "3⅓ cents", and

(C) by striking out "4⅔ cents" and inserting in lieu thereof "5⅔ cents".

(c) CREDIT FOR ALCOHOL USED AS A FUEL.—Section 40 (relating to alcohol used as a fuel) (as amended by title IV of this Act) is amended— *Ante*, p. 826.

(1) by striking out "50 cents" each place it appears and inserting in lieu thereof "60 cents", and

(2) by striking out "37.5 cents" each place it appears and inserting in lieu thereof "45 cents".

(d) AMENDMENT OF SECTION 6427.—Paragraph (1) of section 6427(f) (relating to gasoline used to produce certain alcohol fuels) is amended by striking out "4⅔ cents" and inserting in lieu thereof "5⅔ cents". 26 USC 6427.

(e) TARIFF IMPORTED FOR USE AS A FUEL.—Item 901.50 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "50 cents per gal." each place it appears and inserting in lieu thereof "60 cents per gal.".

(f) DEFINITION OF ALCOHOL.—Sections 40(d)(1)(A)(i) (as amended by title IV of this Act) and 4081(c)(3) (defining alcohol) are each *Ante*, p. 826. 26 USC 4081.

amended by striking out "coal" and inserting in lieu thereof "coal (including peat)".

26 USC 40 note. (g) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1985.

SEC. 913. MODIFICATION OF TAX IMPOSED ON METHANOL AND ETHANOL.

26 USC 4041. (a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection.

"(m) CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—In the case of the sale or use of any partially exempt methanol or ethanol fuel—

"(A) subsection (a)(2) shall be applied by substituting '4½ cents' for '9 cents', and

"(B) no tax shall be imposed by subsection (c).

"(2) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—The term 'partially exempt methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.".

Ante, p. 826. (b) CONFORMING AMENDMENT.—Subsection (c) of section 40 (relating to coordination of credit for alcohol used as a fuel with exemption from excise tax) (as redesignated by title IV of this Act) is amended by striking out "(b)(2) or (k)" and inserting in lieu thereof "(b)(2), (k), or (m)".

26 USC 4041 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 1984.

SEC. 914. EXTENSION OF REDUCTION IN TAX FOR FUEL USED BY TAXICABS.

26 USC 6427. Paragraph (3) of section 6427(e) (relating to termination of use in certain taxicabs) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

SEC. 915. 3 CENT TAX ON DIESEL FUEL, ETC., USED IN CERTAIN BUSES.

(a) IN GENERAL.—Subsection (b) of section 6427 (relating to fuels not used for taxable purposes) is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) 3-CENT REDUCTION IN REFUND IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the rate of tax taken into account under paragraph (1) shall not exceed 12 cents.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes, but only if such bus is a qualified local bus.

"(C) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract (or is receiving more than a nominal subsidy) from any State or local government (as defined in section 4221(d)) to furnish such transportation."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 1, 1984. 26 USC 6427 note.

Subtitle C—Temporary Reduction in Retail Tax on Certain Piggyback Trailers

SEC. 921. TEMPORARY REDUCTION IN TAX.

Section 4051 (relating to retail tax on heavy trucks and trailers) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection: 26 USC 4051.

"(d) TEMPORARY REDUCTION IN TAX ON CERTAIN PIGGYBACK TRAILERS.—

"(1) IN GENERAL.—In the case of piggyback trailers or semitrailers sold within the 1-year period beginning on the date of the enactment of the Tax Reform Act of 1984, subsection (a) shall be applied by substituting '6 percent' for '12 percent'. *Ante*, p. 494.

"(2) PIGGYBACK TRAILERS OR SEMITRAILERS.—For purposes of this subsection, the term 'piggyback trailers or semitrailers' means any trailer or semitrailer—

"(A) which is designed for use principally in connection with trailer-on-flatcar service by rail, and

"(B)(i) both the seller and the purchaser of which are registered in a manner similar to registration under section 4222, and

"(ii) with respect to which the purchaser certifies (at such time and in such form and manner as the Secretary prescribes by regulations) to the seller that such trailer or semitrailer—

"(I) will be used, or resold for use, principally in connection with such service, or

"(II) will be incorporated into an article which will be so used or resold.

"(3) ADDITIONAL TAX WHERE NONQUALIFIED USE.—If any piggyback trailer or semitrailer was subject to tax under subsection (a) at the 6 percent rate and such trailer or semitrailer is used or resold for use other than for a use described in paragraph (2)—

"(A) such use or resale shall be treated as a sale to which subsection (a) applies,

"(B) the amount of the tax imposed under subsection (a) on such sale shall be equal to the amount of the tax which was imposed on the first retail sale, and

"(C) the person so using or reselling such trailer or semitrailer shall be liable for the tax imposed by subsection (a)."

Subtitle D—Studies

PART I—STUDIES RELATING TO HEAVY VEHICLE USE TAX

26 USC 4481 note.

SEC. 931. WHETHER HEAVY VEHICLES BEAR FAIR SHARE OF HIGHWAY COSTS.

The Secretary of Transportation shall conduct a study of whether highway motor vehicles with taxable gross weights of 80,000 pounds or more bear their fair share of the costs of the highway system.

26 USC 4481 note.

SEC. 932. TRANS-BORDER TRUCKING.

The Secretary of Transportation shall conduct a study to determine the significance of the tax imposed by section 4481 of the Internal Revenue Code of 1954 (relating to tax on use of certain vehicles) on trans-border trucking operations.

26 USC 4481 note.

SEC. 933. WEIGHT-DISTANCE TAXES.

The Secretary of Transportation shall conduct a study to evaluate the feasibility and ability of weight-distance truck taxes to provide the greatest degree of equity among highway users, to ease the costs of compliance of such taxes, and to improve the efficiency by which such taxes might be administered. Such study shall also include an evaluation of the evasion potential for weight-distance taxes and an assessment of the benefits to interstate commerce of replacing all Federal truck taxes (other than fuel taxes) with a weight-distance tax.

26 USC 4481 note.

SEC. 934. REPORTS, ETC.

(a) CONSULTATION WITH TREASURY.—Studies conducted under this part shall be conducted in consultation with the Secretary of the Treasury.

(b) REPORT.—Not later than October 1, 1987, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each study conducted under this part together with such recommendations as the Secretary may deem advisable.

PART II—OTHER STUDIES

SEC. 935. STUDY OF REDUCED FUEL TAXES FOR TAXICABS.

The Secretary of the Treasury or his delegate shall conduct a study of the reduced rate of fuel taxes provided by section 6427(e) of the Internal Revenue Code of 1954. Not later than January 1, 1985, such Secretary shall submit a report on such study to the Congress, together with such recommendations as the Secretary may deem advisable.

SEC. 936. STUDY OF PIGGYBACK TRAILERS.

(a) IN GENERAL.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of the appropriate application and level of the tax imposed by section 4051 of the Internal Revenue Code of 1954 (relating to tax on trucks and trailers sold at retail) on piggyback trailers and semi-trailers.

(b) REPORT.—Not later than May 1, 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the

House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a) together with such recommendations as the Secretary may deem advisable.

TITLE X—MISCELLANEOUS REVENUE PROVISIONS

Subtitle A—Capital Gains and Losses

SEC. 1001. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAINS.—Paragraphs (1) and (3) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months". 26 USC 1222.

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts). 26 USC 166.

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations). 26 USC 341.

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust). 26 USC 402.

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan). 26 USC 403.

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans). 26 USC 423.

(6) Paragraph (2) of section 582(c) (relating to capital gains of banks). 26 USC 582.

(7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds). 26 USC 584.

(8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts). 26 USC 642.

(9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner). 26 USC 702.

(10) Subparagraph (A) of section 818(b)(1) (relating to certain gains and losses in the case of life insurance companies). *Ante*, p. 752.

(11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies). 26 USC 852.

(12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust). 26 USC 856.

(13) Paragraphs (3)(B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust). *Ante*, p. 572.

(14) Paragraphs (11) and (12) of section 1223 (relating to holding period of property). 26 USC 1223.

26 USC 1231. (15) Section 1231 (relating to property used in the trade or business and involuntary conversions).

26 USC 1232. (16) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

26 USC 1233. (17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

26 USC 1234. (18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).

26 USC 1235. (19) Subsection (a) of section 1235 (relating to sale or exchange of patents).

26 USC 1246. (20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

26 USC 1247. (21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

26 USC 1248. (22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

Ante, p. 853. (23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

26 USC 631. (c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL, AND DOMESTIC IRON ORE.—Section 631 (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "for a period of more than 1 year" in the first sentence of subsection (a) and inserting in lieu thereof "on the first day of such year and for a period of more than 6 months before such cutting", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

26 USC 1232. (d) TECHNICAL AMENDMENT RELATING TO CERTAIN SHORT-TERM GOVERNMENT OBLIGATIONS.—Section 1232(a)(3)(A) (relating to certain short-term government obligations) is amended by striking out "held less than 1 year".

26 USC 166 note. (e) EFFECTIVE DATE.—The amendments made by this section shall apply to property acquired after June 22, 1984, and before January 1, 1988.

SEC. 1002. REPEAL OF SPECIAL RULE FOR PRE-1970 LOSSES.

26 USC 1212. (a) IN GENERAL.—Paragraph (3) of section 1212(b) (relating to transitional rule for taxpayers other than corporations) is repealed.

26 USC 1212 note. (b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

Subtitle B—Excise Tax Provisions

PART I—BOATING SAFETY AND SPORT FISH RESTORATION

Subpart A—Boating Safety Amendments

46 USC 13101 note. **SEC. 1010. POLICY.**

It is declared to be the policy of Congress and the purpose of this part to improve recreational boating safety and to foster greater development, use, and enjoyment of all waters of the United States

by encouraging and assisting participation by the States, the boating industry, and the boating public in activities related to increasing boating safety; by authorizing the establishment of national construction and performance standards for boats and associated equipment; by creating more flexible authority governing the use of boats and equipment; and by facilitating the provision of services by the United States Coast Guard on behalf of boating safety. It is further declared to be the policy of Congress to encourage greater and continuing uniformity of boating laws and regulations among the States and the Federal Government, to encourage and assist the States in exercising their authorities in boating safety, to foster greater cooperation and assistance between the Federal Government and the States in administering and enforcing Federal and State laws and regulations pertaining to boating safety, and to equitably utilize taxes paid on fuel use in motor boats in a manner which enhances boating safety.

SEC. 1011. GENERAL AMENDMENTS TO TITLE 46.

(a) Section 2102 of title 46, United States Code, is amended— 97 Stat. 505.

(1) by striking out "and facilities improvement" in paragraph (1);

(2) by striking out paragraphs (3) and (4); and

(3) by redesignating paragraph (5) as paragraph (3).

(b)(1) Section 13101 of such title is amended— 97 Stat. 592.

(A) by striking out "and facility improvement" in subsection (a); and

(B) by striking out "and facilities improvement" each place it appears.

(2) Subsection (a) of section 13101 of such title is amended by striking out "may" in the second sentence and inserting in lieu thereof "shall".

(c)(1) Section 13102 of such title is amended by striking out "and facilities improvement" each place it appears. 97 Stat. 593.

(2) Subsection (a) of section 13102 of such title is amended by striking out "may" and inserting in lieu thereof "shall".

(3) Paragraph (2) of section 13102(a) of such title is amended by striking out ", (d), or (f)".

(4) Subsections (d) and (f) of section 13102 of such title are repealed, and subsection (e) of such section (and any reference thereto) is redesignated as subsection (d).

(d)(1) Subsections (b), (d), and (f) of section 13103 of such title are repealed, and subsections (c) and (e) of such section (and all references thereto) are redesignated as subsections (b) and (c), respectively. 97 Stat. 594.

(2) Subsections (b) and (c) of section 13103 of such title (as redesignated by paragraph (1) of this subsection) are amended by striking out "and facilities improvement" each place it appears.

(e) Section 13105 of such title is amended by striking out "and facilities improvement". 97 Stat. 596.

(f) Subsection (c) of section 13108 of such title is amended by striking out "and facilities improvement" each place it appears. 97 Stat. 596.

(g) Section 13109 of such title is amended by striking out "and facilities improvement" each place it appears. 97 Stat. 597.

SEC. 1012. AUTHORIZATION OF FUNDS FOR BOATING SAFETY.

Section 13106 of title 46, United States Code, is amended to read as follows: 97 Stat. 596.

"(a) The Secretary may expend in each of the fiscal years 1985, 1986, 1987, and 1988, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to two-thirds of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)). The amount shall be allocated as provided under section 13103 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

Post, p. 1020.
97 Stat. 594.

"(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes may include—

"(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

"(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

"(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

"(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

"(5) conducting boating safety inspections and marine casualty investigations;

"(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

"(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

"(8) providing State recreational vessel numbering or titling programs.

"(c) An amount equal to one-third of the amount transferred for each fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Amounts made available by this subsection shall remain available until expended."

46 USC 13101 note.

SEC. 1013. EFFECTIVE DATE.

The amendments made by this subpart shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

Subpart B—Sport Fish Restoration Program

SEC. 1014. AMENDMENTS TO THE SPORT FISH RESTORATION PROGRAM.

(a) The Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777 et seq.), is amended as follows:

(1) The first section is amended— 16 USC 777.

(A) by inserting "(a)" after "That"; and

(B) by adding at the end thereof the following new subsection:

"(b) Each coastal State, to the extent practicable, shall equitably allocate the following sums between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State:

"(1) The additional sums apportioned to such State under this Act as a result of the taxes imposed by the amendments made by section 1015 of the Tax Reform Act of 1984 on items not taxed under section 4161(a) of the Internal Revenue Code of 1954 before October 1, 1984. *Post*, p. 1017.

"(2) The sums apportioned to such State under this Act that are not attributable to any tax imposed by such section 4161(a). As used in this subsection, the term 'coastal State' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas."

(2) The first sentence of section 3 is amended to read as follows: "To carry out the provisions of this Act for fiscal years after September 30, 1984, there are authorized to be appropriated from the Sport Fish Restoration Account established by section 9504(a) of the Internal Revenue Code of 1954 the amounts paid, transferred, or otherwise credited to that Account. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section." Appropriation authorization. 16 USC 777b. *Post*, p. 1019. 65 Stat. 262.

(3) The first sentence of section 4 is amended to read as follows: "So much, not to exceed 6 per centum, of each annual appropriation made in accordance with the provisions of section 3 of this Act as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year." 16 USC 777c. Conservation.

(4) Section 5 is amended by striking all after the first sentence. 16 USC 777d.

16 USC 777e.

(5) Section 6 is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of the Interior may enter into agreements to finance up to 75 per centum of the initial costs of the acquisition of lands or interests therein and the construction of structures or facilities for appropriations currently available for the purposes of this Act; and to agree to finance up to 75 per centum of the remaining costs over such a period of time as the Secretary may consider necessary. The liability of the United States in any such agreement is contingent upon the continued availability of funds for the purposes of this Act."

16 USC 777g.

(6) Section 8 is amended by inserting "(a)" before the first sentence, and by adding at the end thereof the following new subsections:

16 USC 777c.

"(b)(1) Each State shall allocate 10 per centum of the funds apportioned to it for each fiscal year under section 4 of this Act for the payment of up to 75 per centum of the costs of the acquisition, development, renovation, or improvement of facilities (and auxiliary facilities necessary to insure the safe use of such facilities) that create, or add to, public access to the waters of the United States to improve the suitability of such waters for recreational boating purposes.

"(2) So much of the funds that are allocated by a State under paragraph (1) in any fiscal year that remained unexpended or unobligated at the close of such year are authorized to be made available for the purposes described in paragraph (1) during the succeeding fiscal year, but any portion of such funds that remain unexpended or unobligated at the close of such succeeding fiscal year are authorized to be made available for expenditure by the Secretary of the Interior in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.

Public information.

"(c) Each State may use not to exceed 10 per centum of the funds apportioned to it under section 4 of this Act to pay up to 75 per centum of the costs of an aquatic resource education program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms. The non-Federal share of such costs may not be derived from other Federal grant programs. The Secretary shall issue not later than the one hundred and twentieth day after the effective date of this subsection such regulations as he deems advisable regarding the criteria for such programs."

Grants.

16 USC 777k.

(7) Section 12 is amended—

(A) inserting "the Mayor of the District of Columbia," immediately after "the Secretary of Agriculture of Puerto Rico,";

(B) by inserting "for the District of Columbia one-third of 1 per centum," immediately after "for Puerto Rico 1 per centum,"; and

(C) by inserting "the District of Columbia," after "Puerto Rico," each place it appears therein.

16 USC 777 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1984, and shall apply with respect to fiscal years beginning after September 30, 1984.

Subpart C—Taxes on Sales of Sport Fishing Equipment, Etc.

SEC. 1015. TAX ON SALE OF SPORT FISHING EQUIPMENT.

(a) GENERAL RULE.—Subsection (a) of section 4161 (relating to imposition of tax on the sale of rods, reels, etc.) is amended to read as follows: 26 USC 4161.

"(a) SPORT FISHING EQUIPMENT.—

"(1) IMPOSITION OF TAX.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.

"(2) 3 PERCENT RATE OF TAX FOR ELECTRIC OUTBOARD MOTORS AND SONAR DEVICES SUITABLE FOR FINDING FISH.—

"(A) IN GENERAL.—In the case of an electric outboard motor or a sonar device suitable for finding fish, paragraph (1) shall be applied by substituting '3 percent' for '10 percent'.

"(B) $30 LIMITATION ON TAX IMPOSED ON SONAR DEVICES SUITABLE FOR FINDING FISH.—The tax imposed by paragraph (1) on any sonar device suitable for finding fish shall not exceed $30.

"(3) PARTS OR ACCESSORIES SOLD IN CONNECTION WITH TAXABLE SALE.—In the case of any sale by the manufacturer, producer, or importer of any article of sport fishing equipment, such article shall be treated as including any parts or accessories of such article sold on or in connection therewith or with the sale thereof."

(b) DEFINITION OF SPORT FISHING EQUIPMENT, ETC.—Part I of subchapter D of chapter 32 is amended by adding at the end thereof the following new section:

"SEC. 4162. DEFINITIONS; TREATMENT OF CERTAIN RESALES. 26 USC 4162.

"(a) SPORT FISHING EQUIPMENT DEFINED.—For purposes of this part, the term 'sport fishing equipment' means—

"(1) fishing rods and poles (and component parts therefor),

"(2) fishing reels,

"(3) fly fishing lines, and other fishing lines not over 130 pounds test,

"(4) fishing spears, spear guns, and spear tips,

"(5) items of terminal tackle, including—

"(A) leaders,

"(B) artificial lures,

"(C) artificial baits,

"(D) artificial flies,

"(E) fishing hooks,

"(F) bobbers,

"(G) sinkers,

"(H) snaps,

"(I) drayles, and

"(J) swivels,

but not including natural bait or any item of terminal tackle designed for use and ordinarily used on fishing lines not described in paragraph (3), and

"(6) the following items of fishing supplies and accessories—

"(A) fish stringers,

"(B) creels,

"(C) tackle boxes,

"(D) bags, baskets, and other containers designed to hold fish,

"(E) portable bait containers,

"(F) fishing vests,

"(G) landing nets,

"(H) gaff hooks,

"(I) fishing hood disgorgers, and

"(J) dressing for fishing lines and artificial flies,

"(7) fishing tip-ups and tilts,

"(8) fishing rod belts, fishing rodholders, fishing harnesses, fish fighting chairs, fishing outriggers, and fishing downriggers,

"(9) electric outboard boat motors, and

"(10) sonar devices suitable for finding fish.

"(b) SONAR DEVICE SUITABLE FOR FINDING FISH.—For purposes of this part, the term 'sonar device suitable for finding fish' shall not include any sonar device which is—

"(1) a graph recorder,

"(2) a digital type,

"(3) a meter readout, or

"(4) a combination graph recorder or combination meter readout.

"(c) TREATMENT OF CERTAIN RESALES.—

"(1) IN GENERAL.—If—

Ante, p. 1017.

"(A) the manufacturer, producer, or importer sells any article taxable under section 4161(a) to any person,

"(B) the constructive sale price rules of section 4216(b) do not apply to such sale, and

"(C) such person (or any other person) sells such article to a related person with respect to the manufacturer, producer, or importer,

then such related person shall be liable for tax under section 4161 in the same manner as if such related person were the manufacturer of the article.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the sale of any article by reason of paragraph (1), and

"(B) the related person establishes the amount of the tax which was paid on the sale described in paragraph (1)(A),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' has the meaning given such term by section 168(e)(4)(D).

"(4) REGULATIONS.—Except to the extent provided in regulations, rules similar to the rules of this subsection shall also apply in cases (not described in paragraph (1)) in which intermediaries or other devices are used for purposes of reducing the amount of the tax imposed by section 4161(a)."

26 USC 6302.

(c) TIME FOR PAYMENT OF TAX.—Section 6302 (relating to mode or time of collecting tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

Ante, p. 1017.

"(d) TIME FOR PAYMENT OF MANUFACTURERS EXCISE TAX ON SPORT FISHING EQUIPMENT.—The tax imposed by section 4161(a) (relating to manufacturers excise tax on sport fishing equipment) shall be due and payable on the date for filing the return for such tax."

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter D of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4162. Definitions; treatment of certain resales."

(e) EFFECTIVE DATE.— 26 USC 4162 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984.

(2) TREATMENT OF CERTAIN RESALES.—Subsection (c) of section 4162 of the Internal Revenue Code of 1954 (relating to treatment of certain resales), as added by this section, shall apply to sales by related persons (as defined in such subsection) after the date of the enactment of this Act. *Ante*, p. 1017.

SEC. 1016. ESTABLISHMENT OF AQUATIC RESOURCES TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9504. AQUATIC RESOURCES TRUST FUND. 26 USC 9504.

"(a) CREATION OF TRUST FUND.—

"(1) IN GENERAL.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Aquatic Resources Trust Fund'.

"(2) ACCOUNTS IN TRUST FUND.—The Aquatic Resources Trust Fund shall consist of—

"(A) a Sport Fish Restoration Account, and

"(B) a Boat Safety Account.

Each such Account shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), or section 9602(b).

"(b) SPORT FISH RESTORATION ACCOUNT.—

"(1) TRANSFER OF CERTAIN TAXES TO ACCOUNT.—There is hereby appropriated to the Sport Fish Restoration Account amounts equivalent to the following amounts received in the Treasury on or after October 1, 1984—

"(A) the taxes imposed by section 4161(a) (relating to sport fishing equipment), and *Ante*, p. 1017.

"(B) the import duties imposed on fishing tackle under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) and on yachts and pleasure craft under subpart D of part 6 of schedule 6 of such Schedules.

"(2) EXPENDITURES FROM ACCOUNT.—Amounts in the Sport Fish Restoration Account shall be available, as provided by appropriation Acts, to carry out the purposes of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes', approved August 9, 1950 (as in effect on June 1, 1984).

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts in the Boat Safety Account shall be available, as provided by appropriation Acts, for making expenditures before April 1, 1989, to carry out the purposes of section 13106 of title 46, United States Code (as in effect on June 1, 1984). 97 Stat. 596.

"(d) CROSS REFERENCE.—

"For provision transferring motorboat fuels taxes to Boat Safety Account and Sport Fish Restoration Account, see section 9503(c)(4)."

(b) TRANSFERS FROM HIGHWAY TRUST FUND.—

26 USC 9503.

(1) Subparagraph (A) of section 9503(c)(4) of such Code is amended—

(A) by striking out "the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act" in clause (i) and inserting in lieu thereof "the Boat Safety Account in the Aquatic Resources Trust Fund",

(B) by striking out "the amount in the National Recreational Boating Safety and Facilities Improvement Fund" in clause (ii) and inserting in lieu thereof "the amount in the Boat Safety Account", and

(C) by striking out "NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND" in the subparagraph heading and inserting in lieu thereof "BOAT SAFETY ACCOUNT".

(2) Paragraph (4) of section 9503(c) is amended by redesignating subparagraph (C) as subparagraph (D) and by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(B) $1,000,000 PER YEAR OF EXCESS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—

"(i) IN GENERAL.—Any amount received in the Highway Trust Fund—

"(I) which is attributable to motorboat fuel taxes, and

"(II) which is not transferred from the Highway Trust Fund under subparagraph (A),

shall be transferred (subject to the limitation of clause (ii)) by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

16 USC 460*l*-4-460*l*-11.

"(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $1,000,000.

"(C) EXCESS FUNDS TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.—Any amount received in the Highway Trust Fund—

"(i) which is attributable to motorboat fuel taxes, and

"(ii) which is not transferred from the Highway Trust Fund under subparagraph (A) or (B),

shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration Account in the Aquatic Resources Trust Fund."

(c) CONFORMING AMENDMENTS.—

Repeal.
97 Stat. 596.

(1) Section 13107 of title 46, United States Code, is hereby repealed.

(2) The table of sections for chapter 131 of title 46, United States Code, is amended by striking out the item relating to section 13107.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9504. Aquatic Resources Trust Fund."

(e) EFFECTIVE DATE.— 26 USC 9504 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1984.

(2) BOAT SAFETY ACCOUNT TREATED AS CONTINUATION OF NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—The Boat Safety Account in the Aquatic Resources Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the National Recreational Boating Safety and Facilities Improvement Fund established by section 13107 of title 46, United States Code. Any reference in any law to the National Recreational Boating Safety and Facilities Improvement Fund established by such section shall be deemed to include (wherever appropriate) a reference to such Boat Safety Account. *Ante*, p. 1020.

SEC. 1017. TAX ON CERTAIN ARROWS.

(a) GENERAL RULE.—Paragraph (1) of section 4161(b) (relating to bows and arrows) is amended to read as follows: 26 USC 4161.

"(1) BOWS AND ARROWS.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

"(A) of any bow which has a draw weight of 10 pounds or more, and

"(B) of any arrow which—

"(i) measures 18 inches overall or more in length, or

"(ii) measures less than 18 inches overall in length but is suitable for use with a bow described in subparagraph (A).

a tax equal to 11 percent of the price for which so sold."

(b) COORDINATION WITH TAX ON SPORT FISHING EQUIPMENT.—

(1) Subsection (b) of section 4161 is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (a).—No tax shall be imposed under this subsection with respect to any article taxable under subsection (a)."

(2) Paragraph (2) of section 4161(b) is amended by striking out "(other than a fishing reel)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer after September 30, 1984. 26 USC 4161 note.

PART II—OTHER EXCISE TAXES

SEC. 1018. EXEMPTION FROM AVIATION EXCISE TAX FOR CERTAIN HELICOPTER OPERATIONS.

(a) EXEMPTION FROM FUEL TAX.—Paragraph (1) of section 4041(l) (relating to exemption for certain helicopter uses) is amended to read as follows: 26 USC 4041.

"(1) transporting individuals, equipment, or supplies in—

"(A) the exploration for, or the development or removal of, hard minerals, or

"(B) the exploration for oil or gas, or".

(b) EXEMPTION FROM TAX ON TRANSPORTATION BY AIR.—Paragraph (1) of section 4261(e) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in—

"(A) the exploration for, or the development or removal of, hard minerals, or

"(B) the exploration for oil or gas, or".

(c) EFFECTIVE DATE.—

26 USC 4041 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall take effect on April 1, 1984.

26 USC 4261 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to transportation beginning after March 31, 1984, but shall not apply to any amount paid on or before such date.

SEC. 1019. TECHNICAL AMENDMENTS TO THE HAZARDOUS SUBSTANCE RESPONSE REVENUE ACT OF 1980.

(a) CLARIFICATION OF EXCEPTED SUBSTANCES.—

26 USC 4662.

(1) IN GENERAL.—Subsection (b) of section 4662 (relating to definitions and special rules with respect to tax on certain chemicals) is amended by adding at the end thereof the following new paragraphs:

"(5) SUBSTANCES USED IN THE PRODUCTION OF MOTOR FUEL, ETC.—

"(A) IN GENERAL.—In the case of any chemical described in subparagraph (D) which is a qualified fuel substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED FUEL SUBSTANCE.—For purposes of this section, the term 'qualified fuel substance' means any substance—

"(i) used in a qualified fuel use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified fuel use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fuel use.

"(C) QUALIFIED FUEL USE.—For purposes of this subsection, the term 'qualified fuel use' means—

"(i) any use in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel, or

"(ii) any use as such a fuel.

"(D) CHEMICALS TO WHICH PARAGRAPH APPLIES.—For purposes of this subsection, the chemicals described in this subparagraph are acetylene, benzene, butylene, butadiene, ethylene, naphthalene, propylene, toluene, and xylene.

"(E) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical.

"(6) SUBSTANCE HAVING TRANSITORY PRESENCE DURING REFINING PROCESS, ETC.—

"(A) IN GENERAL.—No tax shall be imposed under section 4661(a) on any taxable chemical described in subparagraph (B) by reason of the transitory presence of such chemical during any process of smelting, refining, or otherwise extracting any substance not subject to tax under section 4661(a).

"(B) CHEMICALS TO WHICH SUBPARAGRAPH (A) APPLIES.—The chemicals described in this subparagraph are—

"(i) barium sulfide, cupric sulfate, cupric oxide, cuprous oxide, lead oxide, zinc chloride, and zinc sulfate, and

"(ii) any solution or mixture containing any chemical described in clause (i).

"(C) REMOVAL TREATED AS USE.—Nothing in subparagraph (A) shall be construed to apply to any chemical which is removed from or ceases to be part of any smelting, refining, or other extraction process."

(2) CREDIT OR REFUND FOR USE AS QUALIFIED FUEL, ETC.—Subsection (d) of section 4662 (relating to refund or credit for certain uses) is amended by adding at the end thereof the following new paragraph: 26 USC 4662.

"(3) USE AS QUALIFIED FUEL.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to any chemical described in subparagraph (D) of subsection (b)(5) without regard to subsection (b)(5), and

"(B) any person uses such chemical as a qualified fuel substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(5) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(3) METHANE AND BUTANE USED IN PRODUCTION OF MOTOR FUEL, ETC.—Paragraph (1) of section 4662(b) is amended by inserting "or in the manufacture or production of any motor fuel, diesel fuel, aviation fuel, or jet fuel" after "than as a fuel".

(b) CLARIFICATION OF USE AS FERTILIZER.—

(1) IN GENERAL.—Paragraph (2) of section 4662(b) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) QUALIFIED FERTILIZER SUBSTANCE.—For purposes of this section, the term 'qualified fertilizer substance' means any substance—

"(i) used in a qualified fertilizer use by the manufacturer, producer, or importer,

"(ii) sold for use by any purchaser in a qualified fertilizer use, or

"(iii) sold for resale by any purchaser for use, or resale for ultimate use, in a qualified fertilizer use.

"(C) QUALIFIED FERTILIZER USE.—The term 'qualified fertilizer use' means any use in the manufacture or production of fertilizer or for direct application as a fertilizer.

"(D) TAXATION OF NONQUALIFIED SALE OR USE.—For purposes of section 4661(a), if no tax was imposed by such section on the sale or use of any chemical by reason of subparagraph (A), the first person who sells or uses such chemical other than in a sale or use described in subparagraph (A) shall be treated as the manufacturer of such chemical."

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (A) of section 4662(b)(2) is amended by striking out "qualified substance" and inserting in lieu thereof "qualified fertilizer substance".

26 USC 4662.

(B) Subparagraph (B) of section 4662(d)(2) is amended to read as follows:

"(B) any person uses such substance as a qualified fertilizer substance,".

(c) CONFORMING AMENDMENT.—Subsection (c) of section 4662 (relating to use by manufacturer, etc., considered sale) is amended by striking out "If" and inserting in lieu thereof "Except as provided in subsection (b), if".

26 USC 4662 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 211(a) of the Hazardous Substance Response Revenue Act of 1980.

94 Stat. 2797.

(2) WAIVER OF LIMITATION.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the date which for one year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of such amendments) may, nevertheless, be made or allowed if claim therefor is filed on or before the date which for one year after the date of the enactment of this Act.

Subtitle C—Estate and Gift Tax Provisions

SEC. 1021. DEFERRAL OF ESTATE TAXES FOR INTEREST IN HOLDING COMPANY WHICH OWNS STOCK IN CLOSELY HELD OPERATING COMPANY.

26 USC 6166.

(a) GENERAL RULE.—Subsection (b) of section 6166 (relating to extension of time for payment of estate tax where estate consists largely of interests in closely held business) is amended by adding at the end thereof the following new paragraph:

"(8) STOCK IN HOLDING COMPANY TREATED AS BUSINESS COMPANY STOCK IN CERTAIN CASES.—

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then—

"(i) HOLDING COMPANY STOCK TREATED AS BUSINESS COMPANY STOCK.—For purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.

"(ii) 5-YEAR DEFERRAL FOR PRINCIPAL NOT TO APPLY.—The executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a).

"(iii) 4-PERCENT INTEREST RATE NOT TO APPLY.—Section 6601(j) (relating to 4-percent rate of interest) shall not apply.

"(B) ALL STOCK MUST BE NON-READILY-TRADABLE STOCK.—No stock shall be taken into account for purposes of applying this paragraph unless it is non-readily-tradable stock (within the meaning of paragraph (7)(B)).

"(C) APPLICATION OF VOTING STOCK REQUIREMENT OF PARAGRAPH (1)(C)(i).—For purposes of clause (i) of paragraph (1)(C), the deemed stock resulting from the application of

subparagraph (A) shall be treated as voting stock to the extent that voting stock in the holding company owns directly (or through the voting stock of 1 or more other holding companies) voting stock in the business company.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) HOLDING COMPANY.—The term 'holding company' means any corporation holding stock in another corporation.

"(ii) BUSINESS COMPANY.—The term 'business company' means any corporation carrying on a trade or business."

(b) DEFERRAL OF ESTATE TAXES NOT AVAILABLE FOR PASSIVE ASSETS.—Subsection (b) of section 6166 is amended by adding at the end thereof the following new paragraph: 26 USC 6166.

"(9) DEFERRAL NOT AVAILABLE FOR PASSIVE ASSETS.—

"(A) IN GENERAL.—For purposes of subsection (a)(1) and determining the closely held business amount (but not for purposes of subsection (g)), the value of any interest in a closely held business shall not include the value of that portion of such interest which is attributable to passive assets held by the business.

"(B) PASSIVE ASSET DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'passive asset' means any asset other than an asset used in carrying on a trade or business.

"(ii) STOCK TREATED AS PASSIVE ASSET.—The term 'passive asset' includes any stock in another corporation unless—

"(I) such stock is treated as held by the decedent by reason of an election under paragraph (8), and

"(II) such stock qualified under subsection (a)(1).

"(iii) EXCEPTION FOR ACTIVE CORPORATIONS.—If—

"(I) a corporation owns 20 percent or more in value of the voting stock of another corporation, or such other corporation has 15 or fewer shareholders, and

"(II) 80 percent or more of the value of the assets of each such corporation is attributable to assets used in carrying on a trade or business,

then such corporations shall be treated as 1 corporation for purposes of clause (ii). For purposes of applying subclause (II) to the corporation holding the stock of the other corporation, such stock shall not be taken into account."

(c) ACCELERATION OF PAYMENT.—Paragraph (1) of section 6166(g) (relating to disposition of interest; withdrawal of funds from business) is amended by adding at the end thereof the following new subparagraphs:

"(E) CHANGES IN INTEREST IN HOLDING COMPANY.—If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

"(i) any disposition of any interest in such stock in such holding company which was included in determining the gross estate of the decedent, or

"(ii) any withdrawal of any money or other property from such holding company attributable to any interest

included in determining the gross estate of the decedent,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1).

"(F) CHANGES IN INTEREST IN BUSINESS COMPANY.—If any stock in a holding company is treated as stock in a business company by reason of subsection (b)(8)(A)—

"(i) any disposition of any interest in such stock in the business company by such holding company, or

"(ii) any withdrawal of any money or other property from such business company attributable to such stock by such holding company owning such stock,

shall be treated for purposes of subparagraph (A) as a disposition of (or a withdrawal with respect to) the stock qualifying under subsection (a)(1)."

(d) UNDISTRIBUTED INCOME OF ESTATE.—Paragraph (2) of section 6166(g) (relating to undistributed income of estate) is amended by adding at the end thereof the following new subparagraph:

26 USC 6166.

"(C) For purposes of this paragraph, if any stock in a corporation is treated as stock in another corporation by reason of subsection (b)(8)(A), any dividends paid by such other corporation to the corporation shall be treated as paid to the estate of the decedent to the extent attributable to the stock qualifying under subsection (a)(1)."

26 USC 6166 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

(2) SPECIAL RULE.—

(A) IN GENERAL.—At the election of the executor, if—

(i) a corporation has 15 or fewer shareholders on June 22, 1984, and at all times thereafter before the date of the decedent's death, and

(ii) stock of such corporation is included in the gross estate of the decedent,

then all other corporations all of the stock of which is owned directly or indirectly by the corporation described in clauses (i) and (ii) shall be treated as one corporation for purposes of section 6166 of the Internal Revenue Code of 1954.

(B) EFFECT OF ELECTION.—Any executor who elects the application of this paragraph shall be treated as having made the election under paragraph (8) of section 6166(b) of such Code.

Ante, p. 1024.

SEC. 1022. PERMANENT RULES FOR REFORMING GOVERNING INSTRUMENTS CREATING CHARITABLE REMAINDER TRUSTS AND OTHER CHARITABLE INTERESTS.

26 USC 2055.

(a) GENERAL RULE.—Paragraph (3) of section 2055(e) (relating to disallowance of deductions in certain cases) is amended to read as follows:

"(3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

"(B) QUALIFIED REFORMATION.—For purposes of this paragraph, the term 'qualified reformation' means a change of a

governing instrument by reformation, amendment, construction, or otherwise which changes a reformable interest into a qualified interest but only if—

"(i) any difference between—

"(I) the actuarial value (determined as of the date of the decedent's death) of the qualified interest, and

"(II) the actuarial value (as so determined) of the reformable interest,

does not exceed 5 percent of the actuarial value (as so determined) of the reformable interest,

"(ii) in the case of—

"(I) a charitable remainder interest, the nonremainder interest (before and after the qualified reformation) terminated at the same time, or

"(II) any other interest, the reformable interest and the qualified interest are for the same period, and

"(iii) such change is effective as of the date of the decedent's death.

A nonremainder interest (before reformation) for a term of years in excess of 20 years shall be treated as satisfying subclause (I) of clause (ii) if such interest (after reformation) is for a term of 20 years.

"(C) REFORMABLE INTEREST.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'reformable interest' means any interest for which a deduction would be allowable under subsection (a) at the time of the decedent's death but for paragraph (2).

"(ii) BENEFICIARY'S INTEREST MUST BE FIXED.—The term 'reformable interest' does not include any interest unless, before the remainder vests in possession, all payments to persons other than an organization described in subsection (a) are expressed either in specified dollar amounts or a fixed percentage of the fair market value of the property. For purposes of determining whether all such payments are expressed as a fixed percentage of the fair market value of the property, section 664(d)(3) shall be taken into account.

"(iii) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clause (ii) shall not apply to any interest if a judicial proceeding is commenced to change such interest into a qualified interest not later than the 90th day after—

"(I) if an estate tax return is required to be filed, the last date (including extensions) for filing such return, or

"(II) if no estate tax return is required to be filed, the last date (including extensions) for filing the income tax return for the 1st taxable year for which such a return is required to be filed by the trust.

"(iv) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.—In the case of any interest passing under a will executed before January 1, 1979, or under

a trust created before such date, clause (ii) shall not apply.

"(D) QUALIFIED INTEREST.—For purposes of this paragraph, the term 'qualified interest' means an interest for which a deduction is allowable under subsection (a).

"(E) LIMITATION.—The deduction referred to in subparagraph (A) shall not exceed the amount of the deduction which would have been allowable for the reformable interest but for paragraph (2).

"(F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.—If (by reason of the death of any individual, or by termination or distribution of a trust in accordance with the terms of the trust instrument) by the due date for filing the estate tax return (including any extension thereof) a reformable interest is in a wholly charitable trust or passes directly to a person or for a use described in subsection (a), a deduction shall be allowed for such reformable interest as if it had met the requirements of paragraph (2) on the date of the decedent's death. For purposes of the preceding sentence, the term 'wholly charitable trust' means a charitable trust which, upon the allowance of a deduction, would be described in section 4947(a)(1).

"(G) STATUTE OF LIMITATIONS.—The period for assessing any deficiency of any tax attributable to the application of this paragraph shall not expire before the date 1 year after the date on which the Secretary is notified that such reformation has occurred.

"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing such adjustments in the application of the provisions of section 508 (relating to special rules relating to section 501(c)(3) organizations), subchapter J (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 (relating to private foundations) as may be necessary by reason of the qualified reformation.

26 USC 4940 *et seq.*

"(I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE OR FARM, POOLED INCOME FUNDS, ETC.—The Secretary shall prescribe regulations (consistent with the provisions of this paragraph) permitting reformations in the case of any failure—

"(i) to meet the requirements of section 170(f)(3)(B) (relating to remainder interests in personal residence or farm, etc.), or

"(ii) to meet the requirements of section 642(c)(5)."

26 USC 170.

(b) INCOME TAX DEDUCTION.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

Ante, p. 1026.

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply."

26 USC 2522.

(c) GIFT TAX DEDUCTION.—Subsection (c) of section 2522 is amended by adding at the end thereof the following new paragraph:

"(4) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

"(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation (within the meaning of section 2055(e)(3)(B)).

Ante, p. 1026.

"(B) RULES SIMILAR TO SECTION 2055(e)(3) TO APPLY.—For purposes of this paragraph, rules similar to the rules of section 2055(e)(3) shall apply."

(d) TREATMENT OF CERTAIN CONTINGENCIES UNDER SECTION 664.—Section 664 (relating to charitable remainder trusts) is amended by adding at the end thereof the following subsection:

26 USC 664.

"(f) CERTAIN CONTINGENCIES PERMITTED.—

"(1) GENERAL RULE.—If a trust would, but for a qualified contingency, meet the requirements of paragraph (1)(A) or (2)(A) of subsection (d), such trust shall be treated as meeting such requirements.

"(2) VALUE DETERMINED WITHOUT REGARD TO QUALIFIED CONTINGENCY.—For purposes of determining the amount of any charitable contribution (or the actuarial value of any interest), a qualified contingency shall not be taken into account.

"(3) QUALIFIED CONTINGENCY.—For purposes of this subsection, the term 'qualified contingency' means any provision of a trust which provides that, upon the happening of a contingency, the payments described in paragraph (1)(A) or (2)(A) of subsection (d) (as the case may be) will terminate not later than such payments would otherwise terminate under the trust."

(e) EFFECTIVE DATE.—

26 USC 2055 note.

(1) SUBSECTIONS (a), (b), AND (c).—The amendments made by subsections (a), (b), and (c) shall apply to reformations after December 31, 1978; except that such amendments shall not apply to any reformation to which section 2055(e)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) applies. For purposes of applying clause (iii) of section 2055(e)(3)(C) of such Code (as amended by this section), the 90th day described in such clause shall be treated as not occurring before the 90th day after the date of the enactment of this Act.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to transfers after December 31, 1978.

(3) STATUTE OF LIMITATIONS.—

(A) IN GENERAL.—If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment), credit or refund of any overpayment of tax attributable to the amendments made by this section is barred by any law or rule of law, such credit or refund of such overpayment may nevertheless be made if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

(B) NO INTEREST WHERE STATUTE CLOSED ON DATE OF ENACTMENT.—In any case where the making of the credit or refund of the overpayment described in subparagraph (A) is barred on the date of the enactment of this Act, no interest shall be allowed with respect to such overpayment (or any related adjustment) for the period before the date 180 days after the date on which the Secretary of the Treasury (or his delegate) is notified that the reformation has occurred.

SEC. 1023. ALTERNATE VALUATION ELECTION AVAILABLE ONLY WHERE IT RESULTS IN REDUCTION OF GROSS ESTATE AND ESTATE TAX.

26 USC 2032.

(a) GENERAL RULE.—Section 2032 (relating to alternate valuation) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ELECTION MUST DECREASE GROSS ESTATE AND ESTATE TAX.—No election may be made under this section with respect to an estate unless such election will decrease—

"(1) the value of the gross estate, and

"(2) the amount of the tax imposed by this chapter (reduced by credits allowable against such tax)."

26 USC 2032 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 1024. ALTERNATE VALUATION ELECTION AVAILABLE ON CERTAIN LATE RETURNS.

(a) GENERAL RULE.—Subsection (d) of section 2032 (relating to time of election), as amended by section 1023, is amended to read as follows:

"(d) ELECTION.—

"(1) IN GENERAL.—The election provided for in this section shall be made by the executor on the return of the tax imposed by this chapter. Such election, once made, shall be irrevocable.

"(2) EXCEPTION.—No election may be made under this section if such return is filed more than 1 year after the time prescribed by law (including extensions) for filing such return."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to estates of decedents dying after the date of the enactment of this Act.

(2) TRANSITIONAL RULE.—In the case of an estate of a decedent dying before the date of the enactment of this Act if—

26 USC 2001 *et seq.*

(A) a credit or refund of the tax imposed by chapter 11 of the Internal Revenue Code of 1954 is not prevented on the date of the enactment of this Act by the operation of any law or rule of law,

Supra.

(B) the election under section 2032 of the Internal Revenue Code of 1954 would have met the requirements of such section (as amended by this section and section 1023) had the decedent died after the date of enactment of this Act, and

(C) a claim for credit or refund of such tax with respect to such estate is filed not later than the 90th day after the date of the enactment of this Act,

then such election shall be treated as a valid election under such section 2032. The statutory period for the assessment of any deficiency which is attributable to an election under this paragraph shall not expire before the close of the 2-year period beginning on the date of the enactment of this Act.

SEC. 1025. MODIFICATION OF ELECTION OR AGREEMENT UNDER SECTION 2032A.

26 USC 2032A.

(a) IN GENERAL.—Section 2032A(d) (relating to election and agreement) is amended by adding at the end thereof the following new paragraph:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which—

"(A) the executor makes an election under paragraph (1) within the time prescribed for filing such election, and

"(B) substantially complies with the regulations prescribed by the Secretary with respect to such election, but—

"(i) the notice of election, as filed, does not contain all required information, or

"(ii) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or agreements."

(b) EFFECTIVE DATE.— 26 USC 2032A note.

(1) IN GENERAL.—The amendment made by this section shall apply to estates of decedents dying after December 31, 1976.

(2) REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.—Notwithstanding section 6511(a) of the Internal Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of the enactment of this Act. Sections 6511(b) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

SEC. 1026. NO GAIN RECOGNIZED FROM NET GIFTS MADE BEFORE MARCH 4, 1981. 26 USC 61 note.

(a) IN GENERAL.—In the case of any transfer of property subject to gift tax made before March 4, 1981, for purposes of subtitle A of the Internal Revenue Code of 1954, gross income of the donor shall not include any amount attributable to the donee's payment of (or agreement to pay) any gift tax imposed with respect to such gift. 26 USC 1.

(b) GIFT TAX DEFINED.—For purposes of subsection (a), the term "gift tax" means—

(1) the tax imposed by chapter 12 of such Code, and 26 USC 2501 *et seq.*

(2) any tax imposed by a State (or the District of Columbia) on transfers by gifts.

(c) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from subsection (a) is prevented on the date of the enactment of this Act (or at any time within 1 year after such date) by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to subsection (a)) may nevertheless be made or allowed if claim therefor is filed within 1 year after the date of the enactment of this Act.

SEC. 1027. MARITAL DEDUCTION FOR A USUFRUCT.

(a) IN GENERAL.—Subclause (I) of section 2056(b)(7)(B)(ii) (relating to qualifying income interest for life) is amended by inserting ", or has a usufruct interest for life in the property" after "intervals". 26 USC 2056.

(b) LIMITATION ON DEDUCTIONS FROM GROSS ESTATE.—Paragraph (1) of section 2053(c) (relating to limitations on deductions for ex- 26 USC 2053.

penses, indebtedness, and taxes) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN CLAIMS BY REMAINDERMEN.—No deduction shall be allowed under this section for a claim against the estate by a remainderman relating to any property described in section 2044."

26 USC 2053 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 403 of the Economic Recovery Tax Act of 1981.

95 Stat. 301.

SEC. 1028. CREDIT AGAINST ESTATE TAX FOR TRANSFERS TO TOIYABE NATIONAL FOREST.

(a) CREDIT ALLOWED.—Subject to the provisions of this section, and notwithstanding any period of limitation or lapse of time, the Secretary of the Treasury or his delegate shall allow credit against the tax imposed by chapter 11 of the Internal Revenue Code of 1954 (relating to the imposition of estate tax)—

26 USC 2001 *et seq.*

(1) upon the estate of Nell J. Redfield for the conveyance by the estate of the United States of real property included in the gross estate and located within and adjacent to the boundaries of the Toiyabe National Forest; and

(2) upon the estate of Elizabeth Schultz Rabe for the conveyance by the estate to the United States of real property included in the gross estate and known as Parcel No. 4 containing 97.60 acres, more or less, located in the County of Douglas, State of Nevada, and described as follows:

The NE¼ of the SW¼, the NW¼ of the SE¼, and a portion of the SE¼ of the NW¼ of Section 23, Township 13 North, Range 18 East, M.D.B.&M., more particularly described as follows:

All that portion of the SE¼ of the NW¼ excepting therefrom the following:

Beginning at a United States Forest Service Brass Cap, being the C-N 1/16 corner of Section 23; thence South 0°45′24″ West 500.00 feet to an iron pipe; thence South 44°50′02″ West 945.42 feet to an iron pipe; thence North 89°46′12″ West 301.78 feet to a point; thence tangent North 20°28′20″ East on the arc of a circular curve to the left with a radius of 800 feet through a central angle of 40°44′50″ an arc distance of 568.94 feet to a point; thence North 20°02′42″ West 683.17 feet to a point; thence South 88°35′38″ East 1206.29 feet to the Point of Beginning, containing 22.40 acres, more or less.

(b) AMOUNT OF CREDIT.—The amount allowed as a credit under subsection (a) shall be equal to the lesser of—

(1) the fair market value of the real property transferred by each estate as of the valuation date used for purposes of the tax imposed by chapter 11 of such Code, or

(2) the Federal estate tax liability (and interest thereon) of each estate.

(c) LIMITATIONS.—

(1) The provisions of this section shall apply only if the executor of each estate executes a deed (in accordance with the laws of the State in which such real property is situated) transferring title to the United States before the date which is 90 days after the date of the enactment of this Act, but only if such title is satisfactory to the Attorney General or his delegate.

(2) The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(3) Unless the Secretary of Agriculture determines and certifies to the Secretary of the Treasury that there has been an expeditious transfer of the real property under this section, no interest payable with respect to the tax imposed by chapter 11 of the Internal Revenue Code of 1954 shall be deemed to be waived by reasons of the provisions of this section. 26 USC 2001 *et seq.*

Subtitle D—Charitable Contributions and Exempt Organizations

SEC. 1031. INCREASE IN CHARITABLE VOLUNTEER MILEAGE.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection: 26 USC 170.

"(j) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—For purposes of computing the deduction under this section for use of a passenger automobile the standard mileage rate shall be 12 cents per mile."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1984. 26 USC 170 note.

SEC. 1032. CERTAIN ORGANIZATIONS PROVIDING CHILD CARE INCLUDED WITHIN THE DEFINITION OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection: 26 USC 501. *Post*, p. 1206.

"(k) TREATMENT OF CERTAIN ORGANIZATIONS PROVIDING CHILD CARE.—For purposes of subsection (c)(3) of this section and sections 170(c)(2), 2055(a)(2), and 2522(a)(2), the term 'educational purposes' includes the providing of care of children away from their homes if—

"(1) substantially all of the care provided by the organization is for purposes of enabling individuals to be gainfully employed, and

"(2) the services provided by the organization are available to the general public."

(b) CROSS REFERENCES.—

"(1) Subsection (k) of section 170, as redesignated by section 1031 of this Act, is amended by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph: 26 USC 170. *Post*, p. 1206.

"(1) For treatment of certain organizations providing child care, see section 501(k)." *Supra.*

(2) Subsection (f) of section 2055 is amended by redesignating paragraphs (2) through (11) as paragraphs (3) through (12), respectively, and by inserting after paragraph (1) the following new paragraph: 26 USC 2055.

Ante, p. 1033.

"(2) For treatment of certain organizations providing child care, see section 501(k)."

26 USC 2522.

(3) Subsection (d) of section 2522 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) For treatment of certain organizations providing child care, see section 501(k)."

26 USC 170 note.

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1033. RESTRICTIONS ON CHURCH TAX INQUIRIES AND EXAMINATIONS.

(a) IN GENERAL.—Subchapter A of chapter 78 (relating to discovery of liability and enforcement of title) is amended by redesignating section 7611 as section 7612 and inserting after section 7610 the following new section:

26 USC 7612.

26 USC 7611.

"SEC. 7611. RESTRICTIONS ON CHURCH TAX INQUIRIES AND EXAMINATIONS.

"(a) RESTRICTIONS ON INQUIRIES.—

"(1) IN GENERAL.—The Secretary may begin a church tax inquiry only if—

"(A) the reasonable belief requirements of paragraph (2), and

"(B) the notice requirements of paragraph (3), have been met.

"(2) REASONABLE BELIEF REQUIREMENTS.—The requirements of this paragraph are met with respect to any church tax inquiry if an appropriate high-level Treasury official reasonably believes (on the basis of facts and circumstances recorded in writing) that the church—

"(A) may not be exempt, by reason of its status as a church, from tax under section 501(a), or

"(B) may be carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities subject to taxation under this title.

"(3) INQUIRY NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any church tax inquiry if, before beginning such inquiry, the Secretary provides written notice to the church of the beginning of such inquiry.

"(B) CONTENTS OF INQUIRY NOTICE.—The notice required by this paragraph shall include—

"(i) an explanation of—

"(I) the concerns which gave rise to such inquiry, and

"(II) the general subject matter of such inquiry, and

"(ii) a general explanation of the applicable—

"(I) administrative and constitutional provisions with respect to such inquiry (including the right to a conference with the Secretary before any examination of church records), and

"(II) provisions of this title which authorize such inquiry or which may be otherwise involved in such inquiry.

"(b) RESTRICTIONS ON EXAMINATIONS.—

"(1) IN GENERAL.—The Secretary may begin a church tax examination only if the requirements of paragraph (2) have been met and such examination may be made only—

"(A) in the case of church records, to the extent necessary to determine the liability for, and the amount of, any tax imposed by this title, and

"(B) in the case of religious activities, to the extent necessary to determine whether an organization claiming to be a church is a church for any period.

"(2) NOTICE OF EXAMINATION; OPPORTUNITY FOR CONFERENCE.—The requirements of this paragraph are met with respect to any church tax examination if—

"(A) at least 15 days before the beginning of such examination, the Secretary provides the notice described in paragraph (3) to both the church and the appropriate regional counsel of the Internal Revenue Service, and

"(B) the church has a reasonable time to participate in a conference described in paragraph (3)(A)(iii), but only if the church requests such a conference before the beginning of the examination.

"(3) CONTENTS OF EXAMINATION NOTICE, ET CETERA.—

"(A) IN GENERAL.—The notice described in this paragraph is a written notice which includes—

"(i) a copy of the church tax inquiry notice provided to the church under subsection (a),

"(ii) a description of the church records and activities which the Secretary seeks to examine,

"(iii) an offer to have a conference between the church and the Secretary in order to discuss, and attempt to resolve, concerns relating to such examination, and

"(iv) a copy of all documents which were collected or prepared by the Internal Revenue Service for use in such examination and the disclosure of which is required by the Freedom of Information Act (5 U.S.C. 552).

"(B) EARLIEST DAY EXAMINATION NOTICE MAY BE PROVIDED.—The examination notice described in subparagraph (A) shall not be provided to the church before the 15th day after the date on which the church tax inquiry notice was provided to the church under subsection (a).

"(C) OPINION OF REGIONAL COUNSEL WITH RESPECT TO EXAMINATION.—Any regional counsel of the Internal Revenue Service who receives an examination notice under paragraph (1) may, within 15 days after such notice is provided, submit to the regional commissioner for the region an advisory objection to the examination.

"(4) EXAMINATION OF RECORDS AND ACTIVITIES NOT SPECIFIED IN NOTICE.—Within the course of a church tax examination which (at the time the examination begins) meets the requirements of paragraphs (1) and (2), the Secretary may examine any church records or religious activities which were not specified in the examination notice to the extent such examination meets the

requirement of subparagraph (A) or (B) of paragraph (1) (whichever applies).

"(c) LIMITATION ON PERIOD OF INQUIRIES AND EXAMINATIONS.—

"(1) INQUIRIES AND EXAMINATIONS MUST BE COMPLETED WITHIN 2 YEARS.—

"(A) IN GENERAL.—The Secretary shall complete any church tax status inquiry or examination (and make a final determination with respect thereto) not later than the date which is 2 years after the examination notice date.

"(B) INQUIRIES NOT FOLLOWED BY EXAMINATIONS.—In the case of a church tax inquiry with respect to which there is no examination notice under subsection (b), the Secretary shall complete such inquiry (and make a final determination with respect thereto) not later than the date which is 90 days after the inquiry notice date.

"(2) SUSPENSION OF 2-YEAR PERIOD.—The running of the 2-year period described in paragraph (1)(A) and the 90-day period in paragraph (1)(B) shall be suspended—

"(A) for any period during which—

"(i) a judicial proceeding brought by the church against the Secretary with respect to the church tax inquiry or examination is pending or being appealed,

"(ii) a judicial proceeding brought by the Secretary against the church (or any official thereof) to compel compliance with any reasonable request of the Secretary in a church tax examination for examination of church records or religious activities is pending or being appealed, or

"(iii) the Secretary is unable to take actions with respect to the church tax inquiry or examination by reason of an order issued in any judicial proceeding brought under section 7609,

"(B) for any period in excess of 20 days (but not in excess of 6 months) in which the church or its agents fail to comply with any reasonable request of the Secretary for church records or other information, or

"(C) for any period mutually agreed upon by the Secretary and the church.

"(d) LIMITATIONS ON REVOCATION OF TAX-EXEMPT STATUS, ETC.—

"(1) IN GENERAL.—The Secretary may—

"(A) determine that an organization is not a church which—

"(i) is exempt from taxation by reason of section 501(a), or

"(ii) is described in section 170(c), or

"(B)(i) send a notice of deficiency of any tax involved in a church tax examination, or

"(ii) in the case of any tax with respect to which subchapter B of chapter 63 (relating to deficiency procedures) does not apply, assess any underpayment of such tax involved in a church tax examination,

26 USC 6311.

only if the appropriate regional counsel of the Internal Revenue Service determines in writing that there has been substantial compliance with the requirements of this section and approves in writing of such revocation, notice of deficiency, or assessment.

"(2) LIMITATIONS ON PERIOD OF ASSESSMENT.—

"(A) REVOCATION OF TAX-EXEMPT STATUS.—

"(i) 3-YEAR STATUTE OF LIMITATIONS GENERALLY.—In the case of any church tax examination with respect to the revocation of tax-exempt status under section 501(a), any tax imposed by chapter 1 (other than section 511) may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, only for the 3 most recent taxable years ending before the examination notice date.

"(ii) 6-YEAR STATUTE OF LIMITATIONS WHERE TAX-EXEMPT STATUS REVOKED.—If an organization is not a church exempt from tax under section 501(a) for any of the 3 taxable years described in clause (i), clause (i) shall be applied by substituting '6 most recent taxable years' for '3 most recent taxable years'.

"(B) UNRELATED BUSINESS TAX.—In the case of any church tax examination with respect to the tax imposed by section 511 (relating to unrelated business income), such tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, only with respect to the 6 most recent taxable years ending before the examination notice date.

"(C) EXCEPTION WHERE SHORTER STATUTE OF LIMITATIONS OTHERWISE APPLICABLE.—Subparagraphs (A) and (B) shall not be construed to increase the period otherwise applicable under subchapter A of chapter 66 (relating to limitations on assessment and collection). 26 USC 6501.

"(e) INFORMATION NOT COLLECTED IN SUBSTANTIAL COMPLIANCE WITH PROCEDURES TO STAY SUMMONS PROCEEDING.—

"(1) IN GENERAL.—If there has not been substantial compliance with—

"(A) the notice requirements of subsection (a) or (b),

"(B) the conference requirement described in subsection (b)(3)(A)(iii), or

"(C) the approval requirement of subsection (d)(1) (if applicable),

with respect to any church tax inquiry or examination, any proceeding to compel compliance with any summons with respect to such inquiry or examination shall be stayed until the court finds that all practicable steps to correct the noncompliance have been taken. The period applicable under paragraph (1) or subsection (c) shall not be suspended during the period of any stay under the preceding sentence.

"(2) REMEDY TO BE EXCLUSIVE.—No suit may be maintained, and no defense may be raised in any proceeding (other than as provided in paragraph (1)), by reason of any noncompliance by the Secretary with the requirements of this section.

'(f) LIMITATIONS ON ADDITIONAL INQUIRIES AND EXAMINATIONS.—

"(1) IN GENERAL.—If any church tax inquiry or examination with respect to any church is completed and does not result in—

"(A) a revocation, notice of deficiency, or assessment described in subsection (d)(1), or

"(B) a request by the Secretary for any significant change in the operational practices of the church (including the adequacy of accounting practices),

no other church tax inquiry or examination may begin with respect to such church during the applicable 5-year period

unless such inquiry or examination is approved in writing by the Assistant Commissioner for Employee Plans and Exempt Organizations of the Internal Revenue Service or does not involve the same or similar issues involved in the preceding inquiry or examination. For purposes of the preceding sentence, an inquiry or examination shall be treated as completed not later than the expiration of the applicable period under paragraph (1) of subsection (c).

"(2) APPLICABLE 5-YEAR PERIOD.—For purposes of paragraph (1), the term 'applicable 5-year period' means the 5-year period beginning on the date the notice taken into account for purposes of subsection (c)(1) was provided. For purposes of the preceding sentence, the rules of subsection (c)(2) shall apply.

"(g) TREATMENT OF FINAL REPORT OF REVENUE AGENT.—Any final report of an agent of the Internal Revenue Service shall be treated as a determination of the Secretary under paragraph (1) of section 7428(a), and any church receiving such a report shall be treated for purposes of sections 7428 and 7430 as having exhausted the administrative remedies available to it.

"(h) DEFINITIONS.—For purposes of this section—

"(1) CHURCH.—The term 'church' includes—

"(A) any organization claiming to be a church, and

"(B) any convention or association of churches.

"(2) CHURCH TAX INQUIRY.—The term 'church tax inquiry' means any inquiry to a church (other than an examination) to serve as a basis for determining whether a church—

"(A) is exempt from tax under section 501(a) by reason of its status as a church, or

"(B) is carrying on an unrelated trade or business (within the meaning of section 513) or otherwise engaged in activities which may be subject to taxation under this title.

"(3) CHURCH TAX EXAMINATION.—The term 'church tax examination' means any examination for purposes of making a determination described in paragraph (2) of—

"(A) church records at the request of the Internal Revenue Service, or

"(B) the religious activities of any church.

"(4) CHURCH RECORDS.—

"(A) IN GENERAL.—The term 'church records' means all corporate and financial records regularly kept by a church, including corporate minute books and lists of members and contributors.

"(B) EXCEPTION.—Such term shall not include records acquired—

"(i) pursuant to a summons to which section 7609 applies, or

"(ii) from any governmental agency.

"(5) INQUIRY NOTICE DATE.—The term 'inquiry notice date' means the date the notice with respect to a church tax inquiry is provided under subsection (a).

"(6) EXAMINATION NOTICE DATE.—The term 'examination notice date' means the date the notice with respect to a church tax examination is provided under subsection (b) to the church.

"(7) APPROPRIATE HIGH-LEVEL TREASURY OFFICIAL.—The term 'approporiate high-level Treasury official' means the Secretary of the Treasury or any delegate of the Secretary whose rank is

no lower than that of a principal Internal Revenue officer for an internal revenue region.

"(i) SECTION NOT TO APPLY TO CRIMINAL INVESTIGATIONS, ETC.—This section shall not apply to—

"(A) any criminal investigation,

"(B) any inquiry or examination relating to the tax liability of any person other than a church,

"(C) any assessment under section 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income taxes, etc),

"(D) any willful attempt to defeat or evade any tax imposed by this title, or

"(E) any knowing failure to file a return of tax imposed by the title."

(b) TECHNICAL AMENDMENT RELATING TO SUBPOENA POWER OF THE DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.—Section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new subsection: 26 USC 7428.

"(d) SUBPOENA POWER FOR DISTRICT COURT FOR DISTRICT OF COLUMBIA.—In any action brought under this section in the district court of the United States for the District of Columbia, a subpoena requiring the attendance of a witness at a trial or hearing may be served at any place in the United States."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 7605 (relating to time and place of examination) is amended to read as follows: 26 USC 7605.

"(C) CROSS REFERENCE.—

"For provisions restricting church tax inquiries and examinations, see section 7611." *Ante*, p. 1034.

(2) The table of sections for subchapter A of chapter 78 is amended by striking out the item relating to section 7611 and inserting in lieu thereof the following:

"Sec. 7611. Restrictions on church tax inquiries and examinations.
"Sec. 7612. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to inquiries and examinations beginning after December 31, 1984. 26 USC 7611 note.

SEC. 1034. ACQUISITION INDEBTEDNESS OF CERTAIN EDUCATIONAL INSTITUTIONS.

(a) GENERAL RULE.—Paragraph (9) of section 514(c) (relating to unrelated debt-financed income) is amended to read as follows: 26 USC 514.

"(9) REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'acquisition indebtedness' does not, for purposes of this section, include indebtedness incurred by a qualified organization in acquiring or improving any real property.

"(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply in any case in which—

"(i) the price for the acquisition or improvement is not a fixed amount determined as of the date of the acquisition or the completion of the improvement;

"(ii) the amount of any indebtedness or any other amount payable with respect to such indebtedness, or

the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, income, or profits derived from such real property;

"(iii) the real property is at any time after the acquisition leased by the qualified organization to the person selling such property to such organization or to any person who bears a relationship described in section 267(b) or 707(b) to such person;

"(iv) the real property is acquired by a qualified trust from, or is at any time after the acquisition leased by such trust to, any person who—

"(I) bears a relationship which is described in subparagraph (C), (E), or (G) of section 4975(e)(2) to any plan with respect to which such trust was formed, or

"(II) bears a relationship which is described in subparagraph (F) or (H) of section 4975(e)(2) to any person described in subclause (I);

"(v) any person described in clause (iii) or (iv) provides the qualified organization with financing in connection with the acquisition or improvement; or

"(vi) the real property is held by a partnership unless the partnership meets the requirements of clauses (i) through (v) and unless—

"(I) all of the partners of the partnership are qualified organizations, or

"(II) each allocation to a partner of the partnership which is a qualified organization is a qualified allocation (within the meaning of section 168(j)(9)).

Ante, p. 509.

For purposes of clause (vi)(I), an organization shall not be treated as a qualified organization if any income of such organization would be unrelated business taxable income (determined without regard to this paragraph).

"(C) QUALIFIED ORGANIZATION.—For purposes of this paragraph, the term 'qualified organization' means—

"(i) an organization described in section 170(b)(1)(A)(ii) and its affiliated support organizations described in section 509(a); or

"(ii) any trust which constitutes a qualified trust under section 401.

"(D) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (B)(vi) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities."

26 USC 514.

(b) TREATMENT OF SEGREGATED ASSET ACCOUNTS.—Section 514 (relating to unrelated debt-financed income) is amended by adding at the end thereof the following new subsection:

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the circumvention of any provision of this section through the use of segregated asset accounts.

26 USC 514 note.

(c) EFFECTIVE DATES.—

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

(2) EXCEPTION FOR INDEBTEDNESS ON CERTAIN PROPERTY ACQUIRED BEFORE JANUARY 1, 1985.—

(A) The amendment made by subsection (a) shall not apply to any indebtedness incurred before January 1, 1985, by a partnership described in subparagraph (B) if such indebtedness is incurred with respect to property acquired (directly or indirectly) by such partnership before such date.

(B) A partnership is described in this subparagraph if—

(i) before October 21, 1983, the partnership was organized, a request for exemption with respect to such partnership was filed with the Department of Labor, and a private placement memorandum stating the maximum number of units in the partnership that would be offered had been circulated,

(ii) the interest in the property to be acquired, directly or indirectly (including through acquiring an interest in another partnership) by such partnership was described in such private placement memorandum, and

(iii) the marketing of partnership interests in such partnership is completed not later than 2 years after the later of the date of enactment of this Act or the date of publication in the Federal Register of such exemption by the Department of Labor and the aggregate number of units in such partnership sold does not exceed the amount described in clause (i).

(3) EXCEPTION FOR INDEBTEDNESS ON CERTAIN PROPERTY ACQUIRED BEFORE JANUARY 1, 1986.—

(A) The amendment made by subsection (a) shall not apply to any indebtedness incurred before January 1, 1986, by a partnership described in subparagraph (B) if such indebtedness is incurred with respect to property acquired (directly or indirectly) by such partnership before such date.

(B) A partnership is described in this paragraph if—

(i) before March 6, 1984, the partnership was organized and publicly announced, the maximum amount of interests which would be sold in such partnership, and

(ii) the marketing of partnership interests in such partnership is completed not later than the 90th day after the date of the enactment of this Act and the aggregate amount of interests in such partnership sold does not exceed the maximum amount described in clause (i).

For purposes of clause (i), the maximum amount taken into account shall be the greatest of the amounts shown in the registration statement, prospectus, or partnership agreement.

(C) BINDING CONTRACTS.—For purposes of this paragraph, property shall be deemed to have been acquired before January 1, 1986, if such property is acquired pursuant to a written contract which, on January 1, 1986, and at all times thereafter, required the acquisition of such property and such property is placed in service not later than 6 months after the date such contract was entered into.

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SEC. 1035. TRANSITIONAL RULE RELATING TO THE DEFINITION OF QUALIFIED CONSERVATION CONTRIBUTIONS.

26 USC 170.

(a) IN GENERAL.—Subparagraph (B) of section 170(h)(5) (defining exclusively for conservation purposes) is amended to read as follows:

"(B) NO SURFACE MINING PERMITTED.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

"(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests were separated before June 13, 1976, and remain so separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible."

26 USC 170 note.

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

Subtitle E—Income Tax Credits

SEC. 1041. 1-YEAR EXTENSION OF TARGETED JOBS CREDIT.

26 USC 51.

(a) IN GENERAL.—Paragraph (3) of section 51(c) (defining wages qualifying for targeted jobs credit) is amended by striking out "December 31, 1984" and inserting in lieu thereof "December 31, 1985".

26 USC 51 note.

(b) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983 and 1984" and inserting in lieu thereof "fiscal years 1983, 1984, and 1985".

(c) TARGETED JOBS CREDIT TECHNICAL AMENDMENTS.—

26 USC 51.

(1) TREATMENT OF SUCCESSOR EMPLOYERS; TREATMENT OF EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.—Section 51 (relating to amount of targeted jobs credit) is amended by adding at the end thereof the following new subsection:

"(j) TREATMENT OF SUCCESSOR EMPLOYERS; TREATMENT OF EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.—

"(1) TREATMENT OF SUCCESSOR EMPLOYERS.—Under regulations prescribed by the Secretary, in the case of a successor employer referred to in section 3306(b)(1), the determination of the amount of the credit under this section with respect to wages paid by such successor employer shall be made in the same manner as if such wages were paid by the predecessor employer referred to in such section.

"(2) TREATMENT OF EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.—No credit shall be determined under this section with respect to remuneration paid by an employer to an employee for services performed by such employee for another person unless the amount reasonably expected to be received by the employer for such services from such other person exceeds the remuneration paid by the employer to such employee for such services."

(2) SPECIAL RULE FOR CERTIFICATION.—Subparagraph (A) of section 51(d)(16) (relating to special rules for certifications) is amended by adding at the end thereof the following new sentence: 26 USC 51.

"For purposes of the preceding sentence, if on or before the day on which such individual begins work for the employer, such individual has received from a designated local agency (or other agency or organization designated pursuant to a written agreement with such designated local agency) a written preliminary determination that such individual is a member of a targeted group, then 'the fifth day' shall be substituted for 'the day' in such sentence."

(3) AGE REQUIREMENT FOR QUALIFIED SUMMER YOUTH EMPLOYEE.—Clause (ii) of section 51(d)(12)(A) (defining qualified summer youth employee) is amended by striking out "(as defined in paragraph (14))" and inserting in lieu thereof "(or if later, on May 1 of the calendar year involved)".

(4) TECHNICAL AMENDMENT.—Paragraph (2) of section 51(b) is amended by striking out "(or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan)".

(5) EFFECTIVE DATES.— 26 USC 51 note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

(B) SPECIAL RULE FOR EMPLOYEES PERFORMING SERVICES FOR OTHER PERSONS.—Paragraph (2) of section 51(j) of the Internal Revenue Code of 1954 (as added by this subsection) *Ante*, p. 837. and the amendment made by paragraph (3) of this subsection shall apply to individuals who begin work for the employer after December 31, 1984.

SEC. 1042. INCREASE IN EARNED INCOME CREDIT.

(a) INCREASE IN RATE OF CREDIT.—Subsection (a) of section 32 (relating to earned income credit), as redesignated by title IV of this Act, is amended by striking out "10 percent" and inserting in lieu thereof "11 percent". 26 USC 32. *Ante*, p. 826.

(b) ADJUSTMENT OF CREDIT PHASE-OUT.—Paragraph (2) of section 32(b) (as so redesignated) is amended to read as follows:

"(2) 12⅔ percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $6,500."

(c) CREDIT NOT ALLOWABLE TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—Section 32 (as so redesignated) is amended by adding at the end thereof the following new subsection:

"(h) REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under this section for the taxable year shall be reduced by the amount of tax imposed by section 55 (relating to alternative minimum tax for taxpayers other than corporations) with respect to such taxpayer for such taxable year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 32(b) (as so redesignated) is amended by striking out "$500" and inserting in lieu thereof "$550".

(2) Subparagraphs (A) and (B) of section 32(f)(2) (as so redesignated) are amended to read as follows:

"(A) for earned income between $0 and $11,000, and

"(B) for adjusted gross income between $6,500 and $11,000."

26 USC 3507.

(3) Clauses (i) and (ii) of section 3507(c)(2)(B) are amended to read as follows:

"(i) of not more than 11 percent of the first $5,000 of earned income, which

"(ii) phases out between $6,500 and $11,000 of earned income, or".

(4) Clauses (i) and (ii) of section 3507(c)(2)(C) are amended to read as follows:

"(i) of not more than 11 percent of the first $2,500 of earned income, which

"(ii) phases out between $3,250 and $5,500 of earned income."

26 USC 32 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.

SEC. 1043. ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.

26 USC 48.

(a) IN GENERAL.—Paragraph (1) of section 48(g) (relating to qualified rehabilitated buildings) is amended by adding at the end thereof the following new subparagraph:

"(E) ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED REHABILITATED BUILDING.—The requirement in clause (iii) of subparagraph (A) shall be deemed to be satisfied if in the rehabilitation process—

"(i) 50 percent or more of the existing external walls of the building are retained in place as external walls,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(iii) 75 percent or more of the existing internal structural framework of such building is retained in place."

26 USC 48 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 1983, in taxable years ending after such date.

Subtitle F—Miscellaneous Housing Provisions

SEC. 1051. DISASTER LOSS DEDUCTION WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE IN DISASTER AREA BECAUSE OF DISASTER.

26 USC 165.

(a) GENERAL RULE.—Section 165 (relating to losses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) TREATMENT AS DISASTER LOSS WHERE TAXPAYER ORDERED TO DEMOLISH OR RELOCATE RESIDENCE IN DISASTER AREA BECAUSE OF DISASTER.—In the case of a taxpayer whose residence is located in an area which has been determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974, if—

42 USC 5121 note.

"(1) not later than the 120th day after the date of such determination, the taxpayer is ordered, by the government of the State or any political subdivision thereof in which such residence is located, to demolish or relocate such residence, and

"(2) the residence has been rendered unsafe for use as a residence by reason of the disaster,

any loss attributable to such disaster shall be treated as a loss which arises from a casualty and which is described in subsection (i)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1981, with respect to residences in areas determined by the President of the United States, after such date, to warrant assistance by the Federal Government under the Disaster Relief Act of 1974. 26 USC 165 note. 42 USC 5121 note.

SEC. 1052. ALLOCATION OF EXPENSES TO PARSONAGE ALLOWANCES.

With respect to any mortgage interest or real property tax costs paid or incurred before January 1, 1986, by any minister of the gospel who owned and occupied a home before January 3, 1983 (or had a contract to purchase a home before such date and subsequently owned and occupied such home), the application of section 265(1) of the Internal Revenue Code of 1954 to such costs shall be determined without regard to Revenue Ruling 83-3 (and without regard to any other regulation, ruling, or decision reaching the same result, or a result similar to the result, set forth in such Revenue Ruling).

SEC. 1053. ARMED FORCES OVERSEAS QUARTERS.

(a) IN GENERAL.—Subsection (h) of section 1034 (relating to rollover of gain on sale of principal residence) is amended to read as follows: 26 USC 1034.

"(h) MEMBERS OF ARMED FORCES.—

"(1) IN GENERAL.—The running of any period of time specified in subsection (a) or (c) (other than the 2 years referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) serves on extended active duty with the Armed Forces of the United States after the date of the sale of the old residence, except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence.

"(2) MEMBERS STATIONED OUTSIDE THE UNITED STATES OR REQUIRED TO RESIDE IN GOVERNMENT QUARTERS.—In the case of any taxpayer who, during any period of time the running of which is suspended by paragraph (1)—

"(A) is stationed outside of the United States, or

"(B) after returning from a tour of duty outside of the United States and pursuant to a determination by the Secretary of Defense that adequate off-base housing is not available at a remote base site, is required to reside in on-base Government quarters,

any such period of time as so suspended shall not expire before the last day described in subparagraph (A) or (B), as the case may be, except that any such period of time as so suspended shall not extend beyond the date which is 8 years after the date of the sale of the old residence.

"(3) EXTENDED ACTIVE DUTY DEFINED.—For purposes of this subsection, the term 'extended active duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period."

26 USC 1034 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1954) after the date of the enactment of this Act.

SEC. 1054. TREATMENT OF HOME WON IN LOCAL RADIO CONTEST AND SPECIALLY DESIGNED FOR HANDICAPPED FOSTER CHILD.

(a) IN GENERAL.—If the Federal income tax attributable to the receipt of the prize described in subsection (b) is paid not later than one year after the date of the enactment of this Act, such payment shall be treated for purposes of the Internal Revenue Code of 1954 as being in full satisfaction of such tax and all interest, additions to the tax, additional amounts, and penalties in respect of liability for such Federal income tax.

26 USC 1 *et seq.*

(b) DESCRIPTION OF PRIZE.—For purposes of subsection (a), the prize described in this subsection is a residence which—

(1) was won by the taxpayer in a local radio contest,

(2) was specially designed to meet the needs of a handicapped foster child of the taxpayer,

(3) is the principal residence (within the meaning of section 1034 of such Code) of the taxpayer, and

(4) had a lien placed on it by the Internal Revenue Service on May 24, 1983, after an Internal Revenue Service supervisor had overruled two payment schedules negotiated with the taxpayer for the payment of taxes, interest, and penalties on income attributable to such residence for the taxpayer's 1980 taxable year.

(c) TAX DETERMINED WITHOUT REGARD TO INTEREST, ETC.—For purposes of subsection (a), the Federal income tax attributable to the prize described in subsection (b) shall be determined without regard to interest, additions to the tax, additional amounts, and penalties.

Subtitle G—Extension of Existing Provisions and Transition Rules

SEC. 1061. EXTENSION OF PAYMENT-IN-KIND TAX TREATMENT ACT OF 1983 TO WHEAT FOR 1984 CROP YEAR.

(a) EXTENSION.—

26 USC 61 note.

(1) IN GENERAL.—Section 5 of the Payment-in-Kind Tax Treatment Act of 1983 (relating to definitions and special rules) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) EXTENSION TO WHEAT PLANTED AND HARVESTED IN 1984.—In the case of wheat—

"(1) any reference in this Act to the 1983 crop year shall include a reference to the 1984 crop year, and

"(2) any reference to the 1983 payment-in-kind program shall include a reference to any program for the 1984 year for wheat which meets the requirements of subparagraphs (A) and (B) of subsection (a)(1)."

(2) DEFINITION OF CROP YEAR.—Paragraph (2) of section 5(a) of such Act is amended to read as follows:

"(2) CROP YEAR.—The term '1983 crop year' means the crop year for any crop the planting or harvesting period for which occurs during 1983. The term '1984 crop year' means the crop

year for wheat the planting and harvesting period for which occurs during 1984."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to commodities received for the 1984 crop year (as defined in section 5(a)(2) of the Payment-in-Kind Tax Treatment Act of 1983 as amended by subsection (a)). 26 USC 61 note.

Ante, p. 1046.

SEC. 1062. EXTENSION OF INCREASED DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (d) of section 190 (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended to read as follows: 26 USC 190.

"(d) APPLICATION OF SECTION.—This section shall apply to—

"(1) taxable years beginning after December 31, 1976, and before January 1, 1983, and

"(2) taxable years beginning after December 31, 1983, and before January 1, 1986."

(2) CONFORMING AMENDMENT.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (26 U.S.C. 190 note) (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers for the handicapped) is amended by striking out "and before January 1, 1983".

(b) INCREASE IN DEDUCTION.—Subsection (c) of section 190 (relating to limitation of deduction) is amended by striking out "$25,000" and inserting in lieu thereof "$35,000".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1983. 26 USC 190 note.

SEC. 1063. PERMANENT DISALLOWANCE OF DEDUCTION FOR EXPENSES OF DEMOLITION OF CERTAIN STRUCTURES.

(a) EXTENSION TO ALL STRUCTURES; DISALLOWANCE MADE PERMANENT.—Section 280B (relating to demolition of certain historic structures) is amended— 26 USC 280B.

(1) by striking out all of subsection (a) which precedes paragraph (1) thereof and inserting in lieu thereof the following: "In the case of the demolition of any structure—"; and

(2) by striking out subsections (b) and (c).

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 280B is amended by striking out "CERTAIN HISTORIC".

(2) The item relating to section 280B in the table of sections for part IX of subchapter B of chapter 1 is amended by striking out "certain historic".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983. 26 USC 280B note.

SEC. 1064. AMORTIZATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1984" each place it appears and inserting in lieu thereof "January 1, 1987". 26 USC 167.

SEC. 1065. RULES TREATING INDIAN TRIBAL GOVERNMENTS AS STATES MADE PERMANENT.

26 USC 7871 note.

(a) IN GENERAL.—Section 204 of the Indian Tribal Governmental Tax Status Act of 1982 is amended—

(1) by striking out "and before January 1, 1985," each place it appears, and

(2) by striking out ", and shall cease to apply at the close of December 31, 1984" in paragraph (5) thereof.

97 Stat. 87
26 USC 7871.

(b) TREATMENT AS STATE EXPANDED FOR CERTAIN PURPOSES.—Paragraph (6) of section 7871 (relating to Indian tribal governments treated as States for certain purposes) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) section 105(e) (relating to accident and health plans),

"(C) section 117(b)(2)(A) (relating to scholarships and fellowship grants),

"(D) section 162(e) (relating to appearances, etc., with respect to legislation),

"(E) section 403(b)(1)(A)(ii) (relating to the taxation of contributions of certain employers for employee annuities), and

"(F) section 454(b)(2) (relating to discount obligations).

26 USC 7871 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1984.

SEC. 1066. TRANSITIONAL RULE FOR TREATMENT OF CERTAIN INCOME FROM S CORPORATIONS.

26 USC 163 note.

(a) IN GENERAL.—If—

(1) a corporation had an election in effect under subchapter S of the Internal Revenue Code of 1954 for the taxable years of such corporation beginning in 1982, 1983, and 1984, and

(2) a shareholder of such corporation makes an election to have this section apply,

then any qualified income which such shareholder takes into account by reason of holding stock in such corporation for any taxable year of such corporation beginning in 1983 or 1984 shall be treated for purposes of section 163(d) of the Internal Revenue Code of 1954 as such income would have been treated but for the enactment of the Subchapter S Revision Act of 1982.

26 USC 1 note.

(b) QUALIFIED INCOME.—For purposes of subsection (a), the term "qualified income" means any income other than income which is attributable to personal services performed by the shareholder for the corporation.

(c) ELECTION.—The election under subsection (a)(2) shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 1067. SPECIAL LEASING RULES FOR CERTAIN COAL GASIFICATION FACILITIES.

26 USC 168 note.

(a) IN GENERAL.—Paragraph (3) of section 208(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new subparagraph:

"(G) COAL GASIFICATION FACILITIES.—

"(i) IN GENERAL.—Property is described in this subparagraph if such property—

"(I) is used directly in connection with the manufacture or production of low sulfur gaseous fuel from coal, and

"(II) would be described in subparagraph (A) if 'July 1, 1984' were substituted for 'January 1, 1983'.

"(ii) SPECIAL RULE.—For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such property is paid during such period.

"(iii) LIMITATION ON AMOUNT.—Clause (i) shall only apply to the lease of an undivided interest in the property in an amount which does not exceed the lesser of—

"(I) 50 percent of the cost basis of such property, or

"(II) $67,500,000.

"(iv) PLACED IN SERVICE.—In the case of property to which this subparagraph applies—

"(I) such property shall be treated as placed in service when the taxpayer receives an operating permit with respect to such property from a State environmental protection agency, and

"(II) the term of the lease with respect to such property shall be treated as being 5 years."

(b) SPECIAL RULE FOR SUBSECTION (a).—The amount of any recapture under section 47 of the Internal Revenue Code of 1954 with respect to the credit allowed under section 38 of such Code with respect to progress expenditures (within the meaning of section 46(d) of such Code) shall apply only to the percentage of the cost basis of the coal gasification facility to which the amendment made by subsection (a) applies. 26 USC 168 note. *Ante*, p. 827.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provision of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982. 26 USC 168 note.

Subtitle H—Additional Provisions

SEC. 1071. TAX TREATMENT OF REGULATED INVESTMENT COMPANIES.

(a) PERSONAL HOLDING COMPANIES PERMITTED TO BE REGULATED INVESTMENT COMPANIES.—

(1) IN GENERAL.—Subsection (a) of section 851 (defining regulated investment company) is amended by striking out "(other than a personal holding company as defined in section 542)". 26 USC 851.

(2) SPECIAL RULE FOR RATE OF TAX.—Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by adding at the end thereof the following new sentence: "In the case of a regulated investment company which is a personal holding company (as defined in section 542), that tax shall be computed at the highest rate of tax specified in section 11(b)." 26 USC 852.

(3) REQUIREMENT THAT INVESTMENT COMPANY HAVE NO EARNINGS AND PROFITS ACCUMULATED IN YEAR FOR WHICH IT WAS NOT A REGULATED INVESTMENT COMPANY.—Subsection (a) of section

26 USC 852.

852 (relating to requirements applicable to regulated investment companies) is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) either—

"(A) the provisions of this part applied to the investment company for all taxable years ending on or after November 8, 1983, or

"(B) as of the close of the taxable year, the investment company has no earnings and profits accumulated in any taxable year to which the provisions of this part (or the corresponding provisions of prior law) did not apply to it."

(4) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—Section 852 is amended by adding at the end thereof the following new subsection:

"(e) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND PROCEDURES MADE APPLICABLE.—

"(1) IN GENERAL.—If—

"(A) there is a determination that the provisions of this part do not apply to an investment company for any taxable year (hereinafter in this subsection referred to as the 'non-RIC year'), and

"(B) such investment company meets the distribution requirements of paragraph (2) with respect to the non-RIC year,

for purposes of applying subsection (a)(3) to subsequent taxable years, the provisions of this part shall be treated as applying to such investment company for the non-RIC year.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The distribution requirements of this paragraph are met with respect to any non-RIC year if, within the 90-day period beginning on the date of the determination (or within such longer period as the Secretary may permit), the investment company makes 1 or more qualified designated distributions and the amount of such distributions is not less than the excess of—

"(i) the portion of the accumulated earnings and profits of the investment company (as of the date of the determination) which are attributable to the non-RIC year, over

"(ii) any interest payable under paragraph (3).

"(B) QUALIFIED DESIGNATED DISTRIBUTION.—For purposes of this paragraph, the term 'qualified designated distribution' means any distribution made by the investment company if—

"(i) section 301 applies to such distribution, and

"(ii) such distribution is designated (at such time and in such manner as the Secretary shall by regulations prescribe) as being taken into account under this paragraph with respect to the non-RIC year.

"(C) EFFECT ON DIVIDENDS PAID DEDUCTION.—Any qualified designated distribution shall not be included in the amount of dividends paid for purposes of computing the dividends paid deduction for any taxable year.

"(3) INTEREST CHARGE.—

"(A) IN GENERAL.—If paragraph (1) applies to any non-RIC year of an investment company, such investment company shall pay interest at the annual rate established under section 6621—

"(i) on an amount equal to 50 percent of the amount referred to in paragraph (2)(A)(i),

"(ii) for the period—

"(I) which begins on the last day prescribed for payment of the tax imposed for the non-RIC year (determined without regard to extensions), and

"(II) which ends on the date the determination is made.

"(B) COORDINATION WITH SUBTITLE F.—Any interest payable under subparagraph (A) may be assessed and collected at any time during the period during which any tax imposed for the taxable year in which the determination is made may be assessed and collected.

"(4) PROVISION NOT TO APPLY IN THE CASE OF FRAUD.—The provisions of this subsection shall not apply if the determination contains a finding that the failure to meet any requirement of this part was due to fraud with intent to evade tax.

"(5) DETERMINATION.—For purposes of this subsection, the term 'determination' has the meaning given to such term by section 860(e). Such term also includes a determination by the investment company filed with the Secretary that the provisions of this part do not apply to the investment company for a taxable year."

(5) EFFECTIVE DATES.— 26 USC 852 note.

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to taxable years beginning after December 31, 1982.

(B) INVESTMENT COMPANIES WHICH WERE REGULATED INVESTMENT COMPANIES FOR YEARS ENDING BEFORE NOVEMBER 8, 1983.—In the case of any investment company to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1954 applied for any taxable year ending before November 8, 1983, for purposes of section 852(a)(3)(B) of the Internal Revenue Code of 1954 (as amended by this subsection), no earnings and profits accumulated in any taxable year ending before January 1, 1984, shall be taken into account. 26 USC 851. *Ante*, p. 1050.

(C) INVESTMENT COMPANIES BEGINNING BUSINESS IN 1983.—In the case of an investment company which began business in 1983 (and was not a successor corporation), earnings and profits accumulated during its first taxable year shall not be taken into account for purposes of section 852(a)(3)(B) of such Code (as so amended).

(D) INVESTMENT COMPANIES REGISTERING BEFORE NOVEMBER 8, 1983.—In the case of any investment company—

(i) which, during the period after December 31, 1981, and before November 8, 1983—

(I) was engaged in the active conduct of a trade or business,

(II) sold substantially all of its operating assets, and

15 USC 80b-20.

(III) registered under the Investment Company Act of 1940 as either a management company or a unit investment trust, and

26 USC 851.

(ii) to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1954 applied for its first taxable year beginning after November 8, 1983,

Ante, p. 1050.

for purposes of section 852(a)(3)(A) of such Code (as amended by paragraph (3)), the provisions of part I of subchapter M of chapter 1 of such Code shall be treated as applying to such investment company for its first taxable year ending after November 8, 1983. For purposes of the preceding sentence, all members of an affiliated group (as defined in section 1504(a) of such Code) filing a consolidated return shall be treated as 1 taxpayer.

Ante, p. 577.

(b) SHORT-TERM OBLIGATIONS ISSUED ON A DISCOUNT BASIS.—

26 USC 852.

(1) IN GENERAL.—Paragraph (2) of section 852(b) (defining investment company taxable income) is amended by adding at the end thereof the following new subparagraph—

"(F) The taxable income shall be computed without regard to section 454(b) (relating to short-term obligations issued on a discount basis) if the company so elects in a manner prescribed by the Secretary."

26 USC 852 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1978.

SEC. 1072. TECHNICAL MODIFICATIONS TO TIP REPORTING REQUIREMENTS.

26 USC 6053.

(a) LOWER ALLOCATION OF GROSS RECEIPTS.—Subparagraph (C) of section 6053(c)(3) (relating to employee allocation of 8 percent of gross receipts) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "Upon the petition of the employer or the majority of employees of such employer, the Secretary", and

(2) by striking out "5 percent" and inserting in lieu thereof "2 percent".

Regulations.
26 USC 6053 note.

(b) RECORDKEEPING BY TIPPED EMPLOYEES.—The Secretary of the Treasury shall prescribe by regulations within 1 year after the date of the enactment of this Act the applicable recordkeeping requirements for tipped employees.

(c) 50 PERCENT OWNERS NOT TREATED AS EMPLOYEES FOR CERTAIN PURPOSES.—

26 USC 6053.

(1) IN GENERAL.—Paragraph (4) of section 6053(c) (defining large food or beverage establishment) is amended by inserting before the period at the end of the last sentence the following: ", and an individual who owns 50 percent or more in value of the stock of the corporation operating the establishment shall not be treated as an employee".

26 USC 6053 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to calendar years beginning after December 31, 1982.

SEC. 1073. TIPS TREATED AS WAGES FOR PURPOSES OF FEDERAL UNEMPLOYMENT TAX.

97 Stat 123.
26 USC 3306.

(a) GENERAL RULE.—Section 3306 (relating to definitions for purposes of Federal unemployment tax) is amended by adding at the end thereof the following new subsection:

"(s) TIPS TREATED AS WAGES.—For purposes of this chapter, the term 'wages' includes tips which are—

"(1) received while performing services which constitute employment, and

"(2) included in a written statement furnished to the employer pursuant to section 6053(a)."

(b) EFFECTIVE DATE.— 26 USC 3306 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on January 1, 1986.

(2) EXCEPTION FOR CERTAIN STATES.—In the case of any State the legislature of which—

(A) did not meet in a regular session which begins during 1984 and after the date of the enactment of this Act, and

(B) did not meet in a session which began before the date of the enactment of this Act and remained in session for at least 25 calendar days after such date of enactment,

the amendment made by subsection (a) shall take effect on January 1, 1987.

SEC. 1074. EXCLUSION OF CERTAIN SERVICES FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

Subsection (b) of section 822 of the Economic Recovery Tax Act of 1981 (26 U.S.C. 3306 note) is amended by striking out "and before January 1, 1983" and inserting in lieu thereof "and before January 1, 1985".

SEC. 1075. TAXATION OF UNEMPLOYMENT COMPENSATION NOT TO APPLY TO COMPENSATION PAID FOR WEEKS OF UNEMPLOYMENT ENDING BEFORE DECEMBER 1, 1978.

(a) GENERAL RULE.—Subsection (d) of section 112 of the Revenue Act of 1978 (relating to taxation of unemployment compensation benefits at certain income levels) is amended to read as follows: 26 USC 85 note.

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date; except that such amendments shall not apply to payments made for weeks of unemployment ending before December 1, 1978."

(b) WAIVER OF STATUTE OF LIMITATIONS.—If credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) is barred on the date of the enactment of this Act or at any time during the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the amendment made by subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period. 26 USC 85 note.

SEC. 1076. EXCLUSION FROM GROSS INCOME OF CANCELLATIONS OF CERTAIN STUDENT LOANS.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end thereof the following new subsection: 26 USC 108.

"(f) STUDENT LOANS.—

"(1) IN GENERAL.—In the case of an individual, gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge

(in whole or in part) of any student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

"(2) STUDENT LOAN.—For purposes of this subsection, the term 'student loan' means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1)(A)(ii) made by—

"(A) the United States, or an instrumentality or agency thereof,

"(B) a State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(C) a public benefit corporation—

"(i) which is exempt from taxation under section 501(c)(3),

"(ii) which has assumed control over a State, county, or municipal hospital, and

"(iii) whose employees have been deemed to be public employees under State law, or

"(D) any educational organization so described pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization."

26 USC 108 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness made on or after January 1, 1983.

SEC. 1077. MIGRATORY BIRD HUNTING STAMPS.

(a) IN GENERAL.—Section 5 of the Act of March 16, 1934 (48 Stat. 451, Chapter 71; 16 U.S.C. 718e) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsection (b), or the prohibition in section 474 of title 18, United States Code, or other provisions of law, the Secretary of the Interior may authorize, with the concurrence of the Secretary of the Treasury,

"(1) the color reproduction, or

"(2) the black and white reproduction,

16 USC 718a–718d. 16 USC 718f–718h, 718.

of migratory bird hunting stamps authorized by sections 1 through 4 and 6 through 9 of this Act, which otherwise satisfies the requirements of clauses (ii) and (iii) of section 504(1) of title 18, United States Code. Any such reproduction shall be subject to those terms and conditions deemed necessary by the Secretary of the Interior by regulation or otherwise and any proceeds received by the Federal Government as a result of such reproduction shall be paid into the migratory bird conservation fund established under section 4 of this Act."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 504(1)(D) of title 18, United States Code, is amended by inserting "and stamps issued under the Migratory Bird Hunting Stamp Act of 1934" after "foreign government".

(2) Clause (ii) of such section is amended by inserting "and illustrations of stamps issued under the Migratory Bird Hunting Stamp Act of 1934 in color" after "postage stamps in color".

(3) Subsection (b) of section 5 of the Act referred to in subsection (a) is amended by striking out "No person" and inserting in lieu thereof "Except as provided in clauses (i) and (ii) of section 504(1)(D) of title 18, United States Code, no person". 16 USC 718e.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 16 USC 718e note.

SEC. 1078. EXCLUSION FROM GROSS INCOME OF PAYMENTS FROM THE UNITED STATES FOREST SERVICE AS A RESULT OF RESTRICTING MOTORIZED TRAFFIC IN THE BOUNDARY WATERS CANOE AREA.

(a) GENERAL RULE.—At the election of the taxpayer, for purposes of the Internal Revenue Code of 1954, gross income does not include the excludable portion of payments received from the United States Forest Service as a result of restricting motorized traffic in the Boundary Waters Canoe Area, pursuant to section 19(a) of "An Act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes", approved October 21, 1978 (Public Law 95-495; 92 Stat. 1649). 26 USC 1 *et seq.* 92 Stat. 1659.

(b) EXCLUDABLE PORTION.—For purposes of this section, the term "excludable portion" means that portion (or all) of a payment made to any taxpayer during the period after December 31, 1979, and before the later of the date which is 2 years after—

(1) the date of the enactment of this Act, or

(2) the date of such payment,

which payment is reinvested within such period in depreciable property used in a trade or business of such taxpayer as authorized by the Act referred to in subsection (a). In determining whether reinvestment has occurred, no direct tracing is required.

(c) ELECTION.—An election under subsection (a) shall identify such property for which such payment has been allocated. An election may be made at any time before the expiration of the period for making a claim for credit or refund of the tax imposed by chapter 1 of such Code for the taxable year in which the reinvestment occurred, and shall be made in such manner as the Secretary of the Treasury or his delegate shall by regulations prescribe. 26 USC 1 *et seq.*

(d) BASIS OF PROPERTY.—

(1) IN GENERAL.—The basis of any property, with respect to which an allocation of any payment has been elected, shall be reduced by the amount of such payment.

(2) INCREASE DUE TO REPAYMENT.—The basis of any property described in paragraph (1) shall be increased by the amount of any repayments made to the United States Forest Service upon the sale of such property.

(e) DENIAL OF DOUBLE BENEFIT.—No deduction or credit shall be allowed under such Code with respect to any expenditure which is properly associated with any amount excluded from gross income under subsection (a).

(f) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 1979.

(2) ELECTIONS FOR PRIOR YEARS.—In the case of any taxable year ending before the date of the enactment of this Act—

(A) the period for making the election under subsection (c) shall not expire before the date which is 1 year after the date of the enactment of this Act, and

(B) if, after the application of subparagraph (A), refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time before the close of such 1-year period by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable the application of this section) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

SEC. 1079. TAX EXEMPTION OF CORPORATIONS ORGANIZED UNDER ACTS OF CONGRESS.

Post, p. 1207.

Paragraph (1) of section 501(c) (relating to list of exempt organizations), as amended by section 2813 of the bill, is amended by striking out subparagraph (A) thereof and inserting in lieu thereof the following:

"(A) is exempt from Federal income taxes—

"(i) under such Act as amended and supplemented before the date of the enactment of the Tax Reform Act of 1984, or

Ante, p. 494.

"(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or".

Subtitle I—Studies

SEC. 1081. STUDY OF ALTERNATIVE INCOME TAX SYSTEMS.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study covering the advisability of—

(1) replacing only the Federal individual income tax, or

(2) replacing both the Federal individual income tax and the Federal corporate income tax,

with an alternative tax system.

(b) CONTENTS OF STUDY.—Such study shall take into account the administrative complexity of the existing Federal income tax system and address the ramifications of replacing that system with an alternative tax system. Such study shall focus on (but not be limited to) the following factors:

(1) protecting the economically disadvantaged,

(2) increasing economic efficiency in both the private and public sectors of the economy,

(3) reducing paperwork and auditing requirements, reducing taxpayer fraud and evasion, and expediting resolution of tax disputes between taxpayers and the Federal Government,

(4) increasing economic incentives for capital formation and productivity,

(5) removing economic disincentives to employment,

(6) excluding certain items, such as social security benefits, from gross income,

(7) equalizing the tax burden on taxpayers with equal ability to pay taxes, and

(8) achieving the appropriate burden of taxes for each income class of taxpayers.

Such study shall also identify the strengths and potential weaknesses of an alternative tax system and propose possible solutions for any such potential weakness.

(c) ALTERNATIVE TAX SYSTEM.—For purposes of this section, the term "alternative tax system" means a system based on—

(1) a simplified income tax based on gross income;

(2) a consumption tax;

(3) a consumption-based tax; or

(4) the broadening of the base and lowering of the rates of the current income tax.

(d) STUDY OF TAX SHELTERS TO BE INCLUDED.—The study conducted under subsection (a) shall include a study of the entire area of tax shelters and how they impact on the equity of the tax system.

(e) REPORTING DATE.—The report of the study required by subsection (a) shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than December 31, 1984.

SEC. 1082. STUDY OF TAXATION BY FOREIGN COUNTRIES ON SERVICES PERFORMED IN THE UNITED STATES.

(a) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the practices of foreign countries of taxing income on services performed within the United States, including, but not limited to—

(1) the status of treaty negotiations with such foreign countries with respect to such practices, and

(2) any options to alleviate the taxation of such income by more than 1 country without appropriate credit for taxes paid.

(b) REPORT.—The Secretary of the Treasury or his delegate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subsection (a) no later than December 31, 1984.

DIVISION B—SPENDING REDUCTION ACT OF 1984

SEC. 2001. This division may be cited as the "Spending Reduction Act of 1984".

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TITLE I—GENERAL PROVISIONS

SENSE OF SENATE STATEMENT

SEC. 2101. It is the sense of the Senate that ceilings on fiscal year 1985 appropriation bills shall not exceed, in the aggregate, $139.8 billion for non-defense, discretionary accounts, and shall not exceed $299 billion for defense accounts. Further, it is the sense of the Senate that the allocations of these sums, normally done through

the section 302(b) process under the Congressional Budget and Impoundment Control Act of 1974, in the absence of a first concurrent budget resolution for fiscal year 1985 will be done by the Senate Appropriations Committee to guide its subcommittees in their separate deliberations on individual appropriation bills for fiscal year 1985.

2 USC 633.

SENSE OF HOUSE STATEMENT

SEC. 2102. (a) It is the sense of the House that in fiscal years 1985, 1986, and 1987, Federal deficits be reduced by $182 billion as a result of the first concurrent resolution on the budget for fiscal year 1985 and the Deficit Reduction Act of 1984. Further, it is the sense of the House that these deficit reductions shall be divided among revenue increases, domestic spending reductions, and limits on the growth in military spending.

Ante, p. 494.

(b) It is the sense of the House that in the absence of agreement on a first concurrent resolution on the budget for fiscal year 1985 that the House will continue to abide by House Concurrent Resolution 280, as passed the House.

(c) It is the sense of the House that the Congress shall immediately adopt a conference report on the first concurrent resolution on the budget for fiscal year 1985 and that the Congress shall enforce the aggregate levels of revenue and spending provided in such resolution.

RESCISSION

SEC. 2103. Of the amounts provided in Public Law 96-126, the Department of the Interior and Related Agencies Appropriation Act, 1980, for the "Energy Security Reserve", $2,000,000,000 are rescinded, of which $1,154,950,000 is to be derived from the unused portion of the commitment of financial assistance previously awarded to The Oil Shale Company (Colony Shale Oil Project).

42 USC 5915 note.

93 Stat. 954.

TITLE II—CIVIL SERVICE AND MILITARY RETIREMENT PROGRAMS

COST-OF-LIVING ADJUSTMENTS UNDER GOVERNMENT RETIREMENT SYSTEMS

SEC. 2201. (a) Notwithstanding any other provision of law, beginning with the monthly rate payable for December 1984, any annuity or retired or retirement pay payable under any retirement system for Government officers or employees which the President adjusts pursuant to section 8340(b) of title 5, United States Code, shall be paid no earlier than the first business day of the succeeding month.

5 USC 8340 note.

(b) Section 8340(c)(1) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking out "computer" and inserting in lieu thereof "computed"; and

(2) in subparagraph (B), by striking out "counting" and inserting in lieu thereof "not to exceed 12 months, counting".

TECHNICAL AMENDMENT RELATING TO PREVAILING RATE EMPLOYEES

SEC. 2202. (a) Notwithstanding any other provision of law, effective as of October 1, 1983, any adjustment in a wage schedule or rate—

5 USC 5343 note.

(1) that applies—

(A) to a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code;

(B) to an employee covered by section 5348 of such title; or 5 USC 5348.

(C) to any other employee subject to section 202(b)(1) of the Omnibus Budget Reconciliation Act of 1983 (Public Law 98-270; 98 Stat. 158); 5 USC 5343 note.

(2) that results from a wage survey; and

(3) that first becomes effective during the fiscal year ending September 30, 1984;

shall not take effect until the first day of the first applicable pay period beginning after the expiration of the 90-day period beginning on the date on which such adjustment would otherwise have taken effect.

(b) The Office of Personnel Management shall take such actions as may be necessary to carry out the provisions of this section.

DEDUCTION FROM CIVILIAN PAY FOR COST-OF-LIVING ADJUSTMENT OF RETIRED OR RETAINER PAY

SEC. 2203. Subsection (d) of section 301 of the Omnibus Budget Reconciliation Act of 1982 (96 Stat. 791; 5 U.S.C. 5532 note) is repealed, effective with respect to pay periods beginning after the date of enactment of this Act.

LEAVE FOR CERTAIN OVERSEAS EMPLOYEES

SEC. 2204. Subsection (a) of section 6 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 214; 20 U.S.C. 904(a)) is amended by striking out "except that—" and all that follows through the end of such subsection and inserting in lieu thereof "except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten days of cumulative leave with pay.".

CIVIL SERVICE RETIREMENT DEPOSITS COVERING MILITARY SERVICE

SEC. 2205. The first sentence of section 306(g) of the Omnibus Budget Reconciliation Act of 1982 (5 U.S.C. 8331 note) is amended by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1985".

ELECTION OF RETIREMENT PLAN

SEC. 2206. (a) For the purposes of this section, the term "covered retirement system" shall have the same meaning as provided in section 203(a)(2) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (Public Law 98-168; 97 Stat. 1107). 5 USC 8331 note.

(b)(1) Any individual who was entitled to make an election under section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111), but who did not make such an election, may make an election under such section not later than September 15, 1984. 5 USC 8331 note.

(2)(A) Not later than September 15, 1984, any such individual who made an election under paragraph (1) of section 208(a) of the Federal

Employees' Retirement Contribution Temporary Adjustment Act of 1983 may—

(i) make any other election which such individual was entitled to make under such section before January 1, 1984; or

(ii) elect to become a participant in a covered retirement system (if such individual is otherwise eligible to participate in such system), subject to sections 201 through 207 of such Act.

97 Stat. 1106
5 USC 8331 note.

(B) Not later than September 15, 1984, any such individual who made an election under paragraph (2) of section 208(a) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 may—

97 Stat. 1111.
5 USC 8331 note.

(i) make any other election which such individual was entitled to make under such section before January 1, 1984; or

(ii) elect to terminate participation in the covered retirement system with respect to which such individual made the election under such paragraph (2).

(3) An election under this subsection shall be made by a written application submitted to the official by whom the electing individual is paid.

(4) An election made as provided in this subsection shall take effect with respect to service performed on or after the first day of the first applicable pay period commencing after September 15, 1984.

(c)(1) Section 8342(a)(4) of title 5, United States Code, does not apply for the purpose of determining an entitlement to a refund under section 208(c) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1111).

(2) Paragraph (1) shall take effect with respect to any election made under section 208(a) of such Act or this Act before, on, or after January 1, 1984.

97 Stat. 1106.
5 USC 8331 note.

(d) Nothing in this section or the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 affects any entitlement to benefits accrued under a covered retirement system before January 1, 1984, except to the extent that any amount refunded under section 208(c) of such Act is not redeposited in the applicable retirement fund.

SALARY ADJUSTMENTS FOR JUDGES

28 USC 461 note.

SEC. 2207. Effective on the first day of the first applicable pay period commencing on or after January 1, 1984, each rate of pay subject to adjustment by section 461 of title 28, United States Code, shall be increased by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the overall percentage of the adjustment taking effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule during fiscal year 1984.

RETIREMENT BENEFITS FOR NATIVES OF THE PRIBILOF ISLANDS

97 Stat. 843.

SEC. 2208. (a) Section 8332(b) of title 5, United States Code, is amended by striking out the period at the end of the second paragraph (13) and inserting in lieu thereof the following: ", and regardless of whether the Native who performs the service retires before, on, or after the effective date of this paragraph.".

(b) Title II of Public Law 89-702, as amended by section 2 of Public Law 98-129, is amended by adding at the end thereof the following new section: 16 USC 1161.

"SEC. 212. (a)(1) An annuity or survivor annuity based on the service of an employee or Member who performed service described in the second paragraph (13) of subsection (b) or subsection (l)(1)(C) of section 8332 of title 5, United States Code, as added by subsections (b) and (e), respectively, of section 209 of this Act, shall, upon application to the Office of Personnel Management, be recomputed in accordance with the second paragraph (13) of subsection (b) and subsection (l), respectively, of such section 8332, regardless of whether the employee or Member retires before, on, or after the effective date of this paragraph. 16 USC 1169a. 97 Stat. 843.

"(2) Any recomputation of annuity under paragraph (1) of this subsection shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Office.".

(c) The amendments made by this section shall take effect as of October 14, 1983. Effective date. 16 USC 1169a note.

AMENDMENT TO OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 2209. Section 1722 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 759) is amended by striking out "1984" and inserting in lieu thereof "1987". 39 USC 403 note.

TITLE III—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH AMENDMENTS

Medicare and Medicaid Budget Reconciliation Amendments of 1984.

SHORT TITLE OF TITLE

SEC. 2300. This title may be cited as the "Medicare and Medicaid Budget Reconciliation Amendments of 1984". 42 USC 1305 note.

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Sec. 2334. Provider representation in peer review organizations.
Sec. 2335. Repeal of special tuberculosis treatment requirements under medicare and medicaid.
Sec. 2336. Access to home health services.
Sec. 2337. Normalization of trust fund transfers.
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Sec. 2341. Included podiatrists in definition of "physician" for outpatient physical therapy services and including podiatrists and dentists in definition of "physician" for outpatient ambulatory surgery.
Sec. 2342. Establishment by physical therapists of plans for physical therapy.
Sec. 2343. Hospice contracting for core services.
Sec. 2344. Medicare recovery against certain third parties.
Sec. 2345. Confidentiality of accreditation surveys.
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Sec. 2348. Payment for services following termination of participation agreements with home health agencies or hospice programs.
Sec. 2349. Elimination of health insurance benefits advisory council.
Sec. 2350. Health maintenance organizations and competitive medical plans.
Sec. 2351. Judicial review of provider reimbursement review board decisions.
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Sec. 2353. Payments to promote closure and conversion of underutilized hospital facilities.
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Subtitle B—Medicaid and Maternal and Child Health Amendments

Sec. 2361. Medicaid coverage for pregnant women and children.
Sec. 2362. Clarification of medicaid entitlements for certain newborns.
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Subtitle C—Recovery of Hill-Burton Funds

Sec. 2381. Recovery of Hill-Burton funds.

Subtitle D—Uncompensated Services Provided by Skilled Nursing Facilities and Intermediate Care Facilities

Sec. 2391. Study.

Subtitle A—Medicare Amendments

PART I—REIMBURSEMENT AND BENEFIT CHANGES

MODIFICATION OF WORKING AGED PROVISION

SEC. 2301. (a) Section 1862(b)(3)(A)(i) of the Social Security Act is amended by striking out "over 64 but" each place it appears. 42 USC 1395y.

(b) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 is amended— 29 USC 623.

(1) by inserting ", and any employee's spouse aged 65 through 69," after "aged 65 through 69"; and

(2) by inserting ", and the spouse of such employee," after "same conditions as any employee".

(c)(1) The amendment made by subsection (a) shall be effective with respect to items and services furnished on or after January 1, 1985. Effective date. 42 USC 1395y note.

(2) The amendment made by subsection (b) shall become effective on January 1, 1985. Effective date. 29 USC 623 note.

PART B PREMIUM

SEC. 2302. (a) Section 1839(e) of the Social Security Act is amended by striking out "1986" each place it appears and inserting in lieu thereof in each instance "1988". 97 Stat. 170. 42 USC 1395r.

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

"(f)(1) If no cost-of-living increase becomes effective under section 215(i) in December of 1985 or 1986, the monthly premium of each individual enrolled under this part for each month in the succeeding year shall (except as otherwise provided in subsection (b)) be the same as the monthly premium (disregarding subsection (b)) of the individual for such December. 42 USC 415.

"(2) If paragraph (1) does not apply to the monthly premiums for 1986 or 1987, if an individual is entitled to monthly benefits under section 202 or 223 for November and for December in the preceding year, and if the monthly premium for that December and for the following January is deducted from those benefits under section 1840(a)(1), the monthly premium for that individual for that January and for each of the succeeding 11 months for which he is entitled to benefits under section 202 or 223 shall (except as otherwise provided in subsection (b)) be the greater of— 42 USC 402, 423. 42 USC 1395s. 42 USC 402, 423.

"(A) the monthly premium amount determined under subsection (a)(2) for that January reduced by the amount (if any) necessary to make the monthly benefits under section 202 or 223 for that January after the deduction of the monthly premium (disregarding subsection (b)) for that January at least equal to the monthly benefits under section 202 or 223 for the preceding November after the deduction of the premium (disregarding subsection (b)) for that individual for that November, or

"(B) the monthly premium (disregarding subsection (b)) for that individual for that December.

For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223.".

42 USC 402, 423.

Effective date.
42 USC 1395r note.

(c) The amendments made by this section shall apply to premiums for months beginning with January 1986.

PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS

42 USC 1395l.

SEC. 2303. (a) Section 1833(a)(1)(D) of the Social Security Act is amended to read as follows: "(D) with respect to clinical diagnostic laboratory tests for which payment is made under this part (i) on the basis of a fee schedule under subsection (h)(1), the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) or under the procedure described in section 1870(f)(1)) of the lesser of the amount determined under such fee schedule or the amount of the charges billed for the tests, or (ii) on the basis of a negotiated rate established under subsection (h)(6), the amount paid shall be equal to 100 percent of such negotiated rate,".

42 USC 1395u.
42 USC 1395gg.

(b) Section 1833(a)(2) of such Act is amended—

(1) in subparagraph (B), by inserting "or (D)" after "subparagraph (C)";

(2) by striking out "and" at the end of subparagraph (B);

(3) by adding "and" at the end of subparagraph (C); and

(4) by adding at the end thereof the following new subparagraph:

"(D) with respect to clinical diagnostic laboratory tests for which payment is made under this part (i) on the basis of a fee schedule determined under subsection (h)(1), the amount paid shall be equal to 80 percent (or 100 percent, in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider having an agreement under section 1866) of the lesser of the amount determined under such fee schedule or the amount of the charges billed for the tests, or (ii) on the basis of a negotiated rate established under subsection (h)(6), the amount paid shall be equal to 100 percent of such negotiated rate for such tests;".

42 USC 1395cc.

(c) Section 1833(b) of the Social Security Act is amended by striking out "and" at the end of clause (2) and by inserting before the period at the end of clause (3) the following: ", and (4) such deductible shall not apply with respect to clinical diagnostic laboratory tests for which payment is made under this part (A) under subsection (a)(1)(D)(i) or (a)(2)(D)(i) on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or to a provider having an agreement under section 1866, or (B) on the basis of a negotiated rate determined under subsection (h)(6)".

(d) Section 1833(h) of such Act is amended to read as follows: "(h)(1)(A) The Secretary shall establish fee schedules for clinical diagnostic laboratory tests for which payment is made under this part, other than such tests performed by a provider of services for an inpatient of such provider.

"(B) In the case of clinical diagnostic laboratory tests performed by a physician or by a laboratory (other than tests performed by a

hospital laboratory for outpatients of such hospital), the fee schedules established under subparagraph (A) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for tests furnished during the period beginning on July 1, 1984, and ending on June 30, 1987. For such tests furnished on or after July 1, 1987, the fee schedule shall be established on a nationwide basis.

"(C) In the case of clinical diagnostic laboratory tests performed by a hospital laboratory for outpatients of such hospital, the fee schedules established under subparagraph (A) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for tests furnished during the period beginning on July 1, 1984, and ending on June 30, 1987. For such tests furnished on or after July 1, 1987, the fee schedule under subparagraph (A) shall not apply with respect to clinical diagnostic laboratory tests performed by a hospital laboratory for outpatients of such hospital.

"(2) Except as provided in paragraph (4), the Secretary shall set the fee schedules at 60 percent (or, in the case of a test performed by a hospital laboratory for outpatients of such hospital, 62 percent) of the prevailing charge level determined pursuant to the third and fourth sentences of section 1842(b)(3) for similar clinical diagnostic laboratory tests for the applicable region, State, or area (or, effective July 1, 1987, for the United States) for the 12-month period beginning July 1, 1984, adjusted annually by a percentage increase or decrease equal to the percentage increase or decrease in the Consumer Price Index for All Urban Consumers (United States city average), and subject to such other adjustments as the Secretary determines are justified by technological changes. The Secretary may make further adjustments or exceptions to the fee schedules to assure adequate reimbursement of (A) emergency laboratory tests needed for the provision of bona fide emergency services, and (B) certain low volume high-cost tests where highly sophisticated equipment or extremely skilled personnel are necessary to assure quality.

42 USC 1395u.

"(3) In addition to the amounts provided under the fee schedules, the Secretary shall provide for and establish a nominal fee to cover the appropriate costs in collecting the sample on which a clinical diagnostic laboratory test was performed and for which payment is made under this part, except that not more than one such fee may be provided under this paragraph with respect to samples collected in the same encounter.

"(4) In establishing any fee schedule under this subsection, the Secretary may provide for an adjustment to take into account, with respect to the portion of the expenses of clinical diagnostic laboratory tests attributable to wages, the relative difference between a region's or local area's wage rates and the wage rate presumed in the data on which the schedule is based.

"(5)(A) In the case of a bill or request for payment for a clinical diagnostic laboratory test for which payment may otherwise be made under this part on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1), or under a provider agreement under section 1866, payment may be made only to the person or entity which performed or supervised the performance of such test; except that—

42 USC 1395u.
42 USC 1395gg, 1395cc.

"(i) if a physician performed or supervised the performance of such test, payment may be made to another physician with whom he shares his practice, and

"(ii) in the case of a test performed at the request of a laboratory by another laboratory, payment may be made to the referring laboratory.

"(B) In the case of such a bill or request for payment for a clinical diagnostic laboratory test for which payment may otherwise be made under this part, and which is not described in subparagraph (A), payment may be made to the beneficiary only on the basis of the itemized bill of the person or entity which performed or supervised the performance of the test.

"(C) Payment for a clinical diagnostic laboratory test performed by a laboratory which is independent of a physician's office or a rural health clinic may only be made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B) under the procedure described in section 1870(f)(1), or to a provider of services with an agreement in effect under section 1866.

42 USC 1395u.
Post, p. 1070.
42 USC 1395gg.
42 USC 1395cc.

"(6) In the case of any diagnostic laboratory test payment for which is not made on the basis of a fee schedule under paragraph (1), the Secretary may establish a payment rate which is acceptable to the person or entity performing the test and which would be considered the full charge for such tests. Such negotiated rate shall be limited to an amount not in excess of the total payment that would have been made for the services in the absence of such rate.".

42 USC 1395u.

(e) Section 1842 of such Act is amended by striking out subsection (h) thereof.

42 USC 1395cc.

(f) The last sentence of section 1866(a)(2)(A) of such Act is amended by inserting "and with respect to clinical diagnostic laboratory tests" after "section 1861(s)(10)".

42 USC 1396a.

(g)(1) Section 1902(a) of such Act is amended—

(A) by inserting "and" at the end of paragraph (42);

(B) by striking out paragraph (43); and

(C) by redesignating paragraph (44) as paragraph (43).

42 USC 1396b.

(2) Section 1903(i) of such Act is amended—

(A) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or ", and

(B) by adding after paragraph (6) the following new paragraph:

"(7) with respect to any amount expended for clinical diagnostic laboratory tests performed by a physician, independent laboratory, or hospital, to the extent such amount exceeds the amount that would be recognized under section 1833(h) for such tests performed for an individual enrolled under part B of title XVIII.".

Ante, p. 1064.

42 USC 1395j.
42 USC 1395u note.

(h) The Secretary of Health and Human Services shall simplify the procedures under section 1842 of the Social Security Act with respect to claims and payments for clinical diagnostic laboratory tests so as to reduce unnecessary paperwork while assuring that sufficient information is supplied to identify instances of fraud and abuse.

Report.
42 USC 1395*l* note.

(i)(1) The Comptroller General shall report to the Congress on—

(A) the appropriateness of the fee schedules under section 1833(h) of the Social Security Act and their impact on the volume and quality of clinical diagnostic laboratory tests;

(B) the potential impact of the adoption of a national fee schedule; and

(C) the potential impact of applying a national fee schedule to clinical diagnostic laboratory tests provided by hospitals to their outpatients.

(2) The Secretary of Health and Human Services shall report to the Congress with respect to the advisability and feasibility of a system of direct payment to any physician for all clinical diagnostic laboratory tests ordered by such physician. Report.

(3) The reports required by paragraphs (1) and (2) shall be submitted not later than January 1, 1987.

(j)(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to clinical diagnostic laboratory tests furnished on or after July 1, 1984. Effective dates. 42 USC 1395*l* note.

(2) The amendments made by subsection (g)(2) shall apply to payments for calendar quarters beginning on or after October 1, 1984.

(3) The amendments made by this section shall not apply to clinical diagnostic laboratory tests furnished to inpatients of a provider operating under a waiver granted pursuant to section 602(k) of the Social Security Amendments of 1983. Payment for such services shall be made under part B of title XVIII of the Social Security Act at 80 percent (or 100 percent in the case of such tests for which payment is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) of the Social Security Act or under the procedure described in section 1870(f)(1) of such Act) of the reasonable charge for such service. The deductible under section 1833(b) of such Act shall not apply to such tests if payment is made on the basis of such an assignment or procedure. 97 Stat. 163. 42 USC 1395y note. 42 USC 1395j. 42 USC 1395u. 42 USC 1395gg. 42 USC 1395*l*.

PACEMAKER REIMBURSEMENT REVIEW AND REFORM

SEC. 2304. (a)(1) The Secretary of Health and Human Services shall issue revisions to the current guidelines for the payment under part B of title XVIII of the Social Security Act for the transtelephonic monitoring of cardiac pacemakers. Such revised guidelines shall include provisions regarding the specifications for and frequency of transtelephonic monitoring procedures which will be found to be reasonable and necessary. 42 USC 1395*l* note.

(2)(A) Except as provided in subparagraph (B), if the guidelines required by paragraph (1) have not been issued and put into effect by October 1, 1984, and until such guidelines have been issued and put into effect, payment may not be made under part B of title XVIII of the Social Security Act for transtelephonic monitoring procedures, with respect to a single-chamber cardiac pacemaker powered by lithium batteries, conducted more frequently than—

(i) weekly during the first month after implantation,

(ii) once every two months during the period representing 80 percent of the estimated life of the implanted device, and

(iii) monthly thereafter.

(B) Subparagraph (A) shall not apply in cases where the Secretary determines that special medical factors (including possible evidence of pacemaker or lead malfunction) justify more frequent transtelephonic monitoring procedures.

(b)(1) The Secretary shall review, and report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, regarding the appropriateness of the amounts recognized as reasonable under part B of title XVIII of the Social Security Act for physicians Report.

services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the amounts recognized as reasonable with respect to such procedures and the time and difficulty of such procedures at the current time in comparison with such amounts and the time and difficulty of such procedures at the time the amounts for such procedures were first established under such part.

Report.
97 Stat. 152.
42 USC 1395ww.

(2) The Prospective Payment Assessment Commission, established under section 1886(e) of the Social Security Act, shall review and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the appropriateness of the payment amounts provided under section 1886(d) of such Act for inpatient hospital services associated with implantation or replacement of pacemaker devices and pacemaker leads. Such review shall take into account the time, difficulty, and costs associated with such procedures at the current time in comparison with the time, difficulty, and costs associated with such procedures upon which the payment rates for such procedures under part A of title XVIII of such Act are based.

42 USC 1395c.

(3) The Secretary and the Commission shall each complete the review described in paragraph (1) or (2), respectively, of this subsection and report on such review not later than March 1, 1985.

42 USC 1395y.

(c) Section 1862 of the Social Security Act is amended by adding at the end the following new subsection:

"(h)(1)(A) The Secretary shall, through the Commissioner of the Food and Drug Administration, provide for a registry of all cardiac pacemaker devices and pacemaker leads for which payment was made under this title.

"(B) Such registry shall include the manufacturer, model, and serial number of each such device or lead, the name of the recipient of such device or lead, the date and location of the implantation or removal of the device or lead, the name of the physician implanting or removing such device or lead, the name of the hospital or other provider billing for such procedure, any express or implied warranties associated with such device or lead under contract or State law, and such other information as the Secretary deems to be appropriate.

"(C) Each physician and provider of services performing the implantation or replacement of pacemaker devices and leads for which payment is made or requested to be made under this title shall, in accordance with regulations of the Secretary, submit information respecting such implantation or replacement for the registry.

"(D) Such registry shall be for the purposes of assisting the Secretary in determining when payments may properly be made under this title, in tracing the performance of cardiac pacemaker devices and leads, in determining when inspection by the manufacturer of such a device or lead may be necessary under paragraph (3), and in carrying out studies with respect to the use of such devices and leads. In carrying out any such study, the Secretary may not reveal any specific information which identifies any pacemaker device or lead recipient by name (or which would otherwise identify a specific recipient).

"(E) Any person or organization may provide information to the registry with respect to cardiac pacemaker devices and leads other than those for which payment is made under this title.

"(2) The Secretary may, by regulation, require each provider of services—

"(A) to return, to the manufacturer of the device or lead for testing under paragraph (3), any cardiac pacemaker device or lead which is removed from a patient and payment for the implantation or replacement of which was made or requested by such provider under this title, and

"(B) not to charge any beneficiary for replacement of such a device or lead if the device or lead has not been returned in accordance with subparagraph (A).

"(3) The Secretary may, by regulation, require the manufacturer of a cardiac pacemaker device or lead (A) to test or analyze each pacemaker device or lead for which payment is made or requested under this title and which is returned to the manufacturer by a provider of services under paragraph (2), and (B) to provide the results of such test or analysis to that provider, together with information and documentation with respect to any warranties covering such device or lead. In any case where the Secretary has reason to believe, based upon information in the pacemaker registry or otherwise available to him, that replacement of a cardiac pacemaker device or lead for which payment is or may be requested under this title is related to the malfunction of a device or lead, the Secretary may require that personnel of the Food and Drug Administration be present at the testing of such device by the manufacturer, to determine whether such device was functioning properly.

"(4) The Secretary may deny payment under this title, in whole or in part and for such period of time as the Secretary determines to be appropriate, with respect to the implantation or replacement of a pacemaker device or lead of a manufacturer performed by a physician and provider of services after the Secretary determines (in accordance with the procedures established under paragraphs (2) and (3) of subsection (d)) that—

"(A) the physician or provider of services has failed to submit information to the registry as required under paragraph (1)(C),

"(B) the provider of services has failed to return devices and leads as required under paragraph (2)(A) or has improperly charged beneficiaries as prohibited under paragraph (2)(B), or

"(C) the manufacturer of the device or lead has failed to perform and to report on the testing of devices and leads returned to it as required under paragraph (3).".

(d) The Secretary of Health and Human Services shall promulgate final regulations to carry out this section and the amendment made by this section prior to January 1, 1985, and the amendment made by subsection (c) shall apply to pacemaker devices and leads implanted or removed on or after the effective date of such regulations. Regulations. 42 USC 1395y note.

ELIMINATION OF SPECIAL PAYMENT PROVISIONS FOR PREADMISSION DIAGNOSTIC TESTING

SEC. 2305. (a) Section 1833(a)(1) of the Social Security Act is amended by striking out "(F) with respect to" and all that follows through "(G)" and inserting in lieu thereof "and (F)". 42 USC 1395l.

(b) Section 1833(a) of such Act is amended—

(1) by adding "and" at the end of paragraph (3);

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period; and

(3) by striking out paragraph (5).

42 USC 1395*l*.

(c) Section 1833(a)(2) of such Act is amended by striking out "and in paragraph (5) of this subsection".

(d) Section 1833(b) and section 1833(i)(3) of such Act are each amended by striking out "subsection (a)(1)(G)" and inserting in lieu thereof "subsection (a)(1)(F)".

42 USC 1395*l* note.

(e) The amendments made by this section shall apply to services performed after the date of the enactment of this Act.

42 USC 1395*l* note.

(f) The amendments made by this section shall not be construed as prohibiting payment, subject to the applicable copayments, under part B of title XVIII of the Social Security Act for preadmission diagnostic testing performed in a physician's office to the extent such testing is otherwise reimbursable under regulations of the Secretary.

42 USC 1395j.

LIMITATION ON PHYSICIAN FEE PREVAILING AND CUSTOMARY CHARGE LEVELS; PARTICIPATING PHYSICIAN INCENTIVES

42 USC 1395u.

SEC. 2306. (a) Section 1842(b) of the Social Security Act is amended by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4)(A) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 15-month period beginning July 1, 1984, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(B) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 15-month period beginning July 1, 1984, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983.

"(C) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during periods beginning after September 30, 1985, the Secretary shall treat the level as set under subparagraph (A) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A).

"(D) In determining the customary charges for physicians' services furnished during the 12-month period beginning October 1, 1985, or October 1, 1986, by a physician who at no time for any services furnished during the 12-month period beginning October 1, 1984, was a participating physician (as defined in subsection (h)(1)), the Secretary shall not recognize increases in actual charges for services furnished during the 15-month period beginning on July 1, 1984, above the level of the physician's actual charges billed in the 3-month period ending on June 30, 1984.".

(b)(1) Section 1842(b)(3) of such Act is amended—

(A) in subparagraph (F), by striking out "June 30" and inserting in lieu thereof "September 30";

(B) by striking out "July 1" each place it appears in the third and eighth sentences and inserting in lieu thereof in each instance "October 1"; and

(C) in the third sentence thereof, by striking out "during the last preceding calendar year elapsing prior to" and inserting in

lieu thereof "during the 12-month period ending on the March 31 last preceding".

Effective date. 42 USC 1395u note.

(2) The amendments made by paragraph (1) shall apply to items and services furnished on or after October 1, 1985.

(c) Section 1842 of such Act, as amended by section 2303(e) of this title, is amended by adding at the end thereof the following new subsections:

Ante, p. 1066.

"(h)(1) Any physician or supplier may voluntarily enter into an agreement with the Secretary to become a participating physician or supplier. For purposes of this section, the term 'participating physician or supplier' means a physician or supplier (excluding any provider of services) who, before October 1 of any year beginning with 1984, enters into an agreement with the Secretary which provides that such physician or supplier will accept payment under this part on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1) for all items and services furnished to individuals enrolled under this part during the 12-month period beginning on October 1 of such year. In the case of a newly licensed physician or a physician who begins a practice in a new area, or in the case of a new supplier who begins a new business, or in such similar cases as the Secretary may specify, such physician or supplier may enter into such an agreement after October 1 of a year, for items and services furnished during the remainder of the 12-month period beginning on such October 1.

42 USC 1395gg.

"(2) Each carrier having an agreement with the Secretary under subsection (a) shall maintain a toll-free telephone number or numbers at which individuals enrolled under this part may obtain the names, addresses, specialty, and telephone numbers of participating physicians and suppliers.

"(3) In any case in which a carrier having an agreement with the Secretary under subsection (a) is able to develop a system for the electronic transmission to such carrier of bills for services, such carrier shall establish direct lines for the electronic receipt of claims from participating physicians and suppliers.

"(i)(1) Each year the Secretary shall publish a list containing the name, address, specialty, and percent of claims submitted with respect to each physician and supplier during the preceding year that were paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1). The Secretary may limit such list to those physicians and suppliers who accepted such an assignment in a certain percentage of such physician's or supplier's billings or who provide at least a certain volume of services, as the Secretary may determine to be appropriate. Such list shall be organized by such geographical area as the Secretary determines, after consultation with carriers, would facilitate the use of such list by individuals enrolled under this part.

"(2) At the beginning of each fiscal year the Secretary shall publish a directory containing the name, address, and specialty of all participating physicians and suppliers (as defined in subsection (h)(1)) for that fiscal year. The directory shall be organized to make the most useful presentation of the information (as determined by the Secretary) for individuals enrolled under this part.

"(3) The Secretary shall promptly notify individuals enrolled under this part of the publication of such list and directory and shall make such list and directory available in each district and branch

office of the Social Security Administration, in the offices of carriers, and to senior citizen organizations.

"(4) The Secretary shall provide that the list and directory shall be available for purchase by the public.

"(j)(1) In the case of a physician who is not a participating physician, the Secretary shall monitor each such physician's actual charges to individuals enrolled under this part for physicians' services furnished during the 15-month period beginning July 1, 1984. If such physician knowingly and willfully bills individuals enrolled under this part for actual charges in excess of such physician's actual charges for the calendar quarter beginning on April 1, 1984, the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(2) Subject to paragraph (3), the sanctions which the Secretary may apply under paragraph (1) are—

"(A) barring a physician from participation under the program under this title for a period not to exceed 5 years, in accordance with the procedures of paragraphs (2) and (3) of section 1862(d), or

42 USC 1395y.

"(B) the imposition of civil monetary penalties and assessments, in the same manner as such penalties are authorized under section 1128A(a),

42 USC 1320a-7a.

or both. No payment may be made under this title with respect to any item or service furnished by a physician during the period when he is barred from participation in the program under this title pursuant to this subsection.

"(3)(A) The Secretary may not bar a physician pursuant to paragraph (2)(A) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(B) The Secretary shall take into account access of beneficiaries to physicians' services for which payment may be made under this part in determining whether to bar a physician from participation under paragraph (2)(A).

"(4) The Secretary may, out of any civil monetary penalty or assessment collected from a physician pursuant to this subsection, make a payment to a beneficiary enrolled under this part in the nature of restitution for amounts paid by such beneficiary to such physician which was determined to be an excess charge under paragraph (1).".

(d)(1) During the 15-month period beginning July 1, 1984, the Secretary of Health and Human Services shall monitor physicians' services in order to determine any changes in the per capita volume and mix of physicians' services provided to beneficiaries under part B of title XVIII of the Social Security Act, classified by participating and nonparticipating physicians, by assigned and nonassigned claims, by specialty, and by geographic area.

42 USC 1395j.

Report.

(2) A report on changes monitored pursuant to paragraph (1) shall be provided to Congress prior to July 1, 1985.

(3) Such report shall include recommendations in sufficient detail to serve as the basis for legislative action which Congress can take to assure that any burden of effectively constraining the growth of costs in the medicare part B program, which Congress intends to be borne by providers and physicians, is not transferred (in whole or in part) so as to become an additional burden on part B beneficiaries in the form of increased out-of-pocket costs, reduced services, or reduced access to needed physician care.

(e) In addition to any funds otherwise provided for fiscal years 1984 and 1985 for payment to carriers under contracts entered into under section 1842 of the Social Security Act, there are transferred from the Federal Supplementary Medical Insurance Trust Fund, for payments to such carriers under such contracts to implement the amendments made by this section, not less than $8,000,000 for fiscal year 1984, and not less than $15,000,000 for fiscal year 1985. 42 USC 1395u.

(f)(1) Section 1128A(a)(2) of the Social Security Act is amended by inserting before the comma at the end thereof the following: ", or (C) an agreement to be a participating physician or supplier under section 1842(h)(1)". 42 USC 1320a-7a.

(2) Section 1877(d) of such Act is amended— 42 USC 1395nn.

(A) by inserting "or agrees to be a participating physician or supplier under section 1842(h)(1)" after "1842(b)(3)(B)(ii)", and

(B) by striking out "specified in subclause (I) of such section" and inserting in lieu thereof "or agreement".

PAYMENT FOR SERVICES OF TEACHING PHYSICIANS

SEC. 2307. (a)(1) Subparagraph (A) of section 1842(b)(7)(A) of the Social Security Act (as redesignated by section 2306 of this title) is amended by adding at the end the following sentence: "If all the teaching physicians in a hospital agree to have payment made for all of their physicians' services under this part furnished patients in the hospital on the basis of an assignment described in paragraph (3)(B)(ii) or under the procedure described in section 1870(f)(1), notwithstanding clause (ii) of this subparagraph, the carrier shall provide for payment in an amount equal to 90 percent of the prevailing charges paid for similar services in the same locality.". *Ante*, p. 1070. 42 USC 1395gg.

(2) Section 1842(b)(7)(B) of such Act is amended—

(A) by striking out "physician who has a substantial practice outside the teaching setting" in clause (i) and inserting in lieu thereof "physician who is not a teaching physician (as defined by the Secretary)";

(B) by striking out "outside practice" in clause (i) and inserting in lieu thereof "practice outside the teaching setting";

(C) by striking out "In the case of a physician who does not have a practice described in clause (i)" in clause (ii) and inserting in lieu thereof "In the case of a teaching physician";

(D) by striking out "greater" in clause (ii) and inserting in lieu thereof "greatest";

(E) by striking out "or" at the end of subclause (I) of clause (ii);

(F) by striking out the period at the end of subclause (II) of clause (ii) and inserting in lieu thereof ", or"; and

(G) by adding at the end of clause (ii) the following new subclause:

"(III) 85 percent of the prevailing charges paid for similar services in the same locality.".

(3) The amendments made by this subsection shall apply to services furnished on or after July 1, 1984. Effective date. 42 USC 1395u note.

(b)(1) Section 1886(d)(5)(B) of the Social Security Act is amended by adding at the end thereof the following new sentence: "In determining such adjustment the Secretary shall not distinguish between those interns and residents who are employees of a hospital and those interns and residents who furnish services to a hospital but are not employees of such hospital.". 97 Stat. 152. 42 USC 1395ww.

Effective date.
42 USC 1395ww note.

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1984.

Study.
42 USC 1395u note.
Ante, p. 1070.
Report.

(c) The Comptroller General shall conduct a study of the amounts billed for physician services and paid by carriers under section 1842(b)(7) of the Social Security Act to determine whether such payments have been made only where the physician satisfies the requirements of section 1842(b)(7)(A)(i) of such Act. The Comptroller General shall submit to the Committees on Ways and Means and on Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate a report on the results of such study not later than 18 months after the date of the enactment of this Act.

LESSER OF COST OR CHARGES

Regulations.
42 USC 1395f note.
42 USC 1395.

SEC. 2308. (a) The Secretary of Health and Human Services shall issue regulations which require, for purposes of title XVIII of the Social Security Act, that providers of services calculate and report the lesser-of-cost-or-charges determinations separately with respect to payments for services under part A and services under part B of such title (other than clinical diagnostic laboratory tests paid under section 1833(h)), and that payment under such title be based upon such separate determinations. Such regulations shall apply to cost reporting periods beginning on or after October 1, 1984.

42 USC 1395c, 1395j.
Ante, p. 1064.

42 USC 1395f note.
42 USC 1395f, 1395*l*.

(b)(1) For purposes of applying the nominality test under sections 1814(b)(2) and 1833(a)(2)(B)(ii) of the Social Security Act, the Secretary shall, in addition to those rules for establishing nominality which the Secretary determines to be appropriate, provide that charges representing 60 percent or less of costs shall be considered nominal. The charges used in making such determinations shall be the charges actually billed to charge-paying patients who are not entitled to benefits under either part of such title. Such determination shall be made separately with respect to payments for services under part A and services under part B of such title (other than clinical diagnostic laboratory tests paid under section 1833(h)), or on the basis of inpatient and outpatient services, except that the determination need not be made separately for home health services if the Secretary finds that such separation is not appropriate.

42 USC 1395f.

(2)(A) Section 1814(b)(2) of such Act is amended by inserting after "public provider of services" the following: ", or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this paragraph),".

42 USC 1395*l*.

(B) Section 1833(a)(2)(B)(ii) of such Act is amended by inserting after "public provider of services" the following: ", or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause),".

STUDY OF MEDICARE PART B PAYMENTS

Report.
42 USC 1395*l* note.

SEC. 2309. (a)(1) The Director of the Office of Technology Assessment shall conduct a study of physician reimbursement under the medicare program and report to Congress on such study not later than December 31, 1985. The report shall include specific findings and recommendations on methods by which payment amounts and other program policies under part B of title XVIII of the Social Security Act may be modified—

42 USC 1395j.

(A) to eliminate inequities in the relative amounts paid to physicians by type of service, locality, and specialty, with particular attention to any inequities between cognitive services and medical procedures; and

(B) to increase incentives for physicians and other suppliers under such part to accept assignment for services covered under title XVIII of the Social Security Act. 42 USC 1395.

The study shall also examine the influence of payment methodology and payment levels on the utilization of services.

(2) In carrying out the study under paragraph (1)(A), the Director shall take into account the relative time, complexity, investment in professional training, and overhead expenses necessary to the provision of various medical services and procedures, as well as the influence of the changes in technology.

(3) The report under paragraph (1)(A) shall include information on methodologies which could be applied in the development of fee schedules on a national or regional basis for payments under part B of title XVIII of the Social Security Act in a manner consistent with the findings of the study under this subsection. 42 USC 1395j.

(4) In preparing the report and recommendations, the Director shall consult with the Secretary of Health and Human Services and, as appropriate, with national organizations of physicians and other interested associations and individuals.

(b) In order to assist the Director in completing the study and to facilitate Congressional review, the Secretary of Health and Human Services shall compile a centralized medicare part B charge data base, utilizing information gathered by the medicare carriers for charges in 1983. Such data shall include information, by procedure, on—

(1) utilization,

(2) assignment rates of physicians and suppliers,

(3) actual, customary, and prevailing charges, and

(4) the differences in charges by physician specialty and locality.

Such information shall be provided to the Director of the Office of Technology Assessment.

(c) The Secretary shall review the report submitted under subsection (a)(1) and shall report to the Congress his comments on the report and recommendations for legislative amendments.

LIMITATION ON INCREASE IN HOSPITAL COSTS PER CASE

SEC. 2310. (a) Section 1886(b)(3)(B) of the Social Security Act is amended— 42 USC 1395ww.

(1) by striking out "1 percentage point", and by inserting in lieu thereof "one-quarter of 1 percentage point", and

(2) by adding at the end thereof the following: "In determining a percentage change under subsection (e)(4) with respect to discharges occurring in any cost reporting period or fiscal year beginning on or after October 1, 1985, and before October 1, 1986, the Secretary may not establish a percentage increase which exceeds the applicable percentage increase otherwise determined for that period or fiscal year under the preceding sentence.".

(b) The amendments made by this section shall apply to cost reporting periods beginning in, and discharges occurring in, fiscal year 1985 and thereafter. Effective date. 42 USC 1395ww note.

CLASSIFICATION OF CERTAIN RURAL HOSPITALS

97 Stat. 152.
42 USC 1395ww.

SEC. 2311. (a) Section 1886(d)(5)(C)(i) of the Social Security Act is amended by adding at the end thereof the following: "A hospital which is classified as a rural hospital may appeal to the Secretary to be classified as a rural referral center under this clause on the basis of criteria (established by the Secretary) which shall allow the hospital to demonstrate that it should be so reclassified by reason of certain of its operating characteristics being similar to those of a typical urban hospital located in the same census region. Such characteristics may include wages, scope of services, service area, and the mix of medical specialties. The Secretary shall publish the criteria not later than 30 days after the date of the enactment of this Act, for implementation by October 1, 1984. An appeal allowed under this clause must be submitted to the Secretary (in such form and manner as the Secretary may prescribe) during the quarter before the first quarter of the hospital's cost reporting period (or, in the case of a cost reporting period beginning during October 1984, during the first quarter of that period), and the Secretary must make a final determination with respect to such appeal within 60 days after the date the appeal was submitted. Any payment adjustments necessitated by a reclassification based upon the appeal shall be effective at the beginning of such cost reporting period.".

(b) Section 1886(d)(2)(D) of such Act is amended by adding at the end thereof the following: "A hospital located in a Metropolitan Statistical Area shall be deemed to be located in the region in which the largest number of the hospitals in the same Metropolitan Statistical Area are located, or, at the option of the Secretary, the region in which the majority of the inpatient discharges (with respect to which payments are made under this title) from hospitals in the same Metropolitan Statistical Area are made.".

(c) Section 1886(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any hospital which is located in an area which is, at any time after April 20, 1983, reclassified from an urban to a rural area, payments to such hospital for the first two cost reporting periods for which such reclassification is effective shall be made as follows:

"(A) For the first such cost reporting period, payment shall be equal to the amount payable to such hospital for such reporting period on the basis of the rural classification, plus an amount equal to two-thirds of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such reporting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such reporting period on the basis of the rural classification.

"(B) For the second such cost reporting period, payment shall be equal to the amount payable to such hospital for such reporting period on the basis of the rural classification, plus an amount equal to one-third of the amount (if any) by which—

"(i) the amount which would have been payable to such hospital for such reporting period on the basis of an urban classification, exceeds

"(ii) the amount payable to such hospital for such reporting period on the basis of the rural classification.".

(d)(1) Except as provided in paragraph (2), the amendments made by subsections (b) and (c) shall be effective with respect to cost reporting periods beginning on or after October 1, 1983, and the amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after October 1, 1984.

Effective date. 42 USC 1395ww note.

(2) The amendment made by subsection (b) shall not apply so as to reduce any payment under section 1886(d) of the Social Security Act to a hospital the region of which is deemed to be changed pursuant to such amendment for discharges occurring in any cost reporting period beginning before October 1, 1984.

97 Stat. 152. 42 USC 1395ww.

(e) The Secretary of Health and Human Services shall conduct a study of the distinction between urban and rural hospitals for purposes of the DRG payment provisions under section 1886(d) of the Social Security Act, and the effect which such distinction may have on rural hospitals in the case of those DRG's which have high fixed nonlabor components which do not vary significantly between urban and rural areas (such as those DRG's which involve expensive medical devices). The Secretary also shall conduct a study of the advisability and feasibility of varying by DRG the proportions of the labor and nonlabor components of the Federal payment amount instead of applying the average proportion of those components to all DRG's. The Secretary shall report the results of such studies to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives within six months after the date of the enactment of this Act.

Study.

Report.

(f) The Secretary of Health and Human Services shall conduct a study of further refinements which may be appropriate in the inpatient hospital prospective payment provisions of title XVIII of the Social Security Act, in order to address the problems of differences in payment amounts to specific hospitals. The study shall include (but shall not be limited to) the degree of variation in inpatient hospital costs per discharge within each diagnosis-related group. The Secretary shall also present alternative methods of computing the amount of such payments. The study shall include a discussion of the relative merits of a method of payment under which a percentage of the payment amount (for discharges classified within a diagnosis-related group) could be determined on a regional basis. The Secretary shall report the result of the study, and any recommended changes in the prospective payment system, to the Congress prior to September 1, 1984.

Study.

42 USC 1395.

Report.

PAYMENT FOR SERVICES OF A NURSE ANESTHETIST

SEC. 2312. (a) Section 1886(d)(5) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

97 Stat. 152. 42 USC 1395ww.

"(E) The Secretary shall provide for an additional payment amount for any subsection (d) hospital equal to the reasonable costs incurred by such hospital for anesthesia services provided by a certified registered nurse anesthetist. Payment under this subparagraph shall be the only payment made to such hospital with respect to such services.".

(b) The second sentence of section 1886(a)(4) of such Act is amended by inserting ", costs of anesthesia services provided by a certified registered nurse anesthetist" after "approved educational activities".

97 Stat. 149. 42 USC 1395ww.

Effective date.
42 USC 1395ww note.

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after October 1, 1984, and before October 1, 1987.

Study.

(d) The Secretary of Health and Human Services shall conduct a study of possible methods of reimbursement under title XVIII of the Social Security Act which would not discourage the use of certified registered nurse anesthetists by hospitals. The Secretary shall report the results of such study to the Congress as soon as is practicable.

42 USC 1395.
Report.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

97 Stat. 152.

SEC. 2313. (a) Section 1886(e)(2) of the Social Security Act is amended by inserting "(without regard to the provisions of title 5, United States Code, governing appointments in the competitive service)" after "appointed by the Director".

42 USC 1395ww.

(b)(1) Section 1886(e)(6)(C)(i) of such Act is amended to read as follows:

"(i) employ and fix the compensation of an Executive Director (subject to the approval of the Director of the Office) and such other personnel (not to exceed 25) as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);".

(2) Section 1886(e)(6)(C)(iii) of such Act is amended by inserting "(without regard to section 3709 of the Revised Statutes (41 U.S.C. 5))" after "Commission".

(3) Section 1886(e)(6)(C) of such Act is amended by adding at the end the following: "Section 10(a)(1) of the Federal Advisory Committee Act shall not apply to any portion of a Commission meeting if the Commission, by majority vote, determines that such portion of such meeting should be closed.".

5 USC app.

(4) Section 1886(e)(6)(D) of such Act is amended by adding at the end thereof the following sentence: "Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority.".

Ante, p. 1068.

(c) Section 1862 of such Act, as amended by section 2304(c) of this title, is amended by adding at the end the following new subsection.

Supra.

"(i) In order to supplement the activities of the Prospective Payment Assessment Commission under section 1886(e) in assessing the safety, efficacy, and cost-effectiveness of new and existing medical procedures, the Secretary may carry out, or award grants or contracts for, original research and experimentation of the type described in clause (ii) of section 1886(e)(6)(E) with respect to such a procedure if the Secretary finds that—

"(1) such procedure is not of sufficient commercial value to justify research and experimentation by a commercial organization;

"(2) research and experimentation with respect to such procedure is not of a type that may appropriately be carried out by an institute, division, or bureau of the National Institutes of Health; and

"(3) such procedure has the potential to be more cost-effective in the treatment of a condition than procedures currently in use with respect to such condition.".

(d) Section 1886(e)(6) of such Act is amended by adding at the end the following new subparagraph: 97 Stat. 152. 42 USC 1395ww.

"(J) The Commission shall submit requests for appropriations in the same manner as the Office submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Office.".

(e) The amendments made by this section shall become effective on the date of the enactment of this Act. Effective date. 42 USC 1395y note.

REVALUATION OF ASSETS

SEC. 2314. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph: 42 USC 1395x.

"(O)(i) In establishing an appropriate allowance for depreciation and for interest on capital indebtedness and (if applicable) a return on equity capital with respect to an asset of a hospital or skilled nursing facility which has undergone a change of ownership, such regulations shall provide that the valuation of the asset after such change of ownership shall be the lesser of the allowable acquisition cost of such asset to the owner of record as of the date of the enactment of this subparagraph (or, in the case of an asset not in existence as of such date, the first owner of record of the asset after such date), or the acquisition cost of such asset to the new owner.

"(ii) Such regulations shall provide for recapture of depreciation in the same manner as provided under the regulations in effect on June 1, 1984.

"(iii) Such regulations shall not recognize, as reasonable in the provision of health care services, costs (including legal fees, accounting and administrative costs, travel costs, and the costs of feasibility studies) attributable to the negotiation or settlement of the sale or purchase of any capital asset (by acquisition or merger) for which any payment has previously been made under this title.".

(b) Section 1902(a)(13) of such Act is amended— 42 USC 1396a.

(1) by striking out "and" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) that the State shall provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, skilled nursing facilities, and intermediate care facilities can reasonably be expected not to increase such payments, solely as a result of a change of ownership, in excess of the increase which would result from the application of section 1861(v)(1)(O); and". *Supra.*

(c)(1) Clause (i) of section 1861(v)(1)(O) of the Social Security Act shall not apply to changes of ownership of assets pursuant to an enforceable agreement entered into before the date of the enactment of this Act. 42 USC 1395x note.

(2) Clause (iii) of section 1861(v)(1)(O) of such Act shall apply to costs incurred on or after the date of the enactment of this Act.

Effective date.
42 USC 1396a note.

(3)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance furnished on or after October 1, 1984.

42 USC 1396.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

TECHNICAL AMENDMENTS RELATING TO THE DRG PAYMENT SYSTEM

97 Stat. 149.
42 USC 1395ww.

SEC. 2315. (a) Section 1886(c)(4)(A) of the Social Security Act is amended by striking out "and (D)" and inserting in lieu thereof "(D), and (E)".

97 Stat. 152.
42 USC 1395ww.

(b) Section 1886(d)(2)(D) of such Act is amended by striking out "Standard".

(c) Section 1886(e)(5) of such Act is amended—

(1) by striking out "for public comment" in the matter before subparagraph (A), and

(2) by inserting "for public comment" in subparagraph (A) after "that fiscal year".

97 Stat. 163.
42 USC 1395cc.

(d) Section 1866(a)(1)(F) of such Act (as added by section 602(f)(1)(C) of the Social Security Amendments of 1983) is amended by striking out "(c) or (d)" and inserting in lieu thereof "(b), (c), or (d)".

97 Stat. 170.
42 USC 1395i-2.

(e) Section 1818(c) of such Act is amended by striking out "subsection (a) of section 1839" and inserting in lieu thereof "subsection (b) of section 1839".

97 Stat. 168.
42 USC 1395ww note.

(f)(1) Section 604(c)(3) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "to implement subsection (d) of section 1886 of the Social Security Act (as so amended)" and inserting in lieu thereof "to implement the amendments made by this title".

Federal Register, publication.
42 USC 1395ww note.
42 USC 1395ww.

(2) Notwithstanding section 604(c) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall cause to be published in the Federal Register proposed regulations to carry out subsection (c) of section 1886 of the Social Security Act not later than July 1, 1984, and allow for a period of 45 days for public comment thereon. After consideration of the comments received, the Secretary shall cause to be published in the Federal Register final regulations to carry out such subsection not later than October 1, 1984.

Effective date.
42 USC 1395ww note.
97 Stat. 65.

(g) The amendments made by this section shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21).

42 USC 1395ww note.

(h) The Secretary of Health and Human Services shall, prior to December 31, 1984—

(1) develop and publish a definition of "hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A" of title XVIII of the Social Security Act for purposes of section 1886(d)(5)(C)(i) of that Act, and

42 USC 1395c.
Ante, p. 1076.

(2) identify those hospitals which meet such definition, and make such identity available to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PROSPECTIVE PAYMENT WAGE INDEX

SEC. 2316. (a) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall conduct a study to develop an appropriate index for purposes of adjusting payment amounts under section 1886(d) of the Social Security Act to reflect area differences in average hospital wage levels, as required under paragraphs (2)(H) and (3)(E) of such section, taking into account wage differences of full time and part time workers. The Secretary of Health and Human Services shall report the results of such study to the Congress not later than 30 days after the date of the enactment of this Act, including any changes which the Secretary determines to be necessary to provide for an appropriate index.

Study.
42 USC 1395ww note.
97 Stat. 152.
42 USC 1395ww.
Report.

(b) The Secretary shall adjust the payment amounts for hospitals for cost reporting periods beginning on or after October 1, 1983, to reflect any changes made in the wage index pursuant to subsection (a). Any adjustment in such payments to take account of overpayments or underpayments for the first cost reporting period of a hospital to which section 1886(d) of the Social Security Act applies, shall be made by decreasing or increasing payments in the succeeding cost reporting period.

(c) The Secretary shall conduct a study and report to the Congress on proposed criteria under which, in the case of a hospital that demonstrates to the Secretary in a current fiscal year that the adjustment being made under paragraph (2)(H) or (3)(E) of section 1886(d) of the Social Security Act for that hospital's discharges in that fiscal year does not accurately reflect the wage levels in the labor market serving the hospital, the Secretary, to the extent he deems appropriate, would modify such adjustment for that hospital for discharges in the subsequent fiscal year to take into account a difference in payment amounts in that current fiscal year to the hospital that resulted from such inaccuracy.

Study.
Report.

DEADLINE FOR REPORT ON INCLUDING PAYMENT FOR PHYSICIANS' SERVICES TO HOSPITAL INPATIENTS IN DRG PAYMENT AMOUNTS

SEC. 2317. The second sentence of section 603(a)(2)(B) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "include, in a report to Congress in 1985," and inserting in lieu thereof "submit to Congress, not later than July 1, 1985, a report to Congress which includes".

42 USC 1395ww note.
97 Stat. 166.

EMERGENCY ROOM SERVICES

SEC. 2318. (a) Section 1861(v)(1)(K) of the Social Security Act is amended by inserting "(i)" after "(K)" and by adding at the end thereof the following new clause:

42 USC 1395x.

"(ii) For purposes of clause (i), the term 'bona fide emergency services' means services provided in a hospital emergency room after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(I) placing the patient's health in serious jeopardy;

"(II) serious impairment to bodily functions; or

"(III) serious dysfunction of any bodily organ or part.".

Ante, p. 1081.

(b) Section 1861(v)(1)(K)(i) of such Act as so designated is amended by striking out "provided in an emergency room" and inserting in lieu thereof "as defined in clause (ii)".

Effective date. 42 USC 1395x note.

(c) The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SKILLED NURSING FACILITY REIMBURSEMENT

42 USC 1395x.

SEC. 2319. (a)(1) Section 1861(v)(1)(E) of the Social Security Act is amended by striking out clause (i) thereof, and by striking out "(ii)".

(2) Section 1861(v)(7) of such Act is amended by adding at the end thereof the following new subparagraph:

"(D) For further limitations on reasonable cost and determination of payment amounts for routine service costs of skilled nursing facilities, see section 1888.".

Infra.

(b) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENT TO SKILLED NURSING FACILITIES FOR ROUTINE SERVICE COSTS

42 USC 1395yy.

"SEC. 1888. (a) The Secretary, in determining the amount of the payments which may be made under this title with respect to routine service costs of extended care services shall not recognize as reasonable (in the efficient delivery of health services) per diem costs of such services to the extent that such per diem costs exceed the following per diem limits, except as otherwise provided in this section:

"(1) With respect to freestanding skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in urban areas.

"(2) With respect to freestanding skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine service costs for freestanding skilled nursing facilities located in rural areas.

"(3) With respect to hospital-based skilled nursing facilities located in urban areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in urban areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in urban areas exceeds the limit for freestanding skilled nursing facilities located in urban areas.

"(4) With respect to hospital-based skilled nursing facilities located in rural areas, the limit shall be equal to the sum of the limit for freestanding skilled nursing facilities located in rural areas, plus 50 percent of the amount by which 112 percent of the mean per diem routine service costs for hospital-based skilled nursing facilities located in rural areas exceeds the limit for freestanding skilled nursing facilities located in rural areas.

In applying this subsection the Secretary shall make appropriate adjustments to the labor related portion of the costs based upon an appropriate wage index.

"(b) With respect to a hospital-based skilled nursing facility, the Secretary shall recognize as reasonable the portion of the cost differences between hospital-based and freestanding skilled nursing facilities attributable to excess overhead allocations (as determined by the Secretary) resulting from the reimbursement principles under this title, nothwithstanding the limits set forth in paragraph (3) or (4) of subsection (a).

"(c) The Secretary may make adjustments in the limits set forth in subsection (a) with respect to any skilled nursing facility to the extent the Secretary deems appropriate, based upon case mix or circumstances beyond the control of the facility.".

(c) The amendments made by subsections (a) and (b) shall apply to cost reporting periods beginning on or after July 1, 1984.

Effective date.
42 USC 1395yy note.

(d) Notwithstanding limits on the cost of skilled nursing facilities which may have been issued under section 1861(v) of the Social Security Act prior to the date of the enactment of this Act, in the case of cost reporting periods beginning on or after October 1, 1982, and prior to July 1, 1984, the cost limits for routine services for urban and rural hospital-based skilled nursing facilities shall be 112 percent of the mean of the respective routine costs for urban and rural hospital-based skilled nursing facilities.

42 USC 1395x note.
42 USC 1395x.

(e) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, the report required under section 605(b) of the Social Security Amendments of 1983.

Report.
42 USC 1395x note.
97 Stat. 169.

(f)(1) The Secretary of Health and Human Services shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, prior to August 1, 1984, the proposals developed, as required under section 1135(c) of the Social Security Act, for prospective reimbursement of skilled nursing facilities.

Report.
42 USC 1320b-5.

(2) The Secretary of Health and Human Services shall submit to the Congress, prior to December 1, 1984, a report on the range of options for prospective payment of skilled nursing facilities under title XVIII of the Social Security Act. The report shall take into account case mix differences among skilled nursing facilities. The report shall analyze the feasibility of permitting inclusion of payments to hospital-based facilities within the DRG payment system under section 1886(d) of such Act.

Report.
42 USC 1395.
97 Stat. 152.
42 USC 1395ww.

PAYMENT FOR COSTS OF HOSPITAL-BASED MOBILE INTENSIVE CARE UNITS

SEC. 2320. (a)(1) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall provide, except as provided in paragraph (2), that the amount of payments to hospitals covered under the project during the period described in paragraph (3) shall include payments for their operation of hospital-based mobile intensive care units (as defined by State statute) if the State provides satisfactory assurances that the total amount of payments to such hospitals under titles XVIII and XIX of the Social Security Act under the demonstration project (including any such additional amount of payment) would not exceed the total amount of payments which would have been paid under such titles if the demonstration project were not in effect.

42 USC 1395b-1 note.
42 USC 1395, 1396.

(2) Paragraph (1) shall not apply if the State in which the project is located notifies the Secretary, within 30 days after the date of the

enactment of this section, that the State does not want paragraph (1) to apply to that project.

(3) The period referred to in paragraph (1) begins on the date of the enactment of this section and continues so long as the Secretary continues the Statewide waiver referred to in subsection (b), but in no case ends earlier than 90 days after the date final regulations to implement section 1886(c) of the Social Security Act are published.

42 USC 1395ww.

(b) The project referred to in subsection (a) is the statewide demonstration project established in the State of New Jersey under section 402 of the Social Security Amendments of 1967, as amended by section 222(b) of the Social Security Amendments of 1972 (Public Law 92-603), which project provides for payments to hospitals in the State on a prospective basis and related to a classification of patients by diagnosis-related groups.

42 USC 1395b-1.

(c) Payment for services described in this section shall be considered to be payments for services under part A of title XVIII of the Social Security Act.

42 USC 1395c.

COST SHARING FOR DURABLE MEDICAL EQUIPMENT FURNISHED AS A HOME HEALTH BENEFIT

SEC. 2321. (a)(1) The matter in section 1814(b) of the Social Security Act preceding paragraph (1) is amended by inserting "and other than a home health agency with respect to durable medical equipment" after "hospice care".

42 USC 1395f.
97 Stat. 152.

(2) Section 1814 of such Act is amended by adding at the end thereof the following new subsection:

"Payments to Home Health Agencies for Durable Medical Equipment

"(k) The amount paid to any home health agency with respect to durable medical equipment for which payment may be made under this part shall be—

"(1) the lesser of—

"(A) the reasonable cost of such equipment, as determined under section 1861(v), or

42 USC 1395x.

"(B) the customary charges with respect to such equipment,

less the amount the home health agency may charge as described in section 1866(a)(2)(A)(ii), but in no case may the payment for such equipment exceed 80 percent of such reasonable cost, or

42 USC 1395cc.

"(2) if such equipment is furnished by a public home health agency free of charge or at nominal charge to the public, the amount which the Secretary finds will provide fair compensation to the home health agency.".

(b)(1) The matter in section 1833(a)(2)(A) of such Act preceding clause (i) is amended by inserting "(other than durable medical equipment)" after "home health services".

42 USC 1395l.

(2) The matter in section 1833(a)(2)(B) of such Act preceding clause (i) is amended by inserting "items and" after "other".

(c) Section 1866(a)(2)(A)(ii) of such Act is amended by inserting "or which are durable medical equipment furnished as home health services" after "part B".

42 USC 1395cc.

(d)(1) The first sentence of section 1833(f)(1) of such Act is amended by striking out "as described in section 1861(s)(6)".

Post, p. 1085.

(2) Section 1833(f)(2) of such Act is amended— 42 USC 1395*l*. *Infra*.

(A) by striking out "the 20 percent" and inserting in lieu thereof "any", and

(B) by striking out "under subsection (a)".

(3) Section 1833(f)(3) of such Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "subsection (a)".

(4)(A) Subsection (f) of section 1833 of such Act is redesignated as section 1889, is assigned the heading "PURCHASE OF DURABLE MEDICAL EQUIPMENT", and is moved to and inserted at the end of part C after the section added by section 2319 of this title. 42 USC 1395zz.

(B) Paragraphs (1) through (4) of such section 1889 are redesignated as subsections (a) through (d), respectively.

(e)(1) Section 1861(m)(5) of such Act is amended by striking out ", and the use of medical applicances" and inserting in lieu thereof "and durable medical equipment". 42 USC 1395x.

(2) Section 1861(s)(6) of such Act is amended by striking out everything after "durable medical equipment" up to the semicolon.

(3) Section 1861 of such Act is amended by inserting after subsection (m) the following:

"Durable Medical Equipment

"(n) The term 'durable medical equipment' includes iron lungs, oxygen tents, hospital beds, and wheelchairs (which may include a power-operated vehicle that may be appropriately used as a wheelchair, but only where the use of such a vehicle is determined to be necessary on the basis of the individual's medical and physical condition and the vehicle meets such safety requirements as the Secretary may prescribe) used in the patient's home (including an institution used at his home other than an institution that meets the requirements of subsection (e)(1) or (j)(1) of this section), whether furnished on a rental basis or purchased.".

(4) Section 1861(cc)(1)(G) of such Act is amended by striking out ", appliances, and equipment, including the purchase or rental of equipment" and inserting in lieu thereof "and durable medical equipment".

(f) Section 1814(j)(2) of such Act is amended— 97 Stat. 152. 42 USC 1395f.

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and

(2) by inserting the following after subparagraph (A):

"(B) Subsection (k)(1)(B).".

(g) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act. Effective date. 42 USC 1395f note.

SERVICES OF A CLINICAL PSYCHOLOGIST PROVIDED TO MEMBERS OF AN HMO

SEC. 2322. (a) Section 1861(s)(2)(H) of the Social Security Act is amended by inserting "(i)" after "(H)", by adding "and" at the end of clause (i) as so designated, and by adding at the end thereof the following new clause: 42 USC 1395x.

"(ii) services furnished pursuant to a risk-sharing contract under section 1876(g) to a member of an eligible organization by a clinical psychologist (as defined by the Secretary), and such services and supplies furnished as an incident to his services to such a member as would otherwise be covered under this part if 42 USC 1395mm.

furnished by a physician or as an incident to a physician's service; and".

Effective date. 42 USC 1395x note.

(b) The amendments made by subsection (a) shall be effective with respect to services furnished on or after the date of the enactment of this Act.

COVERAGE OF ADMINISTRATION OF HEPATITIS B VACCINE

42 USC 1395x.

SEC. 2323. (a) Section 1861(s)(10) of the Social Security Act is amended—

(1) by inserting "(A)" after "(10)";

(2) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) hepatitis B vaccine and its administration, furnished to an individual who is at high or intermediate risk of contracting hepatitis B (as determined by the Secretary under regulations).".

42 USC 1395*l*.

(b)(1) Paragraphs (1)(B), (2)(A), and (3) of section 1833(a) of such Act are each amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

(2) Section 1833(b)(1) of such Act is amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

42 USC 1395cc.

(3) The last sentence of section 1866(a)(2)(A) of such Act is amended by striking out "1861(s)(10)" and inserting in lieu thereof "1861(s)(10)(A)".

42 USC 1395*l*.

(4) Section 1833 of such Act is amended by adding at the end thereof the following new subsection:

Supra.

"(k) With respect to services described in section 1861(s)(10)(B), the Secretary may provide, instead of the amount of payment otherwise provided under this part, for payment of such an amount or amounts as reasonably reflects the general cost of efficiently providing such services.".

42 USC 1395rr.

(c) Section 1881(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(11) Hepatitis B vaccine and its administration, when provided to a patient determined to have end stage renal disease, shall not be included as dialysis services for purposes of payment under any prospective payment amount or comprehensive fee established under this section. Payment for such vaccine and its administration shall be made separately in accordance with section 1833.".

Effective date. 42 USC 1395*l* note.

(d) The amendments made by this section apply to services furnished on or after September 1, 1984.

42 USC 1395*l* note.

(e) The Secretary shall monitor the provision of hepatitis B vaccine under part B of title XVIII of the Social Security Act, and shall review any changes in medical technology which may have an effect on the amounts which should be paid for such service.

42 USC 1395j.

COVERAGE OF HEMOPHILIA CLOTTING FACTOR

42 USC 1395x.

SEC. 2324. (a) Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (G) and by adding at the end thereof the following new subparagraph:

"(I) blood clotting factors, for hemophilia patients competent to use such factors to control bleeding without medical or other

supervision, and items related to the administration of such factors, subject to utilization controls deemed necessary by the Secretary for the efficient use of such factors;".

(b) The amendments made by subsection (a) shall be effective with respect to items and services purchased on or after the date of the enactment of this Act.

Effective date. 42 USC 1395x note.

PAYMENT FOR DEBRIDEMENT OF MYCOTIC TOENAILS

SEC. 2325. The Secretary shall provide, pursuant to section 1862(a) of the Social Security Act, that payment will not be made under part B of title XVIII of such Act for a physician's debridement of mycotic toenails to the extent such debridement is performed for a patient more frequently than once every 60 days, unless the medical necessity for more frequent treatment is documented by the billing physician.

42 USC 1395y note. 42 USC 1395y. 42 USC 1395j.

CONTRACTS FOR MEDICARE CLAIMS PROCESSING

SEC. 2326. (a) During each of the fiscal years 1985 and 1986, the Secretary of Health and Human Services may enter into not more than two agreements under section 1816 of the Social Security Act, and not more than two contracts under section 1842 of such Act, on the basis of competitive bidding, without regard to the nominating process under section 1816(a) of such Act during the term of the agreement. Such procedure may be used only for the purpose of replacing an agency or organization or carrier which over a period of time has been in the lowest 20th percentile of agencies and organizations or carriers having agreements or contracts under the respective section, as measured by the Secretary's cost and performance criteria. Any agency or organization or carrier selected on the basis of competitive bidding must perform all of the duties listed in section 1816(a)(1) of such Act, or the duties listed in paragraphs (1) through (4) of section 1842(a) of such Act, as the case may be, and must be a health insuring organization (as determined by the Secretary).

42 USC 1395h note. 42 USC 1395h. 42 USC 1395u.

(b) Section 1816(e)(4) of the Social Security Act is amended by adding at the end thereof the following new sentence: "By not later than July 1, 1987, the Secretary shall limit the number of such regional agencies or organizations to not more than ten.".

42 USC 1395h.

(c)(1) Section 1816(f) of such Act is amended by striking out ", by regulation," in clause (2), and by adding at the end thereof the following: "Such standards and criteria shall be published in the Federal Register, and opportunity shall be provided for public comment prior to implementation.".

Federal Register, publication.

(2) Section 1842(b)(2) of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation.".

42 USC 1395u. Federal Register, publication.

(d)(1) Section 1816(c) of such Act is amended by adding at the end the following new sentence: "The Secretary shall provide that in determining the necessary and proper cost of administration, the Secretary shall, with respect to each agreement, take into account the amount that is reasonable and adequate to meet the costs which

42 USC 1395h.

must be incurred by an efficiently and economically operated agency or organization in carrying out the terms of its agreement.".

42 USC 1395u.

(2) Section 1842(c) of such Act is amended by adding at the end the following new sentence: "The Secretary shall provide that in determining a carrier's necessary and proper cost of administration, the Secretary shall, with respect to each contract, take into account the amount that is reasonable and adequate to meet the costs which must be incurred by an efficiently and economically operated carrier in carrying out the terms of its contract.".

Effective date.
42 USC 1395h note.

(3) The amendments made by this subsection shall apply to agreements and contracts entered into or renewed after September 30, 1984.

Study.

(e)(1) The Comptroller General shall conduct a study on—

42 USC 1395h, 1395u.

(A) the ability of the Administrator of the Health Care Financing Administration to manage competitive bidding for agreements and contracts under sections 1816 and 1842 of the Social Security Act, and on the relative costs and efficiency of such competitive agreements and contracts as compared to current cost reimbursement for such agreements and contracts;

(B) the need (if any) for eliminating the provider nomination procedure under section 1816(a) of such Act;

(C) the disparities (if any) in costs and quality of claims processing among the various entities performing claims processing pursuant to sections 1816 and 1842 of such Act;

(D) whether the standards of the Secretary of Health and Human Services for evaluating costs and performance of intermediaries and carriers are adequate and properly applied; and

(E) whether the Secretary's statutory authority is sufficient to deal with inefficient intermediaries and carriers either through the contract negotiation and budget review process or through the process for termination or nonrenewal of contracts.

Report.

(2) The Comptroller General shall submit a report on the results of such study to the Congress not later than 12 months after the date of the enactment of this Act.

PART II—ADMINISTRATIVE AND MISCELLANEOUS CHANGES

REPEAL OF EXCLUSION OF FOR-PROFIT ORGANIZATIONS FROM RESEARCH AND DEMONSTRATION GRANTS

42 USC 1310.

SEC. 2331. (a) Section 1110(a)(1) of the Social Security Act is amended by striking out "nonprofit".

42 USC 1395b-1.

(b) The first sentence of section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended by striking out "nonprofit".

Effective date.
42 USC 1310 note.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

PRESIDENTIAL APPOINTMENT OF AND PAY LEVEL FOR THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

SEC. 2332. (a) Title XI of the Social Security Act is amended by inserting after section 1116 the following new section:

"APPOINTMENT OF THE ADMINISTRATOR OF THE HEALTH CARE FINANCING ADMINISTRATION

"SEC. 1117. The Administrator of the Health Care Financing Administration shall be appointed by the President by and with the advice and consent of the Senate.". 42 USC 1317.

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator of the Health Care Financing Administration.".

(c) The amendments made by this section shall apply to appointments made after the date of the enactment of this Act. Effective date. 42 USC 1317 note.

EXCLUSION OF CERTAIN ENTITIES OWNED OR CONTROLLED BY INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 2333. (a) Section 1128 of the Social Security Act is amended— 42 USC 1320a-7.

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) Whenever the Secretary determines, with respect to an entity, that a person who has a direct or indirect ownership or control interest of 5 percent or more in the entity, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of such entity, is a person described in section 1126(a), the Secretary— 42 USC 1320a-5.

"(1) may bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such entity otherwise eligible to participate in such program; 42 USC 1395.

"(2) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX of the fact and circumstances of the determination, and may require each such agency to bar the entity from participation under the State plan for such period as he specifies, which may not exceed the period established pursuant to paragraph (1); and 42 USC 1396.

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such entity of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.".

(b) Section 1128(e) of such Act (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or entity" after "Any person", and

(2) by striking out "(a) or (b)" and inserting in lieu thereof "(a), (b), or (c)".

(c) The amendments made by this section become effective on the date of the enactment of this Act and shall apply to convictions of persons occurring after such date. Effective date. 42 USC 1320a-7 note.

PROVIDER REPRESENTATION IN PEER REVIEW ORGANIZATIONS

42 USC 1320c-2.

SEC. 2334. (a) Section 1153(b)(3) of the Social Security Act is amended by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), an entity shall not be considered to be affiliated with a health care facility or association of facilities by reason of management, ownership, or common control if the management, ownership, or common control consists only of not more than 20 percent of the members of the governing board of the entity being affiliated (through management, ownership, or common control) with one or more of such facilities or associations.".

(b) Section 1153(b)(2)(A) of such Act is amended—

(1) by striking out "an entity which directly" and inserting in lieu thereof "an entity (other than a self-insured employer) which directly"; and

(2) by adding at the end thereof the following new sentence: "For purposes of this paragraph, an entity shall not be considered to be affiliated with another entity which makes payments (directly or indirectly) to any practitioner or provider, by reason of management, ownership, or common control, if the management, ownership, or common control consists only of one individual member of the governing board being affiliated (through management, ownership, or common control) with a health maintenance organization or competitive medical plan which is an 'eligible organization' as defined in section 1876(b).".

42 USC 1395mm.

Effective date.
42 USC 1320c-2 note.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

REPEAL OF SPECIAL TUBERCULOSIS TREATMENT REQUIREMENTS UNDER MEDICARE AND MEDICAID

42 USC 1395f.

SEC. 2335. (a) Section 1814(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (3), by striking out "and inpatient tuberculosis hospital services";

(3) by striking out paragraph (5) and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(4) in the matter following paragraph (7) (as so redesignated), by striking out "(D), or (E)" and inserting in lieu thereof "or (D)".

42 USC 1395x.

(b)(1) Subsections (d) and (g) of section 1861 of such Act are repealed.

(2) The fifth sentence of section 1861(e) of such Act is amended by striking out "or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or".

(3) Section 1861(j) of such Act is amended in the matter following paragraph (15) by striking out "or tuberculosis".

42 USC 1395z.

(c) Section 1863 of such Act is amended by striking out "(g)(4),".

42 USC 1395cc.

(d) Section 1866 of such Act is amended—

(1) in subsection (b)(3), by striking out "tuberculosis hospital services and"; and

(2) in subsection (d), by striking out "inpatient tuberculosis hospital services and".

(e) Section 1902(a)(28) of such Act is amended by striking out "and tuberculosis". 42 USC 1396a.

(f) Section 1905(a) of such Act is amended by striking out "tuberculosis or" each place it appears in paragraphs (1), (4)(A), (14), and (15) and in the subdivision (B) after paragraph (18). 42 USC 1396d.

(g) The amendments made by this section shall become effective on the date of the enactment of this Act. Effective date. 42 USC 1395f note.

ACCESS TO HOME HEALTH SERVICES

SEC. 2336. (a) Sections 1814(a) and 1835(a) of the Social Security Act are each amended by adding at the end the following new sentence: "For purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency.". 42 USC 1395f, 1395n.

(b) The third sentence of section 1814(a) of the Social Security Act and the fourth sentence of section 1835(a) of such Act are each amended by inserting before the period at the end the following: ", except that such prohibition shall not apply with respect to a home health agency which is a sole community home health agency (as determined by the Secretary)".

(c)(1) The amendments made by subsection (a) shall apply to certifications and plans of care made or established on or after the date of the enactment of this Act. Effective date. 42 USC 1395f note.

(2) The Secretary shall provide, not later than 90 days after the date of the enactment of this Act, for such revision of regulations as may be required to reflect the amendments made by subsection (b). Effective date. 42 USC 1395f note.

NORMALIZATION OF TRUST FUND TRANSFERS

SEC. 2337. (a) Section 1817(a) of the Social Security Act is amended— 97 Stat. 98. 42 USC 1395i.

(1) by striking out "monthly on the first day of each calendar month" in the next to last sentence and inserting in lieu thereof "from time to time",

(2) by striking out "to be paid to or deposited into the Treasury during such month" in such sentence and inserting in lieu thereof "paid to or deposited into the Treasury", and

(3) by striking out the last sentence.

(b) The amendments made by subsection (a) shall become effective on the first day of the month following the month in which this Act is enacted. Effective date. 42 USC 1395i note.

ENROLLMENT AND PREMIUM PENALTY WITH RESPECT TO WORKING AGED PROVISION

SEC. 2338. (a) The second sentence of section 1839(b) of the Social Security Act is amended by adding before the period at the end the following: ", but there shall not be taken into account months in which the individual has met the conditions specified in clauses (i) and (iii) of section 1862(b)(3)(A) and can demonstrate that the individual was enrolled in a group health plan described in clause (iv) of such section by reason of the individual's (or the individual's spouse's) current employment". 97 Stat. 170. 42 USC 1395r. 42 USC 1395y.

42 USC 1395p.

(b) Section 1837 of such Act is amended by adding at the end the following new subsection:

"(i)(1) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

42 USC 1395y.

42 USC 1395o.

"(B) at the time the individual first satisfies paragraph (1) or (2) of section 1836, is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or the individual's spouse's) current employment, and

"(C) has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period,

there shall be a special enrollment period described in paragraph (3).

"(2) In the case of an individual who—

"(A) meets the conditions described in clauses (i) and (iii) of section 1862(b)(3)(A),

"(B) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period and any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment, and

"(C) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual's (or individual's spouse's) current employment,

there shall be a special enrollment period described in paragraph (3).

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period—

"(A) beginning with the first day of the third month before the month in which the individual attains the age of 70 and ending seven months later, or

"(B) beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later,

whichever period results in earlier coverage.".

42 USC 1395q.

(c) Section 1838 of such Act is amended by adding at the end the following new subsection:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to—

Supra.

"(1) subparagraph (A) of section 1837(i)(3)—

"(A) before the month in which he attains the age of 70, the coverage period shall begin on the first day of the month in which he has attained the age of 70, or

"(B) in or after the month in which he attains the age of 70, the coverage period shall begin on the first day of the month following the month in which he so enrolls; or

"(2) subparagraph (B) of section 1837(i)(3)—

"(A) in the first month of the special enrollment period, the coverage period shall begin on the first day of such month, or

"(B) in a month after the first month of the special enrollment period, the coverage period shall begin on the

first day of the month following the month in which he so enrolls.".

(d)(1) The amendment made by subsection (a) shall apply to months beginning with January 1983 for premiums for months beginning with the first month which begins more than 30 days after the date of the enactment of this Act.

Effective date. 42 USC 1395r note.

(2)(A) The amendments made by subsections (b) and (c) shall apply to enrollments in months beginning with the first effective month, except that in the case of any individual who would have had a special enrollment period under section 1837(i) of the Social Security Act that would have begun before such first effective month, such period shall be deemed to begin with the first day of such first effective month.

Effective date. 42 USC 1395p note.

Ante, p. 1092.

(B) For purposes of subparagraph (A), the term "first effective month" means the first month which begins more than 90 days after the date of the enactment of this Act.

INDIRECT PAYMENT OF SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

SEC. 2339. (a) The first sentence of section 1842(b)(6) of the Social Security Act, as redesignated by section 2306 of this title, is amended—

Ante, p. 1070.

(1) by inserting "(i)" after "(A)",

(2) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(3) by inserting before the period the following: ", or (B) to an entity (i) which provides coverage of the services under a health benefits plan, but only to the extent that payment is not made under this part, (ii) which has paid the person who provided the service an amount (including the amount payable under this part) which that person has accepted as payment in full for the service, and (iii) to which the individual has agreed in writing that payment may be made under this part".

(b) The second sentence of such section is amended by striking out "or (B)".

CERTIFICATION OF PSYCHIATRIC HOSPITALS

SEC. 2340. (a) Section 1861(f) of the Social Security Act is amended—

42 USC 1395x.

(1) by adding "and" at the end of paragraph (3);

(2) by striking out "; and" at the end of paragraph (4) and inserting in lieu thereof a period;

(3) by striking out paragraph (5); and

(4) in the second sentence, by striking out "if the institution is accredited" and all that follows through "Secretary".

(b) Section 1905(h)(1)(A) of such Act is amended to read as follows:

42 USC 1396d.

"(A) inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f);".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

Effective date. 42 USC 1395x note.

INCLUDING PODIATRISTS IN DEFINITION OF "PHYSICIAN" FOR OUTPATIENT PHYSICAL THERAPY SERVICES AND INCLUDING PODIATRISTS AND DENTISTS IN DEFINITION OF "PHYSICIAN" FOR OUTPATIENT AMBULATORY SURGERY

42 USC 1395x.

SEC. 2341. (a) Section 1861(p)(1) of the Social Security Act is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1) or (3) of section 1861(r)".

42 USC 1395k.

(b) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out "section 1861(r)(1)" and inserting in lieu thereof "paragraph (1), (2), or (3) of section 1861(r)".

42 USC 1395x.

(c) Section 1861(r)(3) of such Act is amended—

(1) by striking out "and (m)" the first place it appears and inserting in lieu thereof ", (m), and (p)(1)", and

(2) by inserting ", 1832(a)(2)(F)(ii)," after "1814(a)" the first place it appears.

Effective date. 42 USC 1395k note.

(d) The amendments made by this section apply to services furnished on or after the date of the enactment of this Act.

ESTABLISHMENT BY PHYSICAL THERAPISTS OF PLANS FOR PHYSICAL THERAPY

42 USC 1395x.

SEC. 2342. (a) Section 1861(p)(2) of the Social Security Act is amended by striking out ", and is periodically reviewed, by a physician (as so defined)" and inserting in lieu thereof "by a physician (as so defined) or by a qualified physical therapist and is periodically reviewed by a physician (as so defined)".

42 USC 1395n.

(b) Section 1835(a)(2)(C)(ii) of such Act is amended by striking out ", and is periodically reviewed, by a physician" and inserting in lieu thereof "by a physician or by the qualified physical therapist providing such services and is periodically reviewed by a physician".

Effective date. 42 USC 1395n note.

(c) The amendments made by this section apply to plans of care established on or after the date of the enactment of this Act.

HOSPICE CONTRACTING FOR CORE SERVICES

42 USC 1395x.

SEC. 2343. (a) Section 1861(dd)(2)(A)(ii)(I) of the Social Security Act is amended by inserting "except as otherwise provided in paragraph (5)," before "and" at the end thereof.

(b) Section 1861(dd) of such Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Secretary may waive the requirements of paragraph (2)(A)(ii)(I) for an agency or organization with respect to all or part of the nursing care described in paragraph (1)(A) if such agency or organization—

"(i) is located in an area which is not an urbanized area (as defined by the Bureau of the Census);

"(ii) was in operation on or before January 1, 1983; and

"(iii) has demonstrated a good faith effort (as determined by the Secretary) to hire a sufficient number of nurses to provide such nursing care directly.

"(B) Any waiver, which is in such form and containing such information as the Secretary may require and which is requested by an agency or organization under subparagraph (A), shall be deemed to be granted unless such request is denied by the Secretary within 60 days after the date such request is received by the Secretary. The granting of a waiver under subparagraph (A) shall not preclude the

granting of any subsequent waiver request should such a waiver again become necessary.".

(c) The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act.

Effective date. 42 USC 1395x note.

(d) The Secretary of Health and Human Services shall conduct a study of the necessity and appropriateness of the requirements that certain "core" services be furnished directly by a hospice, as required under section 1861(dd)(2)(A)(ii)(I) of the Social Security Act. The Secretary shall report the results of such study to the Congress with the report required under section 122(i)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

42 USC 1395x note. 42 USC 1395x. Report. 42 USC 1395f note.

MEDICARE RECOVERY AGAINST CERTAIN THIRD PARTIES

SEC. 2344. (a) Section 1862(b)(1) of the Social Security Act is amended—

42 USC 1395y.

(1) in the first sentence, by inserting "promptly" after "to be made";

(2) in the second sentence, by inserting "or could be" after "has been"; and

(3) by inserting after the second sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with respect to such item or service (or any portion thereof) under such a law, policy, plan, or insurance, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such law, policy, plan, or insurance, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a law, policy, plan, or insurance.".

(b) Section 1862(b)(2)(B) of such Act is amended—

(1) in the first sentence, by inserting "or could be" after "has been"; and

(2) by inserting after the first sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with respect to such item or service (or any portion thereof) under such a plan, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a plan.".

(c) Section 1862(b)(3)(A)(ii) of such Act is amended—

(1) in the first sentence, by inserting "or could be" after "has been"; and

(2) by inserting after the first sentence the following new sentences: "In order to recover payment made under this title for an item or service, the United States may bring an action against any entity which would be responsible for payment with

respect to such item or service (or any portion thereof) under such a plan, or against any entity (including any physician or provider) which has been paid with respect to such item or service under such plan, and may join or intervene in any action related to the events that gave rise to the need for such item or service. The United States shall be subrogated (to the extent of payment made under this title for an item or service) to any right of an individual or any other entity to payment with respect to such item or service under such a plan.".

Effective date. 42 USC 1395y note.

(d) The amendments made by this section shall apply to items and services furnished on or after the date of the enactment of this Act.

CONFIDENTIALITY OF ACCREDITATION SURVEYS

42 USC 1395bb.

SEC. 2345. (a) Section 1865(a) of the Social Security Act is amended—

(1) in paragraph (2), by striking out "(on a confidential basis)"; and

(2) by adding at the end thereof the following new sentence: "The Secretary may not disclose any accreditation survey made and released to him by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, or any other national accreditation body, of an entity accredited by such body.".

Effective date. 42 USC 1395bb note.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act, and shall apply with respect to surveys released to the Secretary on, before, or after such date.

USE OF ADDITIONAL ACCREDITING ORGANIZATIONS UNDER MEDICARE

SEC. 2346. (a) The third sentence of section 1865(a) of the Social Security Act is amended—

(1) by striking out "section 1861(e), (j), (o), or (dd)" and inserting in lieu thereof "section 1832(a)(2)(F)(i), 1861(e), 1861(f), 1861(j), 1861(o), 1861(p)(4)(A) or (B), paragraphs (11) and (12) of section 1861(s), section 1861(aa)(2), 1861(cc)(2), or 1861(dd)(2)"; and

(2) by striking out "institution or agency" each place it appears and inserting in lieu thereof in each instance "entity".

Effective date. 42 USC 1395bb. note.

(b) The amendments made by this section shall become effective on the date of the enactment of this Act.

FUNDING FOR PSRO REVIEW

97 Stat. 163. 42 USC 1395cc.

SEC. 2347. (a)(1) Section 1866(a)(1)(F) of the Social Security Act is amended by striking out "maintain an agreement" and all that follows through "under which the organization", and inserting in lieu thereof "maintain an agreement with a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located) or with a utilization and quality control peer review organization which has a contract with the Secretary under part B of title XI for the area in which the hospital is located, under which the organization".

42 USC 1320c.

97 Stat.163. 42 USC 1395cc and note.

(2) Section 602(l)(1) of the Social Security Amendments of 1983 is repealed.

42 USC 1395cc note.

(b) Notwithstanding section 604(a)(2) of the Social Security Amendments of 1983, the requirement that a hospital maintain an

agreement with a utilization and quality control peer review organization, as contained in section 1866(a)(1)(F) of the Social Security Act, shall become effective on November 15, 1984. 97 Stat. 163.

(c)(1) Section 1153(b)(2)(A) of the Social Security Act is amended by striking out "During the first twelve months in which the Secretary is entering into contracts under this section" and inserting in lieu thereof "Prior to November 15, 1984". 42 USC 1320c-2.

(2) Section 1153(b)(2)(B) of such Act is amended by striking out "after the expiration of the twelve-month period referred to in subparagraph (A)" and inserting in lieu thereof "after November 14, 1984".

(3) Section 1153(b)(2) of such Act is amended by striking out subparagraph (C). 97 Stat. 163.

(d) The provisions of, and amendments made by, this section shall become effective on the date of the enactment of this Act. Effective date. 42 USC 1320c-2 note.

PAYMENT FOR SERVICES FOLLOWING TERMINATION OF PARTICIPATION AGREEMENTS WITH HOME HEALTH AGENCIES OR HOSPICE PROGRAMS

SEC. 2348. (a) Section 1866(b)(4)(B) of the Social Security Act is amended by striking out "after the calendar year in which such termination is effective" and inserting in lieu thereof "more than 30 days after such effective date". 42 USC 1395cc.

(b) The amendment made by this section shall apply to terminations issued on or after the date of the enactment of this Act. Effective date. 42 USC 1395cc note.

ELIMINATION OF HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

SEC. 2349. (a) Section 1867 of the Social Security Act is repealed. 42 USC 1395dd.

(b)(1) The first sentence of section 1863 of such Act is amended by striking out "the Health Insurance Benefits Advisory Council established by section 1867, appropriate State agencies," and inserting in lieu thereof "appropriate State agencies". 42 USC 1395z.

(2) The first sentence of section 7(d)(4) of the Railroad Retirement Act of 1974 is amended by striking out "1867,". 45 USC 231f.

(3) Section 361 of the Social Security Amendments of 1977 (Public Law 95-216) is amended by striking out subsection (i). 42 USC 907a.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act. Effective date. 42 USC 907a note.

HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 2350. (a)(1) Section 1876(c)(3)(A) of the Social Security Act is amended— 42 USC 1395mm.

(A) by inserting "(i)" after "(3)(A)",

(B) by inserting "and including the 30-day period specified under clause (ii)" after "30 days duration every year", and

(C) by adding at the end thereof the following new clause:

"(ii) For each area served by more than one eligible organization under this section, the Secretary (after consultation with such organizations) shall establish a single 30-day period each year during which all eligible organizations serving the area must provide for open enrollment under this section. The Secretary shall determine annual per capita rates under subsection (a)(1)(A) in a manner that assures that individuals enrolling during such a 30-day period will not have premium charges increased or any additional benefits decreased for 12 months beginning on the date the individual's

enrollment becomes effective. An eligible organization may provide for such other open enrollment period or periods as it deems appropriate consistent with this section.".

42 USC 1395mm note.

(2) The Secretary of Health and Human Services may phase in, over a period of not longer than three years, the application of the amendments made by paragraph (1) to all applicable areas in the United States if the Secretary determines that it is not administratively feasible to establish a single 30-day open enrollment period for all such applicable areas before the end of the period.

42 USC 1395mm.

(b)(1) The first sentence of section 1876(g)(2) of such Act is amended by inserting before the period at the end thereof the following: "and except that an organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary as provided in paragraph (5)".

(2) Section 1876(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) An organization having a risk-sharing contract under this section may (with the approval of the Secretary and during a period of not longer than four years) provide that a part of the value of additional benefits otherwise required to be provided by reason of paragraph (2) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3). Any of such value of additional benefits which is not provided to members of the organization in accordance with paragraph (3) prior to the end of such period, shall revert for the use of such trust funds.".

Effective date. 42 USC 1395mm note.

(3) The Secretary of Health and Human Services may not approve the establishment of a stabilization fund by an eligible organization under section 1876(g)(5) of the Social Security Act for any contract period beginning later than four years after the date of the enactment of this Act.

Report. 42 USC 1395mm.

(4) The Secretary of Health and Human Services shall report to the Congress with respect to the use of stabilization funds by eligible organizations under section 1876(g)(5) of the Social Security Act, and shall assess the need for such funds. The report shall be submitted not later than 54 months after the month in which this Act is enacted.

(c) Section 1876(g)(4)(A) of such Act is amended—

(1) by inserting "and skilled nursing facilities" after "hospitals";

(2) by inserting "or other appropriate basis for payment established under this title" after "section 1861(v))"; and

(3) by striking out "hospital".

Effective date. 42 USC 1395mm note.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act.

JUDICIAL REVIEW OF PROVIDER REIMBURSEMENT REVIEW BOARD DECISIONS

42 USC 1395oo.

SEC. 2351. (a)(1) The third sentence of section 1878(f)(1) of the Social Security Act is amended by striking out "such determination

is rendered" and inserting in lieu thereof "notification of such determination is received".

(2) The amendment made by paragraph (1) shall be effective with respect to any civil action commenced on or after the date of the enactment of this Act.

Effective date. 42 USC 1395oo note.

(b)(1) The last sentence of section 1878(f)(1) of such Act is amended by inserting "or which have obtained a hearing under subsection (b)" after "common ownership or control".

42 USC 1395oo.

(2) The amendment made by paragraph (1) shall be effective with respect to any appeal or action brought on or after the date of the enactment of this Act.

Effective date. 42 USC 1395oo note.

(c) Notwithstanding section 604 of the Social Security Amendments of 1983 (Public Law 98-21)—

Effective date. 42 USC 1395oo note. 97 Stat. 168. 97 Stat. 163.

(1) the amendments made by section 602(h)(2)(A) of that Act shall be effective with respect to any appeal or action brought on or after April 20, 1983; and

(2) the amendments made by section 602(h)(2)(B) of that Act shall be effective with respect to any appeal or action brought on or after the date of the enactment of this Act.

FLEXIBLE SANCTIONS FOR NONCOMPLIANCE WITH REQUIREMENTS FOR END STAGE RENAL DISEASE FACILITIES

SEC. 2352. (a) Section 1881(c)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "If the Secretary determines that the facility's or provider's failure to cooperate with network plans and goals does not jeopardize patient health or safety or justify termination of certification, he may instead, after reasonable notice to the provider or facility and to the public, impose such other sanctions as he determines to be appropriate, which sanctions may include denial of reimbursement with respect to some or all patients admitted to the facility after the date of notice to the facility or provider, and graduated reduction in reimbursement for all patients.".

42 USC 1395rr.

(b) The amendment made by this section shall apply to determinations made by the Secretary on or after the date of the enactment of this Act.

Effective date. 42 USC 1395rr note.

PAYMENTS TO PROMOTE CLOSURE AND CONVERSION OF UNDERUTILIZED HOSPITAL FACILITIES

SEC. 2353. (a) The Secretary of Health and Human Services shall carry out a study and report to the Congress on the modifications required in section 1884 of the Social Security Act in order to conform the closure and conversion program authorized in that section to the prospective payment system under section 1886(d) of such Act, so as to provide assistance to hospitals which may have particular problems in converting facilities (or parts thereof) from acute care to less intensive care or in closing facilities (or parts thereof). The report shall include recommendations as to how, and whether, implementation of section 1884 as modified may result in reductions in total hospital inpatient costs and total expenditures under title XVIII of the Social Security Act. The Secretary shall submit the report prior to March 31, 1985.

Study and report. 42 USC 1395uu note. 42 USC 1395uu. 97 Stat. 152. 42 USC 1395ww. 42 USC 1395.

(b) During the period prior to March 31, 1985, and notwithstanding section 2101(c) of the Omnibus Budget Reconciliation Act of 1981

42 USC 1395uu note.

(Public Law 97-35), the Secretary shall not implement section 1884 of the Social Security Act.

42 USC 1395uu.

MISCELLANEOUS TECHNICAL CORRECTIONS RELATING TO MEDICARE

42 USC 1320a-1.

SEC. 2354. (a)(1) Section 1122(b) of the Social Security Act is amended—

(A) by striking out the period at the end of paragraph (1) and inserting in lieu thereof a comma, and

(B) by striking out "(or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963)".

(2) Section 1122(i)(3) of such Act is amended by striking out "5703(b)" and inserting in lieu thereof "5703".

42 USC 1320a-7a.

(3) Section 1128A(g) of such Act is amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof "utilization and quality control peer review organization".

42 USC 1320a-8.

(4) Section 1129(a) of such Act is amended by striking out "Sate" and inserting in lieu thereof "State".

42 USC 1301.

(5) The heading of title XI of such Act is amended by striking out "PROFESSIONAL STANDARDS REVIEW" and inserting in lieu thereof "PEER REVIEW".

42 USC 1395f, 1395n.

(b)(1) The last sentence of sections 1814(a) of such Act and the last sentence of section 1835(a) of such Act are each amended by striking out "contractural" and inserting in lieu thereof "contractual".

42 USC 1395i, 1395t.

(2) Sections 1817(c) and 1841(c) of such Act are each amended by striking out "under the Second Liberty Bond Act, as amended" and inserting in lieu thereof "under chapter 31 of title 31, United States Code".

42 USC 1395i-2.

(3) Section 1818(c)(1) of such Act is amended by striking out "Act" and inserting in lieu thereof "section".

(4) Section 1818(d)(2) of such Act is amended by striking out "if midway between multiples of $1" and inserting in lieu thereof ", if a multiple of 50 cents but not a multiple of $1,".

42 USC 1395*l*.

(5) Section 1833(a)(2) of such Act is amended by indenting subparagraphs (A) and (B) two additional ems so as to align their left margins with the left margin of subparagraph (C) and by appropriately further indenting the clauses and subclauses of such subparagraphs.

42 USC 1395k.

(6) Section 1832(a)(2)(F)(ii)(II) of such Act is amended by striking out "Organization" and inserting in lieu thereof "organization".

42 USC 1395*l*.

(7) Section 1833(a)(1) of such Act is amended by striking out "and" at the end thereof.

42 USC 1395n.

(8) Section 1835(a)(2) of such Act is amended—

(A) by striking out "and" at the end of subparagraphs (B) and (C), and

(B) by indenting subparagraph (D) two additional ems so as to align its left margin with the left margin of subparagraph (C).

(9) Section 1835(e) of such Act is amended—

(A) by inserting "(i)" in paragraph (2) after "written assurances that",

(B) by striking out "(B)" in paragraph (2) and inserting in lieu thereof "(ii)",

(C) by striking out "return for" in paragraph (2) and inserting in lieu thereof "return of", and

(D) by striking out "(1) such hospital" and "(2) the Secretary" and inserting in lieu thereof "(A) such hospital" and "(B) the Secretary", respectively.

(10) Section 1837(g)(1) of such Act is amended by striking out "section 226(a)(2)(B)" and "section 1839(e)" and inserting in lieu thereof "section 226(b)" and "section 1839(d)", respectively. 42 USC 1395p.

(11) Sections 1840(d)(1), 1840(d)(2), and 1841(h) of such Act are each amended by striking out "Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management" each place it appears. 42 USC 1395s, 1395t.

(12) Section 1841(h) of such Act is amended by striking out "it" and inserting in lieu thereof "the Director".

(13) Section 1842(b)(3)(B)(ii)(II) of such Act is amended by striking out the period following "title". 42 USC 1395u.

(14) The seventh sentence of section 1842(b)(3) of such Act is amended by striking out "(i)" and "(ii)" and inserting in lieu thereof "(I)" and "(II)", respectively.

(15) Section 1843(d)(3)(B) of such Act is amended by striking out "1937" and inserting in lieu thereof "1974". 42 USC 1395v.

(16) Section 1844(a)(1)(B)(ii) of such Act is amended by striking out the period and inserting in lieu thereof "; plus". 42 USC 1395w.

(17) Sections 1864(c) and 1875(b) of such Act are each amended by striking out "the" after "Joint Commission on". 42 USC 1395aa, 1395*ll*.

(18) Section 1861(j)(2) of such Act is amended by striking out "provision of" and inserting in lieu thereof "provision for". 42 USC 1395x.

(19) Section 1861(j)(13) of such Act is amended by striking out "a nursing home" and inserting in lieu thereof "an institution".

(20) Section 1861(u) of such Act is amended by striking out "or" before "home health agency".

(21) Section 1861(v)(1) of such Act is amended—

(A) by redesignating the clause (B) in subparagraph (A) as subparagraph (B) and by indenting the first line of such subparagraph 2 spaces;

(B) by aligning subparagraphs (C) and (D) flush with the left margin (but with appropriate indentation in the case of the clauses and subclauses of subparagraph (C)); and

(C) by inserting a comma after "section 1832(a)(2)(B)(i)" in subparagraph (D).

(22) Section 1861(v)(1)(C)(i) of such Act is amended by inserting a dash after "but only if".

(23) Section 1861(v)(1)(E)(ii) of such Act is amended by striking out "uses" and inserting in lieu thereof "use".

(24) Section 1861(v)(1)(I) of such Act is amended by striking out "to the Secretary, or upon request to the Comptroller General" in clauses (i) and (ii) and inserting in lieu thereof "by the Secretary, or upon request by the Comptroller General".

(25) Section 1861(v)(3) of such Act is amended by striking out "semiprivate" and inserting in lieu thereof "semi-private".

(26) Section 1861(z)(2) of such Act is amended by striking out "subparagraph (1)" and inserting in lieu thereof "paragraph (1)".

(27) Section 1861(aa)(2)(I) of such Act is amended by striking out "ultilization" and inserting in lieu thereof "utilization".

(28) Section 1861(cc)(1)(F) of such Act is amended by striking out "self administered" and inserting in lieu thereof "self-administered".

(29) Section 1861(cc)(2)(F) of such Act is amended by striking out "standard establishment" and inserting in lieu thereof "standards established".

(30) Section 1862(a)(12) of such Act is amended by striking out the second comma after "dental procedure". 42 USC 1395y.

42 USC 1395y. (31) Section 1862(b)(3)(A)(iii) of such Act is amended by inserting "before the month" after "ending with the month".

42 USC 1395z. (32) Section 1863 of such Act is amended by striking out "(j)(11)" and inserting in lieu thereof "(j)(15)".

42 USC 1395cc. (33) Section 1866(a)(1)(E) of such Act is amended by adding at the end a comma.

(34) Section 1866(b) of such Act is amended by moving the alignment of paragraph (3) two ems to the left so as to align its left margin with the left margin of paragraph (4).

42 USC 1395ff. (35) Section 1869(b)(1)(B) of such Act is amended by striking out ", or section 1818, or section 1819" and inserting in lieu thereof "or section 1818".

42 USC 1395ii. (36) Section 1872 of such Act is amended—

(A) by striking out the comma after "206", and

(B) by striking out "(f),".

42 USC 1395mm. (37) Section 1876(b)(2)(D) of such Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "subparagraph (A)".

(38) Section 1876(c)(4)(A)(i) of such Act is amended by striking out "promptly as appropriate" and inserting in lieu thereof "with reasonable promptness".

42 USC 1395oo. (39) Section 1878(c) of such Act is amended by striking out "inadmissable" and inserting in lieu thereof "inadmissible".

(40) Section 1878(e) of such Act is amended by striking out ", (e), and (f)" and inserting in lieu thereof "and (e)".

42 USC 1395rr. (41) Section 1881 of such Act is amended by striking out "end-stage" and inserting in lieu thereof "end stage" each place it appears.

42 USC 1395ww. (42) Section 1886(a)(2)(B) of such Act is amended by striking out "disportionate" and inserting in lieu thereof "disproportionate".

(43) Section 1886(b)(3)(A)(ii) of such Act is amended by inserting "of" after "in the case".

(44) Section 1886(d)(3)(D)(i)(I) of such Act is amended by striking out "(C)," and inserting in lieu thereof "(C))".

42 USC 1395f. (c)(1)(A) Section 903(a)(4) of Public Law 96-499 is amended by striking out "new paragraph".

42 USC 1395x note. (B) Section 937(c) of Public Law 96-499 is amended by striking out "on on" and inserting in lieu thereof "on or".

42 USC 1316. (2) Section 2353(h)(1) of Public Law 97-35 is amended by striking out the comma after "XIX".

42 USC 1395mm note. (3)(A) Section 114(c)(2)(C)(ii) of Public Law 97-248 is amended by inserting "and enrolled under part B" after "part A".

42 USC 1395mm note. (B) Section 114(c)(3)(E) of Public Law 97-248 is amended—

(i) by striking out "section 1833(a)(1) of the Social Security Act or", and

(ii) by adding before the period at the end the following: ", or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act".

42 USC 1320c note. (C) Section 149 of Public Law 97-248 is amended by striking out "part" and inserting in lieu thereof "subtitle".

26 USC 162. (d) Section 162(i)(2) of the Internal Revenue Code of 1954 is amended by striking out "213(e)" and inserting in lieu thereof "213(d)".

42 USC 1320a-1 note. (e)(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date.

(2) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall be effective as if they had been originally included in Public Laws 96-499, 97-35, and 97-248, respectively.

94 Stat. 2599; 95 Stat. 357. 26 USC 1 note.

WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2355. (a) In the case of a project described in subsection (b), the Secretary of Health and Human Services shall approve, with appropriate terms and conditions as defined by the Secretary, applications or protocols submitted for waivers described in subsection (c), and the evaluation of such protocols, in order to carry out such project. Such approval shall be effected not later than 30 days after the date on which the application or protocol for a waiver is submitted or not later than 30 days after the date of the enactment of this Act in the case of an application or protocol submitted before the date of the enactment of this Act.

(b) A project referred to in subsection (a) is a project—

(1) to demonstrate the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9 7604/1—04 of the University Health Policy Consortium of Brandeis University;

(2) which provides for the integration of health and social services under the direct financial management of a provider of services;

(3) under which all medicare services will be provided by or under arrangements made by the organization at a fixed annual prepaid capitation rate for medicare of 100 percent of the adjusted average per capita cost;

(4) under which medicaid services will be provided at a rate approved by the Secretary;

(5) under which all payors will share risk for no more than two years, with the organization being at full risk in the third year;

(6) which is being provided funds under a grant provided by the Secretary of Health and Human Services; and

(7) with respect to which substantial private funds are being provided other than under the grant referred to in paragraph (5).

(c) The waivers referred to in subsection (a) are appropriate waivers of—

(1) certain requirements of title XVIII of the Social Security Act, pursuant to section 402(a) of the Social Security Amendments of 1967 (as amended by section 222 of the Social Security Amendments of 1972); and

42 USC 1395.

42 USC 1395b-1.

(2) certain requirements of title XIX of the Social Security Act, pursuant to section 1115 of such Act.

42 USC 1396, 1315.

(d)(1) The Secretary of Health and Human Services shall submit a preliminary report to the Congress on the status of the projects and waivers referred to in subsection (a) 45 days after the date of the enactment of this Act.

Report.

(2) The Secretary shall submit a final report to the Congress on the projects referred to in subsection (a) not later than 42 months after the date of the enactment of this Act.

Report.

Subtitle B—Medicaid and Maternal and Child Health Amendments

MEDICAID COVERAGE FOR PREGNANT WOMEN AND CHILDREN

42 USC 1396a.

SEC. 2361. (a) Clause (i) of section 1902(a)(10)(A) of the Social Security Act is amended to read as follows:

"(i) all individuals—

42 USC 301, 1201, 1351, 1381, 601, 670.

"(I) who are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including individuals eligible under this title by reason of section 402(a)(37), or considered by the State to be receiving such aid as authorized under section 414(g)),

Post, p. 1134.

42 USC 614.

"(II) with respect to whom supplemental security income benefits are being paid under title XVI, or

"(III) who are qualified pregnant women or children as defined in section 1905(n);".

42 USC 1396d.

(b) Section 1905 of such Act is amended by adding at the end thereof the following new subsection:

"(n) The term 'qualified pregnant woman or child' means—

"(1) a pregnant woman who—

42 USC 601.

"(A) would be eligible for aid to families with dependent children under part A of title IV (or would be eligible for such aid if coverage under the State plan under part A of title IV included aid to families with dependent children of unemployed parents pursuant to section 407) if her child had been born and was living with her in the month such aid would be paid, and such pregnancy has been medically verified; or

42 USC 607.

"(B) is a member of a family which would be eligible for aid under the State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid pursuant to such section; and

"(2) a child who is under 5 years of age, who was born after September 30, 1983, and who meets the income and resources requirements of the State plan under part A of title IV.".

42 USC 606.

(c) Section 406(g) of such Act is amended by striking out "(1)" after "(g)", by striking out paragraph (2), and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

Effective date. 42 USC 1396a note.

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1984, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

42 USC 1396.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

CLARIFICATION OF MEDICAID ENTITLEMENT FOR CERTAIN NEWBORNS

SEC. 2362. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph: 42 USC 1396a.

"(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the woman's household and the woman remains eligible for such assistance.".

(b) The amendment made by subsection (a) shall apply to children born on or after October 1, 1984. 42 USC 1396a note.

RECERTIFICATION OF SNF AND ICF PATIENTS

SEC. 2363. (a)(1) Section 1902(a) of the Social Security Act, as amended by section 2303(g) of this title, is amended— 42 USC 1396a. *Ante*, p. 1064.

(A) in paragraph (30)—

(i) by inserting "(A)" after "(30)", and

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

"(B) provide, under the program described in subparagraph (A), that—

"(i) each admission to a hospital, skilled nursing facility, intermediate care facility, or hospital for mental diseases is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved, and

"(ii) the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (I) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (II) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted to a hospital, skilled nursing facility, intermediate care facility, or hospital for mental diseases;"; and

(B) by striking out "and" at the end of paragraph (42), by striking out the period at the end of paragraph (43) and inserting in lieu thereof "; and", and by inserting after paragraph (43) the following new paragraph:

"(44) in each case for which payment for inpatient hospital services, skilled nursing facility services, intermediate care facility services, or inpatient mental hospital services is made under the State plan—

"(A) a physician certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and the physician, or a physician assistant or nurse practitioner under the supervision of a physician, recertifies, where such services are furnished over a period of time, in such cases, at least as often as required under section 1903(g)(6) (or, in the case of services that are intermediate care facility services provided in an institution for the mentally retarded, every year), and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services, and

42 USC 1396b.

"(B) such services were furnished under a plan established and periodically reviewed and evaluated by a physician.".

42 USC 1396b.

(2) Section 1903(g)(1) of such Act is amended—

(A) in the matter preceding subparagraph (A), by striking out "care as an inpatient" and all that follows through "hospital for mental diseases on" and inserting in lieu thereof "inpatient hospital services or intermediate care facility services for 60 days, skilled nursing facility services for 30 days, or inpatient mental hospital services for",

(B) in the matter before subparagraph (A), by striking out "which for purposes of this section means the four calendar quarters ending with June 30," and by striking out "in the same fiscal year", and

(C) by striking out "(including tuberculosis hospitals)" and all that follows through the end of subparagraph (D) and inserting in lieu thereof ", skilled nursing facility services, or intermediate care facility services furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), such State has an effective program of medical review of the care of patients in mental hospitals, skilled nursing facilities, and intermediate care facilities pursuant to paragraphs (26) and (31) of section 1902(a) whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams.".

Post, p. 1109.

(4) Section 1903(g) of such Act is further amended by striking out paragraph (6) and inserting in lieu thereof the following:

Ante, pp. 1066, 1105.

"(6)(A) Recertifications required under section 1902(a)(44) shall be conducted at least every 60 days in the case of inpatient hospital services.

"(B) Such recertifications in the case of skilled nursing facility services shall be conducted at least—

"(i) 30 days after the date of the initial certification,

"(ii) 60 days after the date of the initial certification,

"(iii) 90 days after the date of the initial certification, and

"(iv) every 60 days thereafter.

"(C) Such recertifications in the case of intermediate care facility services shall be conducted at least—

"(i) 60 days after the date of the initial certification,

"(ii) 180 days after the date of the initial certification,

"(iii) 12 months after the date of the initial certification,

"(iv) 18 months after the date of the initial certification,

"(v) 24 months after the date of the initial certification, and

"(vi) every 12 months thereafter.

"(D) For purposes of determining compliance with the schedule established by this paragraph, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required and the State establishes good cause why the physician or other person making such recertification did not meet such schedule.".

(b) Section 1903 of such Act is further amended by adding at the end the following new paragraph: 42 USC 1396b.

"(7) It is the duty and responsibility of the Secretary to assure that standards which govern the provision of care in skilled nursing facilities and intermediate care facilities under plans approved under this title, and the enforcement of such standards, are adequate to protect the health and safety of residents and to promote the effective and efficient use of public moneys.".

(c) The amendments made by subsection (a) apply to calendar quarters beginning on or after the date of the enactment of this Act, except that, in the case of individuals admitted to skilled nursing facilities before such date, the amendments made by such subsection shall not require recertifications sooner or more frequently than were required under the law in effect before such date. Effective date. 42 USC 1396b note.

WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2364. Section 1903(m)(2) of the Social Security Act is amended— 42 USC 1396b.

(1) by inserting "except as provided under subparagraph (F)," in subparagraph (A)(vi) after "(I)", and

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

"(E) In the case of a health maintenance organization that—

"(i) is a nonprofit organization with at least 25,000 members,

"(ii) is and has been a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) for a period of at least four years, 42 USC 300e-9.

"(iii) provides basic health services through members of the staff of the organization,

"(iv) is located in an area designated as medically underserved under section 1302(7) of the Public Health Service Act, and 42 USC 300e-1.

"(v) previously received a waiver of the requirement described in subparagraph (A)(ii) under section 1115, 42 USC 1315.

the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that special circumstances warrant such modification or waiver and that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII. 42 USC 1395.

"(F)(i) In the case of a contract with a health maintenance organization described in clause (ii), a State plan may restrict the period in which requests for termination of enrollment without cause under subparagraph (A)(vi)(I) are permitted to the first month of each period of enrollment, each such period of enrollment not to exceed six months in duration, but only if the State provides notification, at least twice per year, to individuals enrolled with such organization of the right to terminate such enrollment and the restriction on the

exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.

"(ii) A health maintenance organization referred to in clause (i) is an organization which—

"(I) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) or a health maintenance organization which is receiving (and has received during the previous two years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, and

"(II) meets the requirement of subparagraph (A)(ii).".

42 USC 300e-9.

42 USC 254b, 254c.

40 USC app. 1.

INCREASE IN MEDICAID CEILING AMOUNT FOR PUERTO RICO, THE VIRGIN ISLANDS, GUAM, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

42 USC 1308.

SEC. 2365. (a) Section 1108(c) of the Social Security Act is amended to read as follows:

42 USC 1396.

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed $63,400,000;

"(2) the Virgin Islands shall not exceed $2,100,000;

"(3) Guam shall not exceed $2,000,000;

"(4) the Northern Mariana Islands shall not exceed $550,000; and

"(5) American Samoa shall not exceed $1,150,000.".

42 USC 1308 note.

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

PAYMENT FOR PSYCHIATRIC HOSPITAL SERVICES

42 USC 1396a note.

SEC. 2366. The provisions of section 1902(a)(13) of the Social Security Act, in so far as they require a reduction of the amount of payment otherwise to be made to a public psychiatric hospital due to the level of care received in such hospital, shall not apply to payments to hospitals before July 1, 1985, and such a reduction made for payments during the 12-month period ending June 30, 1986, and during the 12-month period ending June 30, 1987, shall be one-third and two-thirds, respectively, of the amount of the reduction which would have been made without regard to this section.

MANDATORY ASSIGNMENT OF RIGHTS OF PAYMENT BY MEDICAID RECIPIENTS

42 USC 1396a. *Ante*, pp. 1066, 1105.

SEC. 2367. (a) Section 1902(a) of the Social Security Act (as amended by sections 2303 and 2363 of this title) is amended—

(1) by striking out "and" at the end of paragraph (43);

(2) by striking out the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (44) the following new paragraph:

"(45) provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients, in accordance with section 1912.".

42 USC 1396k.

(b) Section 1912(a) of such Act is amended by striking out "State plan for medical assistance may" and inserting in lieu thereof "State plan for medical assistance shall". 42 USC 1396k.

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1984. Effective date. 42 USC 1396a note.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. 42 USC 1396.

REQUIREMENTS FOR MEDICAL REVIEW AND INDEPENDENT PROFESSIONAL REVIEW UNDER MEDICAID

SEC. 2368. (a) Section 1902(a)(31) of the Social Security Act is amended to read as follows: 42 USC 1396a.

"(31) with respect to skilled nursing facility services (and with respect to intermediate care facility services, where the State plan includes medical assistance for such services) provide—

"(A) with respect to each patient receiving such services, for a written plan of care, prior to admission to or authorization of benefits in such facility, in accordance with regulations of the Secretary, and for a regular program of independent professional review (including medical evaluation) which shall periodically review his need for such services;

"(B) with respect to each skilled nursing or intermediate care facility within the State, for periodic onsite inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), including with respect to each such person (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the facility, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

"(C) for full reports to the State agency by each independent professional review team of the findings of each inspection under subparagraph (B), together with any recommendations;".

(b) Section 1902(a)(26) of such Act is amended to read as follows:

"(26) if the State plan includes medical assistance for inpatient mental hospital services, provide—

"(A) with respect to each patient receiving such services, for a regular program of medical review (including medical evaluation) of his need for such services, and for a written plan of care;

"(B) for periodic inspections to be made in all mental institutions within the State by one or more medical review

teams (composed of physicians and other appropriate health and social service personnel) of the care being provided to each person receiving medical assistance, including (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the institution, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

"(C) for full reports to the State agency by each medical review team of the findings of each inspection under subparagraph (B), together with any recommendations;".

Effective date. 42 USC 1396a note.

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

FLEXIBILITY IN SETTING PAYMENT RATES FOR HOSPITALS FURNISHING LONG-TERM CARE SERVICES UNDER MEDICAID

42 USC 1396l.

SEC. 2369. (a)(1) Section 1913(b)(1) of the Social Security Act is amended by striking out "Payment" and inserting in lieu thereof "Except as provided in paragraph (3), payment".

(2) Section 1913(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Payment to all such hospitals, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), may be made at a payment rate established by the State in accordance with the requirements of section 1902(a)(13)(A).".

42 USC 1396a.

Effective date. 42 USC 1396l note.

(b) The amendments made by this section shall apply to payments for services furnished after the date of the enactment of this Act.

AUTHORITY OF THE SECRETARY TO ISSUE AND ENFORCE SUBPOENAS UNDER MEDICAID

SEC. 2370. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"APPLICATION OF PROVISIONS OF TITLE II RELATING TO SUBPOENAS

42 USC 1396q.

42 USC 405.

"SEC. 1918. The provisions of subsections (d) and (e) of section 205 of this Act shall apply with respect to this title to the same extent as they are applicable with respect to title II.".

Effective date. 42 USC 1396q note.

(b) The amendment made by this section shall become effective on the date of the enactment of this Act.

MEDICAID CLINIC ADMINISTRATION

42 USC 1396d.

SEC. 2371. (a) Section 1905(a)(9) of the Social Security Act is amended to read as follows:

"(9) clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician;".

Effective date. 42 USC 1396d note.

(b) The amendment made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

INCREASE IN AUTHORIZATION FOR MATERNAL AND CHILD HEALTH BLOCK GRANT

42 USC 701.

SEC. 2372. (a) Section 501(a) of the Social Security Act is amended by striking out "$373,000,000 for fiscal year 1982 and for each fiscal

year thereafter" and inserting in lieu thereof "$478,000,000 for fiscal year 1984 and each fiscal year thereafter".

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983. Effective date. 42 USC 701 note.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 2373. (a)(1) Section 503(a) of the Social Security Act is amended by striking out "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)" and inserting in lieu thereof "section 6503(a) of title 31, United States Code". 42 USC 703.

(2) Section 506(d)(3) of such Act is amended by striking out "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)" and inserting in lieu thereof "section 6503(b) of title 31, United States Code". 42 USC 706.

(b)(1) Section 1902(a)(9) of such Act is amended by indenting subparagraph (C) two additional ems so as to align its left margin with the left margin of subparagraph (B). 42 USC 1396a.

(2) Section 1902(a)(10) of such Act is amended by indenting subparagraph (A) (and each of its clauses and subclauses) two additional ems so as to align its left margin (before clause (i)) with the left margin of subparagraph (B).

(3) Section 1902(a)(13)(A) of such Act is amended by striking out "(A)" and all that follows through "hospital" the first place it appears and inserting in lieu thereof "(A) for payment (except where the State agency is subject to an order under section 1914) of the hospital".

(4) Section 1902(a)(20)(B) of such Act is amended by striking out "periodical" and inserting in lieu thereof "periodic".

(5) Section 1902(a)(20)(C) of such Act is amended by striking out ", section 603(a)(1)(A) (i) and (ii),".

(6) Section 1902(a)(26)(B)(ii) of such Act is amended by striking out "homes" and inserting in lieu thereof "facilities". *Ante*, p. 1109.

(7) Section 1902(a)(33)(A) of such Act is amended by striking out "penultimate sentence" and inserting in lieu thereof "second sentence".

(8) Section 1902(a)(42)(B) of such Act is amended by striking out "part" and inserting in lieu thereof "title".

(9) Section 1902(a) of such Act is amended by striking out "For purposes of paragraphs (9)(A)" and all that follows through "do not include" in the last sentence of the third to last paragraph and inserting in lieu thereof "The provisions of paragraphs (9)(A), (31), and (33) and of section 1903(i)(4) shall not apply to".

(10) Section 1902(f) of such Act is amended by striking out "clause (10)(A)" and "clause (10)(C)" and inserting in lieu thereof "paragraph (10)(A)" and "paragraph (10)(C)", respectively, each place each appears.

(11) Section 1903(g)(4)(B) of such Act is amended— 42 USC 1396b.

(A) by striking out "paragraph (26)" and inserting in lieu thereof "paragraphs (26)", and

(B) by striking out "deligence" and inserting in lieu thereof "diligence".

(12) Section 1903(m)(2)(B)(i) of such Act is amended—

(A) by striking out "(II)" before "for the period",

(B) by striking out "of such section" in subclause (II) and inserting in lieu thereof "of section 1905(a)", and

(C) by striking out "peroid" and inserting in lieu thereof "period".

42 USC 1396b.

(13) Section 1903(m)(2) of such Act is amended by aligning subparagraph (C) flush with the left margin.

(14) Section 1903(s)(3)(B) of such Act is amended by striking out "nonfederal" and inserting in lieu thereof "non-Federal".

42 USC 1396d.

(15) Section 1905(a)(4) of such Act is amended by inserting a semicolon before "(B)".

(16) Section 1905(a)(17) of such Act is amended by striking out "he" and inserting in lieu thereof "the nurse-midwife" each place it appears.

(17) The last sentence of section 1905(a) of such Act is amended by striking out "clauses (vi)" and inserting in lieu thereof "clause (vi)", and by striking out "well being" and inserting in lieu thereof "well-being".

(18) The second sentence of section 1905(b) of such Act is amended by striking out everything that follows "the provisions of" and inserting in lieu thereof "section 1101(a)(8)(B).".

(19) Section 1905(d)(1) of such Act is amended by striking out "which meet" and inserting in lieu thereof "the institution meets".

(20) Section 1905(m) of such Act is amended by striking out "he" each place it appears and inserting in lieu thereof "the nurse".

42 USC 1396n.

(21) Section 1915(c)(1) of such Act is amended by striking out "under this part" and inserting in lieu thereof "under this title".

42 USC 1396a note.

(c)(1) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State during the moratorium period described in paragraph (2) by reason of such State's plan under title XIX of the Social Security Act being determined to be in violation of section 1902(a)(10)(C)(i)(III) of such Act on account of such plan's having a standard or methodology which the Secretary interprets as being less restrictive than the standard or methodology required under such section.

42 USC 1396.
42 USC 1396a.

(2) The moratorium period is the period beginning on the date of the enactment of this Act and ending 18 months after the date on which the Secretary submits the report required under paragraph (3).

Report.

(3) The Secretary shall report to the Congress within 12 months after the date of the enactment of this Act with respect to the appropriateness, and impact on States and recipients of medical assistance, of applying standards and methodologies utilized in cash assistance programs to those recipients of medical assistance who do not receive cash assistance, and any recommendations for changes in such requirements.

(4) No provision of law shall repeal or suspend the moratorium imposed by this subsection unless such provision specifically amends or repeals this subsection.

Subtitle C—Recovery of Hill-Burton Funds

RECOVERY OF HILL-BURTON FUNDS

42 USC 291i.

SEC. 2381. (a) Section 609 of the Public Health Service Act is amended to read as follows:

"SEC. 609. (a) If any facility with respect to which funds have been paid under section 606 shall, at any time within 20 years after the completion of construction or modernization— 42 USC 291f.

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 605, or (B) which is not approved as a transferee by the State agency designated pursuant to section 604, or 42 USC 291e. 42 USC 291d.

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) thirty days after the date of the enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection.

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly ninety-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b),

"(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d)(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

"(A) has established an irrevocable trust—

"(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (2) of section 603(e) or the amount, determined under subsection (c), that the United States is entitled to recover, and

42 USC 291c.

"(ii) which will only be used by the entity to provide the care required by clause (2) of section 603(e); and

"(B) will meet the obligation of the facility under clause (1) of section 603(e).

"(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under section 606.".

42 USC 291f.
42 USC 300s-1a.

(b) Section 1622 of such Act is amended to read as follows:

"RECOVERY

"SEC. 1622. (a) If any facility with respect to which funds have been paid under this title shall, at any time within 20 years after the completion of construction or modernization—

"(1) be sold or transferred to any entity (A) which is not qualified to file an application under section 1621 or 1642 or (B) which is not approved as a transferee by the State Agency of the State in which such facility is located, or its successor, or

42 USC 300q-1, 300t-12.

"(2) cease to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care, or rehabilitation facility,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in subsection (a)(1), or the owner of a facility the use of which is changed as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change not later than the expiration of 10 days from the date on which such sale, transfer, or change occurs.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the

agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction or modernization of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes after the date of the enactment of this subsection, or

"(ii) thirty days after the date of enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b).

"(ii) in the case of a facility with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or changes of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d)(1) The Secretary may waive the recovery rights of the United States under subsection (a)(1) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that the entity to which the facility was sold or transferred—

"(A) has established an irrevocable trust—

"(i) in an amount equal to the greater of twice the cost of the remaining obligation of the facility under clause (ii) of section 1621(b)(1)(K) or the amount, determined under subsection (c), that the United States is entitled to recover, and

42 USC 300q-1.

"(ii) which will only be used by the entity to provide the care required by clause (ii) of section 1621(b)(1)(K); and

"(B) will meet the obligation of the facility under clause (i) of section 1621(b)(1)(K).

"(2) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under this title.".

42 USC 291i note.

(c) Not later than the expiration of the one-hundred-and-eighty-day period beginning on the date of the enactment of this section, the Secretary shall have in effect regulations and personnel to place in effect the amendments made by this section.

Subtitle D—Uncompensated Services Provided by Skilled Nursing Facilities and Intermediate Care Facilities

STUDY

42 USC 291c, 300q-1.

SEC. 2391. (a) The Secretary of Health and Human Services shall conduct a study relating to compliance with sections 603(e)(2) and 1621(b)(1)(K)(ii) of the Public Health Service Act (as such sections were in effect on September 30, 1979) to determine whether the regulations implementing such sections should distinguish between hospitals and long-term care facilities assisted under titles VI and XVI of such Act. Not later than January 1, 1985, the Secretary shall transmit to the Congress a report of the results of the study.

42 USC 291, 300o. Report.

(b) Subsection (a) shall take effect October 1, 1984.

TITLE IV—SMALL BUSINESS PROGRAMS

SBA DISASTER LOANS

15 USC 647.

SEC. 2401. Section 18(a) of the Small Business Act is amended by striking out "October 1, 1986" and by inserting in lieu thereof "October 1, 1987".

TITLE V—VETERANS' PROGRAMS

PART A—COST SAVINGS UNDER THE VETERANS' ADMINISTRATION PENSION PROGRAM

EFFECTIVE DATE FOR AWARD OF PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH

SEC. 2501. (a)(1) Subsection (b)(3) of section 3010 of title 38, United States Code, is amended—

(A) by inserting "(A)" after "(3)";

(B) by inserting "described in subparagraph (B) of this paragraph" after "to a veteran";

(C) by striking out "an application therefor is received" and inserting in lieu thereof "the veteran applies for a retroactive award"; and

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

"(B) A veteran referred to in subparagraph (A) of this paragraph is a veteran who is permanently and totally disabled and who is prevented by a disability from applying for disability pension for a period of at least 30 days beginning on the date on which the veteran became permanently and totally disabled.".

(2) Subsection (d) of such section is amended to read as follows:

"(d)(1) The effective date of an award of death compensation or dependency and indemnity compensation for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.

"(2) The effective date of an award of death pension for which application is received within 45 days from the date of death shall be the first day of the month in which the death occurred.".

(b) The amendments made by subsection (a)(1) and the provisions of paragraph (2) of section 3010(d) of title 38, United States Code, as added by subsection (a)(2), shall take effect with respect to applications that are first received after September 30, 1984, for benefits under chapter 15 of title 38, United States Code.

38 USC 3010 note.

38 USC 501 *et seq.*

PART B—ACTIONS TO INCREASE RECEIPTS AND REDUCE COSTS UNDER THE VETERANS' ADMINISTRATION HOME-LOAN GUARANTY PROGRAM

INCREASE IN FEE FOR HOME LOANS GUARANTEED BY THE VETERANS' ADMINISTRATION AND EXTENSION OF FEE TO VENDEE LOANS

SEC. 2511. (a) Section 1829 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "and from each person obtaining a loan from the Administrator to finance the purchase of real property from the Administrator," after "under this chapter,";

(B) by striking out "one-half of"; and

(C) by striking out "to the veteran" after "in the loan";

(2) by striking out subsection (c); and

(3) by redesignating subsection (d) as subsection (c) and striking out "September 30, 1985" in such subsection and inserting in lieu thereof "September 30, 1987".

(b) Section 1824(c) of such title is amended by striking out "and (2)" and inserting in lieu thereof "(2) amounts received by the Administrator as fees collected under section 1829 of this title, and (3)".

(c)(1) The amendments made by subsection (a)(1) shall apply with respect to loans closed after the end of the 30-day period beginning on the date of the enactment of this Act.

38 USC 1829 note.

(2) The amendments made by subsections (a)(2) and (b) shall apply with respect to loans closed on or after the date of the enactment of this Act.

(3) The amendment made by subsection (a)(3) shall take effect on the date of the enactment of this Act.

ACTIONS TO REDUCE COSTS UNDER HOME-LOAN PROGRAM

SEC. 2512. (a) Section 1816 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by designating the first sentence as paragraph (1), the second and third sentences as paragraph (2), and the fourth sentence as paragraph (3);

(B) by striking out "Administrator who shall thereupon" in paragraph (1) (as so designated) and inserting in lieu

thereof "Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section,"; and

(C) by striking out "guaranteed, and shall" in paragraph (1) (as so designated) and inserting in lieu thereof "guaranteed. If the Administrator makes such a payment, the Administrator shall"; and

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

"(c)(1) For purposes of this subsection—

"(A) The term 'defaulted loan' means a loan that is guaranteed under this chapter, that was made for a purpose described in section 1810(a) of this title, and that is in default.

38 USC 1810.

"(B) The term 'liquidation sale' means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

"(C) The term 'net value', with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Administrator estimates the Administrator would incur (if the Administrator were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

"(D) The term 'total indebtedness', with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection), and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by such regulations) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

"(B) This subsection does not apply to a case in which the Administrator proceeds under subsection (a)(2) of this section.

"(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Administrator of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Administrator to implement this subsection.

"(B) After receiving a notice described in subparagraph (A) of this paragraph, the Administrator shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

"(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

"(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan

at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

"(A) the holder shall have the option to convey the property to the United States in return for payment by the Administrator of an amount equal to the lesser of such net value or total indebtedness; and

"(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

"(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan either does not acquire the property securing the loan at the liquidation sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—

"(A) the Administrator may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and

"(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (i) the amount of such total indebtedness, minus (ii) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

"(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—

"(A) the Administrator may accept conveyance of the property to the United States for a price not exceeding the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; and

"(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6)(B) of this subsection.

"(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

"(A) the Administrator may not accept conveyance of the property from the holder of the loan; and

"(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

"(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 1803(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Administrator. 38 USC 1803.

"(d)(1) Of the number of purchases made during any fiscal year of real property acquired by the Administrator as the result of a default on a loan guaranteed under this chapter for a purpose described in section 1810(a) of this title, not more than 75 percent, nor less than 60 percent, of such purchases may be financed by a loan made by the Administrator. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any

fiscal year if the Administrator determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

"(2) In carrying out paragraph (1) of this subsection, the Administrator, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Administrator to finance purchases of real property from the Administrator described in that paragraph.

"(3) Notes securing such loans may be sold with recourse only to the extent that the Administrator determines that selling such notes with recourse is necessary in order to maintain the effective functioning of the loan guaranty program under this chapter.".

(b)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

38 USC 1830.

"§1830. Use of attorneys in court

"(a) Within 180 days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Administrator under this chapter and to recover possession of any property acquired by the Administrator under this chapter. With the concurrence of the Attorney General of the United States, the Administrator may acquire the services of attorneys, other than those who are employees of the Veterans' Administration, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

"(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1829 the following new item:

"1830. Use of attorneys in court.".

38 USC 1816 note.

(c)(1) The amendments made by subsection (a) shall take effect on October 1, 1984.

38 USC 1816 note.

(2) Subsections (c) and (d) of section 1816 of title 38, United States Code (as added by subsection (a) of this section), shall cease to have effect on October 1, 1987.

38 USC 1830 note.

(3) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

Report.

(d) Not later than 180 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs and the Attorney General of the United States shall submit to the appropriate committees of the Congress a joint report that—

(1) describes and explains the actions taken by the Administrator and the Attorney General to implement section 1830 of title 38, United States Code, as added by subsection (b); and

Supra.

(2) sets forth their views with respect to the advisability of actions, pursuant to the second sentence of subsection (a) of such section, to employ private attorneys to bring actions described in that section.

(e)(1) Not later than December 1, 1986, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the administration and functioning of the loan guaranty program conducted by the Veterans' Administration under chapter 37 of title 38, United States Code, and the status of the Veterans' Administration Loan Guaranty Revolving Fund established under section 1824(a) of such title.

Report. 38 USC 1824 note.

38 USC 1801 *et seq.*

38 USC 1824.

(2) The report shall include—

(A) a description of the actions taken by the Administrator during the period beginning on June 1, 1984, and ending on September 30, 1986, and the actions planned as of September 30, 1986 (together with a schedule for completing any actions planned), to maintain the effective functioning of that program and to ensure the solvency of the Fund, including actions with respect to the acquisition of properties following liquidation sales, the making of loans (known as "vendee loans") to finance the sale of properties so acquired, the quality of property appraisals by the Veterans' Administration, and assessments of home-buyer credit worthiness;

(B) the Administrator's evaluation of the effects of the amendments made by subsection (a) (relating to acquisition of properties after liquidation sales and to vendee loans), including the Administrator's evaluation of the effects of subsection (d) of section 1816 of title 38, United States Code (as added by subsection (a)(2)) (relating to vendee loans), on the operation and effective functioning of such program; and

Ante, p. 1118.

(C) the recommendations of the Administrator regarding any need for administrative or legislative action with respect to such program, including the Administrator's recommendations as to whether or not subsection (c)(2) (providing for the termination of provisions relating to the acquisition of properties and to vendee loans) should be amended.

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Subtitle A—Improvements in OASDI Program

SOCIAL SECURITY COVERAGE FOR FEDERAL EMPLOYEES; TREATMENT OF LEGISLATIVE BRANCH EMPLOYEES NOT COVERED BY CIVIL SERVICE RETIREMENT SYSTEM

97 Stat. 67.
42 USC 410.

SEC. 2601. (a)(1) Section 210(a)(5)(B) of the Social Security Act is amended to read as follows:

"(B) is performed by an individual who—

"(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

"(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

"(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

"(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute of Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

"(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

38 USC 2021 *et seq.*

"(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);".

(2) Section 210(a)(5) of such Act is further amended (in the matter which follows "except that this paragraph shall not apply with respect to—")—

42 USC 410.

(A) by striking out "(i)", "(ii)", "(iii)", "(iv)", and "(v)" and inserting in lieu thereof "(C)", "(D)", "(E)", "(F)", and "(G)", respectively;

(B) by striking out "(I)", "(II)", and "(III)" and inserting in lieu thereof "(i)", "(ii)", and "(iii)", respectively; and

(C) by striking out subparagraph (G) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:

"(G) Any other service in the legislative branch of the Federal Government if such service—

"(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

5 USC 8331.

"(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

"(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983, and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);".

26 USC 3121.

(b)(1) Section 3121(b)(5)(B) of the Internal Revenue Code of 1954 is amended to read as follows:

"(B) is performed by an individual who—

"(i) has been continuously performing service described in subparagraph (A) since December 31, 1983, and for purposes of this clause—

"(I) if an individual performing service described in subparagraph (A) returns to the performance of such service after being separated therefrom for a period of less than 366 consecutive days, regardless of whether the period began before, on, or after December 31, 1983, then such service shall be considered continuous,

"(II) if an individual performing service described in subparagraph (A) returns to the performance of such service after being detailed or transferred to an international organization as described under section 3343 of subchapter III of chapter 33 of title 5, United States Code, or under

section 3581 of chapter 35 of such title, then the service performed for that organization shall be considered service described in subparagraph (A),

"(III) if an individual performing service described in subparagraph (A) is reemployed or reinstated after being separated from such service for the purpose of accepting employment with the American Institute in Taiwan as provided under section 3310 of chapter 48 of title 22, United States Code, then the service performed for that Institute shall be considered service described in subparagraph (A), and

"(IV) if an individual performing service described in subparagraph (A) returns to the performance of such service after performing service as a member of a uniformed service (including, for purposes of this clause, service in the National Guard and temporary service in the Coast Guard Reserve) and after exercising restoration or reemployment rights as provided under chapter 43 of title 38, United States Code, then the service so performed as a member of a uniformed service shall be considered service described in subparagraph (A); or

38 USC 2021 *et seq.*

"(ii) is receiving an annuity from the Civil Service Retirement and Disability Fund, or benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed service);".

(2) Section 3121(b)(5) of such Code is further amended (in the matter which follows "except that this paragraph shall not apply with respect to—")—

26 USC 3121.

(A) by striking out "(i)", "(ii)", "(iii)", "(iv)", and "(v)" and inserting in lieu thereof "(C)", "(D)", "(E)", "(F)", and "(G)", respectively;

(B) by striking out "(I)", "(II)", and "(III)" and inserting in lieu thereof "(i)", "(ii)", and "(iii)", respectively; and

(C) by striking out subparagraph (G) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:

"(G) any other service in the legislative branch of the Federal Government if such service—

"(i) is performed by an individual who was not subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983, or

5 USC 8331.

"(ii) is performed by an individual who has, at any time after December 31, 1983, received a lump-sum payment under section 8342(a) of title 5, United States Code, or under the corresponding provision of the law establishing the other retirement system described in clause (i), or

"(iii) is performed by an individual after such individual has otherwise ceased to be subject to subchapter III

of chapter 83 of title 5, United States Code (without having an application pending for coverage under such subchapter), while performing service in the legislative branch (determined without regard to the provisions of subparagraph (B) relating to continuity of employment), for any period of time after December 31, 1983, and for purposes of this subparagraph (G) an individual is subject to such subchapter III or to any such other retirement system at any time only if (a) such individual's pay is subject to deductions, contributions, or similar payments (concurrent with the service being performed at that time) under section 8334(a) of such title 5 or the corresponding provision of the law establishing such other system, or (in a case to which section 8332(k)(1) of such title applies) such individual is making payments of amounts equivalent to such deductions, contributions, or similar payments while on leave without pay, or (b) such individual is receiving an annuity from the Civil Service Retirement and Disability Fund, or is receiving benefits (for service as an employee) under another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services);".

42 USC 410 note.
Ante, pp. 1123, 1125.
5 USC 8331.

(c) For purposes of section 210(a)(5)(G) of the Social Security Act and section 3121(b)(5)(G) of the Internal Revenue Code of 1954, an individual shall not be considered to be subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), if he is contributing a reduced amount by reason of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

97 Stat. 1106.
42 USC 410 note.

(d)(1) Any individual who—

(A) was subject to subchapter III of chapter 83 of title 5, United States Code, or to another retirement system established by a law of the United States for employees of the Federal Government (other than for members of the uniformed services), on December 31, 1983 (as determined for purposes of section 210(a)(5)(G) of the Social Security Act), and

Ante, p. 1123.

(B)(i) received a lump-sum payment under section 8342(a) of such title 5, or under the corresponding provision of the law establishing the other retirement system described in subparagraph (A), after December 31, 1983, and prior to June 15, 1984, or received such a payment on or after June 15, 1984, pursuant to an application which was filed in accordance with such section 8342(a) or the corresponding provision of the law establishing such other retirement system prior to that date, or

(ii) otherwise ceased to be subject to subchapter III of chapter 83 of title 5, United States Code, for a period after December 31, 1983, to which section 210(a)(5)(g)(iii) of the Social Security Act applies,

shall, if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or effectively applies for coverage under such subchapter) after the date on which he last ceased to be subject to such subchapter but prior to, or within 30 days after, the date of the enactment of this Act, requalify for the exemption from social security coverage and taxes under section 210(a)(5) of the Social

Security Act and section 3121(b)(5) of the Internal Revenue Code of 1954 as if the cessation of coverage under title 5 had not occurred. 42 USC 410. 26 USC 3121.

(2) An individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) who is not in the employ of the United States or an instrumentality thereof on the date of the enactment of this Act may requalify for such exemptions in the same manner as under paragraph (1) if such individual again becomes subject to subchapter III of chapter 83 of title 5 (or effectively applies for coverage under such subchapter) within 30 days after the date on which he first returns to service in the legislative branch after such date of enactment, if such date (on which he returns to service) is within 365 days after he was last in the employ of the United States or an instrumentality thereof. 5 USC 8331.

(3) If an individual meeting the requirements of subparagraphs (A) and (B) of paragraph (1) does not again become subject to subchapter III of chapter 83 of title 5 (or effectively apply for coverage under such subchapter) prior to the date of the enactment of this Act or within the relevant 30-day period as provided in paragraph (1) or (2), social security coverage and taxes by reason of section 210(a)(5)(G) of the Social Security Act and section 3121(b)(5)(G) of the Internal Revenue Code of 1954 shall, with respect to such individual's service in the legislative branch of the Federal Government, become effective with the first month beginning after such 30-day period. *Ante*, p. 1123. *Ante*, p. 1125.

(4) The provisions of paragraphs (1) and (2) shall apply only for purposes of reestablishing an exemption from social security coverage and taxes, and do not affect the amount of service to be credited to an individual for purposes of title 5, United States Code.

(e)(1) For purposes of section 210(a)(5) of the Social Security Act (as in effect in January 1983 and as in effect on and after January 1, 1984) and section 3121(b)(5) of the Internal Revenue Code of 1954 (as so in effect), service performed in the employ of a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1954 by an employee who is required by law to be subject to subchapter III of chapter 83 of title 5, United States Code, with respect to such service, shall be considered to be service performed in the employ of an instrumentality of the United States. 42 USC 410 note. 26 USC 501.

(2) For purposes of section 203 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983, service described in paragraph (1) which is also "employment" for purposes of title II of the Social Security Act, shall be considered to be "covered service". 97 Stat. 1107. 5 USC 8331 note. 42 USC 401.

(f) Except as provided in subsection (d), the amendments made by subsections (a) and (b) (and the provisions of subsection (e)) shall be effective with respect to service performed after December 31, 1983. Effective date. 42 USC 410 note.

PROCEDURES TO PREVENT OVERPAYMENTS DUE TO FAILURE TO REPORT EARNINGS

SEC. 2602. (a) Section 203(h) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 403.

"(4) The Secretary shall develop and implement procedures in accordance with this subsection to avoid paying more than the correct amount of benefits to any individual under this title as a result of such individual's failure to file a correct report or estimate of earnings or wages. Such procedures may include identifying categories of individuals who are likely to be paid more than the

correct amount of benefits and requesting that they estimate their earnings or wages more frequently than other persons subject to deductions under this section on account of earnings or wages.".

Effective date.
42 USC 403 note.

(b) The amendment made by subsection (a) shall be effective upon the date of the enactment of this Act.

SPECIAL SOCIAL SECURITY TREATMENT FOR CHURCH EMPLOYEES

42 USC 410.

SEC. 2603. (a)(1) Section 210(a)(8) of the Social Security Act is amended by inserting "(A)" after "(8)", by striking out "this paragraph" and inserting in lieu thereof "this subparagraph", and by adding at the end thereof the following new subparagraph:

"(B) Service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under section 3121(w) of the Internal Revenue Code of 1954, other than service in an unrelated trade or business (within the meaning of section 513(a) of such Code);".

Infra.

26 USC 3121.

(2) Section 3121(b)(8) of the Internal Revenue Code of 1954 is amended by inserting "(A)" after "(8)", by striking out "this paragraph" and inserting in lieu thereof "this subparagraph", and by adding at the end thereof the following new subparagraph:

"(B) service performed in the employ of a church or qualified church-controlled organization if such church or organization has in effect an election under subsection (w), other than service in an unrelated trade or business (within the meaning of section 513(a));".

(b) Section 3121 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(w) EXEMPTION OF CHURCHES AND QUALIFIED CHURCH-CONTROLLED ORGANIZATIONS.—

"(1) GENERAL RULE.—Any church or qualified church-controlled organization (as defined in paragraph (3)) may make an election within the time period described in paragraph (2), in accordance with such procedures as the Secretary determines to be appropriate, that services performed in the employ of such church or organization shall be excluded from employment for purposes of title II of the Social Security Act and chapter 21 of this Code. An election may be made under this subsection only if the church or qualified church-controlled organization states that such church or organization is opposed for religious reasons to the payment of the tax imposed under section 3111.

42 USC 401.
26 USC 3101 *et seq.*

"(2) TIMING AND DURATION OF ELECTION.—An election under this subsection must be made prior to the first date, more than 90 days after the date of the enactment of this subsection, on which a quarterly employment tax return for the tax imposed under section 3111 is due, or would be due but for the election, from such church or organization. An election under this subsection shall apply to current and future employees, and shall apply to service performed after December 31, 1983. The election may not be revoked by the church or organization, but shall be permanently revoked by the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of 2 years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the

period covered by the election. Such revocation shall apply retroactively to the beginning of the 2-year period for which the information was not furnished.

"(3) DEFINITIONS—

"(A) For purposes of this subsection, the term 'church' means a church, a convention or association of churches, or an elementary or secondary school which is controlled, operated, or principally supported by a church or by a convention or association of churches.

"(B) For purposes of this subsection, the term 'qualified church-controlled organization' means any church-controlled tax-exempt organization described in section 501(c)(3), other than an organization which—

"(i) offers goods, services, or facilities for sale, other than on an incidental basis, to the general public, other than goods, services, or facilities which are sold at a nominal charge which is substantially less than the cost of providing such goods, services, or facilities; and

"(ii) normally receives more than 25 percent of its support from either (I) governmental sources, or (II) receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in activities which are not unrelated trades or businesses, or both.".

(c)(1) Section 211(c)(2) of the Social Security Act is amended— 42 USC 411.

(A) by striking out "and" at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(G) service described in section 210(a)(8)(B);". *Ante*, p. 1128.

(2) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended— 26 USC 1402.

(A) by striking out "and" at the end of subparagraph (E);

(B) by striking out the semicolon at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(G) service described in section 3121(b)(8)(B);".

(d)(1) Section 211(a) of the Social Security Act is amended— 42 USC 411.

(A) by striking out "and" at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) With respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

"(A) no deduction for trade or business expenses provided under the Internal Revenue Code of 1954 (other than the deduction under paragraph (11) of this subsection) shall apply; 26 USC 1 *et seq.*

"(B) the provisions of subsection (b)(2) shall not apply; and

"(C) if the amount of such remuneration from an employer for the taxable year is less than $100, such remuneration from that employer shall not be included in self-employment income.".

26 USC 1402.

(2) Section 1402(a) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of paragraph (12);

(B) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and "; and

(C) by inserting after paragraph (13) the following new paragraph:

"(14) with respect to remuneration for services which are treated as services in a trade or business under subsection (c)(2)(G)—

"(A) no deduction for trade or business expenses provided under this Code (other than the deduction under paragraph (12)) shall apply;

"(B) the provisions of subsection (b)(2) shall not apply; and

"(C) if the amount of such remuneration from an employer for the taxable year is less than $100, such remuneration from that employer shall not be included in self-employment income.".

Effective date.
42 USC 410 note.

(e) The amendments made by this section shall apply to service performed after December 31, 1983.

26 USC 3121 note.

Ante, p. 1128.

(f) In any case where a church or qualified church-controlled organization makes an election under section 3121(w) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall refund (without interest) to such church or organization any taxes paid under sections 3101 and 3111 of such Code with respect to service performed after December 31, 1983, which is covered under such election. The refund shall be conditional upon the church or organization agreeing to pay to each employee (or former employee) the portion of the refund attributable to the tax imposed on such employee (or former employee) under section 3101, and such employee (or former employee) may not receive any other refund payment of such taxes.

Subtitle B—Improvements in SSI and AFDC Programs

PART 1—IMPROVEMENTS IN SSI PROGRAM

INCREASE IN DOLLAR LIMITATIONS UNDER ASSETS TEST

42 USC 1382.

SEC. 2611. (a) Section 1611(a)(1)(B) of the Social Security Act is amended—

(1) by striking out "$2,250" and inserting in lieu thereof "the applicable amount determined under paragraph (3)(A)"; and

(2) by striking out "$1,500" and inserting in lieu thereof "the applicable amount determined under paragraph (3)(B)".

(b) Section 1611(a)(2)(B) of such Act is amended by striking out "$2,250" and inserting in lieu thereof "the applicable amount determined under paragraph (3)(A)".

(c) Section 1611(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(3)(A) The dollar amount referred to in clause (i) of paragraph (1)(B), and in paragraph (2)(B), shall be $2,250 prior to January 1, 1985, and shall be increased to $2,400 on January 1, 1985, to $2,550 on January 1, 1986, to $2,700 on January 1, 1987, to $2,850 on January 1, 1988, and to $3,000 on January 1, 1989.

"(B) The dollar amount referred to in clause (ii) of paragraph (1)(B), shall be $1,500 prior to January 1, 1985, and shall be increased to $1,600 on January 1, 1985, to $1,700 on January 1, 1986, to $1,800 on January 1, 1987, to $1,900 on January 1, 1988, and to $2,000 on January 1, 1989.".

(d) Section 1621(b)(2)(B) of such Act is amended— 42 USC 1382j.

(1) by striking out "$1,500" and inserting in lieu thereof "the applicable amount determined under section 1611(a)(3)(B)"; and *Ante*, p. 1130.

(2) by striking out "$2,250" and inserting in lieu thereof "the applicable amount determined under section 1611(a)(3)(A)".

LIMITATION OF RECOUPMENT RATE IN CASE OF OVERPAYMENTS

SEC. 2612. (a) Section 1631(b)(1) of the Social Security Act is amended— 42 USC 1383.

(1) by inserting "(A)" after "The Secretary" in the second sentence; and

(2) by striking out the period at the end of the second sentence and inserting in lieu thereof the following: ", and (B) shall in any event make the adjustment or recovery (in the case of payment of more than the correct amount of benefits), in the case of an individual or eligible spouse receiving benefit payments under this title (including supplementary payments of the type described in section 1616(a) and payments pursuant to 42 USC 1382e. an agreement entered into under section 212(a) of Public Law 93-66), in amounts which in the aggregate do not exceed (for 87 Stat. 155. any month) the lesser of (i) the amount of his or their benefit under this title for that month or (ii) an amount equal to 10 percent of his or their income for that month (including such benefit but excluding any other income excluded pursuant to section 1612(b)), unless fraud, willful misrepresentation, or con- 42 USC 1382a. cealment of material information was involved on the part of the individual or spouse in connection with the overpayment, or unless the individual requests that such adjustment or recovery be made at a higher or lower rate and the Secretary determines that adjustment or recovery at such rate is justified and appropriate. The availability (in the case of an individual who has been paid more than the correct amount of benefits) of procedures for adjustment or recovery at a limited rate under clause (B) of the preceding sentence shall not, in and of itself, prevent or restrict the provision (in such case) of more substantial relief under clause (A) of such sentence.".

(b) If an adjustment referred to in section 1631(b)(1) of the Social Security Act is in effect with respect to an individual or eligible spouse on the effective date of this subsection, and the amount of such adjustment for a month is greater than the amount described in section 1631(b)(1)(B)(ii) of such Act, as added by subsection (a), the Secretary shall notify the individual whose benefits are being adjusted, in writing, of his or her right to have the adjustment reduced to the amount described in such section 1631(b)(1)(B)(ii). 42 USC 1383 note.

TREATMENT OF OVERPAYMENTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS IN CERTAIN CASES

SEC. 2613. Section 1631(b) of the Social Security Act is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) If any overpayment with respect to an individual (or an individual and his or her spouse) is attributable solely to the ownership or possession by such individual (and spouse if any) of resources having a value which exceeds the applicable dollar figure specified in paragraph (1)(B) or (2)(B) of section 1611(a) by $50 or less, such individual (and spouse if any) shall be deemed for purposes of the second sentence of paragraph (1) to have been without fault in connection with the overpayment, and no adjustment or recovery shall be made under the first sentence of such paragraph, unless the Secretary finds that the failure of such individual (and spouse if any) to report such value correctly and in a timely manner was knowing and willful.".

42 USC 1682.

EXCLUSION OF UNDERPAYMENTS FROM RESOURCES

42 USC 1682b.

SEC. 2614. Section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) any amount received from the United States which is attributable to underpayments of benefits due for one or more prior months, under this title or title II, to such individual (or spouse) or to any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title; but the application of this paragraph in the case of any such individual (and eligible spouse if any), with respect to any amount so received from the United States, shall be limited to the first 6 months following the month in which such amount is received, and written notice of this limitation shall be given to the recipient concurrently with the payment of such amount.".

42 USC 401.

ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

42 USC 1320a-6.

SEC. 2615. (a) Section 1127 of the Social Security Act is amended to read as follows:

"ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

"SEC. 1127. (a) Notwithstanding any other provision of this Act, in any case where an individual—

"(1) is entitled to benefits under title II that were not paid in the months in which they were regularly due; and

"(2) is an individual or eligible spouse eligible for supplemental security income benefits for one or more months in which the benefits referred to in clause (1) were regularly due,

then any benefits under title II that were regularly due in such month or months, or supplemental security income benefits for such month or months, which are due but have not been paid to such individual or eligible spouse shall be reduced by an amount equal to

42 USC 401.

so much of the supplemental security income benefits, whether or not paid retroactively, as would not have been paid or would not be paid with respect to such individual or spouse if he had received such benefits under title II in the month or months in which they were regularly due. 42 USC 401.

"(b) For purposes of this section, the term 'supplemental security income benefits' means benefits paid or payable by the Secretary under title XVI, including State supplementary payments under an agreement pursuant to section 1616(a) or an administration agreement under section 212(b) of Public Law 93-66. 42 USC 1381. 42 USC 1382e. 87 Stat. 155.

"(c) From the amount of the reduction made under subsection (a), the Secretary shall reimburse the State on behalf of which supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the month or months involved exceeded the expenditures which the State would have made (for such month or months) if the individual had received the benefits under title II at the times they were regularly due. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

(b) The amendment made by this section shall apply for purposes of reducing retroactive benefits under title II of the Social Security Act or retroactive supplemental security income benefits payable beginning with the seventh month following the month in which this Act is enacted; except that in the case of retroactive title II benefits other than those which result from a determination of entitlement following an application for benefits under title II or from a reinstatement of benefits under title II following a period of suspension or termination of such benefits, it shall apply when the Secretary of Health and Human Services determines that it is administratively feasible. Effective date. 42 USC 1320a-6 note.

EXCLUSION FROM INCOME OF CERTAIN ALASKA BONUS PAYMENTS

SEC. 2616. (a) Section 1612(b)(2)(B) of the Social Security Act is amended to read as follows: 42 USC 1382a.

"(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973 (or any program established prior to such date but subsequently amended so as to conform to State or Federal constitutional standards), if (i) such payments are made by the State of which the individual receiving such payments is a resident, (ii) eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 or any other age set by the State and residency in such State by such individual, and (iii) on or before September 30, 1985, such individual (I) first becomes an eligible individual or an eligible spouse under this title, and (II) satisfies the twenty-five-year residency requirement of such program as such program was in effect prior to January 1, 1983.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act. Effective date. 42 USC 1382a note.

PART 2—IMPROVEMENTS IN AFDC PROGRAM

GROSS INCOME LIMITATION

42 USC 602.

SEC. 2621. Section 402(a)(18) of the Social Security Act is amended by striking out "150 percent of the State's standard of need" and inserting in lieu thereof "185 percent of the State's standard of need".

WORK EXPENSE DEDUCTION

SEC. 2622. Section 402(a)(8)(A)(ii) of the Social Security Act is amended by striking out all that follows "the first $75 of the total of such earned income for such month" and inserting in lieu thereof a semicolon.

CONTINUATION OF $30 DISREGARD FROM EARNED INCOME

SEC. 2623. (a) Section 402(a)(8)(A)(iv) of the Social Security Act is amended by inserting "(I)" after "equal to", and by inserting "(II)" after "plus".

(b) Section 402(a)(8)(B)(ii)(I) of such Act is amended—

(1) by striking out all that precedes "specified in subparagraph (A)(ii)" and inserting in lieu thereof the following:

"(I) shall not disregard—

"(a) under subclause (II) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for four consecutive months while they were receiving aid under the plan, or

"(b) under subclause (I) of subparagraph (A)(iv), in a case where such subclause has already been applied to the income of the persons involved for twelve consecutive months while they were receiving aid under the plan,

any earned income of any of the persons"; and

(2) by striking out "and subparagraph (A)(iv) has not already been applied to their income for four consecutive months while they were receiving aid under the plan".

(c) Section 402(a)(8)(B)(ii)(II) of such Act is amended by striking out "shall not apply" where it first appears and all that follows down through "any month thereafter" and inserting in lieu thereof the following: "shall not apply the provisions of subclause (II) of such subparagraph to any month after such month, or apply the provisions of subclause (I) of such subparagraph to any month after the eighth month following such month, for so long as he continues to receive aid under the plan, and shall not apply the provisions of either such subclause to any month thereafter".

WORK TRANSITION IN THE CASE OF CERTAIN FAMILIES WHO LOSE AFDC BENEFITS BECAUSE OF EARNED INCOME

SEC. 2624. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (35);

(2) by striking out the period at the end of paragraph (36) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (36) the following new paragraph:

"(37) provide that, in any case where a family has ceased to receive aid under the plan because (by reason of paragraph (8)(B)(ii)(II)) the provisions of paragraph (8)(A)(iv) no longer apply, such family shall be considered for purposes of title XIX to be receiving aid to families with dependent children under such plan for a period of 9 months after the last month for which the family actually received such aid; and the State may at its option extend such period by an additional period of up to 6 months in the case of a family that would be eligible during such additional period to receive aid under the plan (without regard to this paragraph) if such paragraph (8)(A)(iv) applied.". 42 USC 1396.

(b)(1) The amendments made by this section shall apply with respect to months beginning on or after October 1, 1984. Effective date. 42 USC 602 note.

(2) Such amendments shall apply with respect to families which ceased to receive aid under the applicable State plan (for the reason stated in section 402(a)(37) of the Social Security Act as added by subsection (a) of this section) before October 1, 1984, as well as with respect to families which cease to receive aid (for that reason) on or after that date; but any family which ceased to receive such aid before that date, in order to be eligible to be treated as receiving aid under the plan for any period after ceasing to receive such aid (as provided for in such section 402(a)(37))— *Supra.*

(A) must make its application for such treatment no later than the end of the sixth month after the month in which final regulations governing the application of such section 402(a)(37) are promulgated by the Secretary of Health and Human Services (and in the case of any such family the term "last month for which the family actually received such aid" as used in such section 402(a)(37) means the month before the month in which the family makes such application);

(B) must be a family that would have been continuously eligible for aid under the State plan (without regard to the amendments made by this section), from the time it ceased to receive such aid to the time of its application under subparagraph (A), if section 402(a)(8)(A)(iv) of such Act applied; and

(C) must fully disclose, in its application under subparagraph (A), any health insurance coverage which its members may have in effect.

CLARIFICATION OF EARNED INCOME PROVISION

SEC. 2625. (a) Section 402(a)(8) of the Social Security Act is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph: 42 USC 602.

"(C) provide that in implementing this paragraph the term 'earned income' shall mean gross earned income, prior to any deductions for taxes or for any other purposes;".

(b) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act. Effective date. 42 USC 602 note.

EXCLUSION OF BURIAL PLOTS, FUNERAL AGREEMENTS, AND CERTAIN PROPERTY FROM LIMITATION ON FAMILY RESOURCES

42 USC 602.

SEC. 2626. Section 402(a)(7)(B) of the Social Security Act is amended by inserting "(i)" after "for purposes of this subparagraph", and by inserting before the semicolon at the end thereof the following: ", (ii) under regulations prescribed by the Secretary, burial plots (one for each such child, relative, and other individual), and funeral agreements or (iii) for such period or periods of time as the Secretary may prescribe, real property which the family is making a good-faith effort to dispose of, but any aid payable to the family for any such period shall be conditioned upon such disposal, and any payments of such aid for that period shall (at the time of the disposal) be considered overpayments to the extent that they would not have been made had the disposal occurred at the beginning of the period for which the payments of such aid were made".

FEDERAL MATCHING FOR EXPENSES INCURRED BY STATES IN REIMBURSING AFDC RECIPIENTS FOR TRANSPORTATION AND DAY CARE COSTS ATTRIBUTABLE TO PARTICIPATION IN CWEP

42 USC 609.

SEC. 2627. Section 409(a)(1)(F) of the Social Security Act is amended—

(1) by inserting "(i) except as provided in clause (ii)" after "that"; and

(2) by inserting before the period at the end thereof the following: ", and (ii) to the extent that the State is unable to provide for the costs involved through the furnishing of services directly to the individuals participating in the program, participants who are recipients of aid under the State's plan approved under section 402 will instead be reimbursed for transportation costs directly related to their participation in the program (in amounts equal to the cost of transportation by the most appropriate means as determined by the State agency), and for day care expenses directly attributable to such participation (in amounts determined by the State agency to be reasonable, necessary, and cost-effective but not in excess of the comparable maximum day care deduction allowed under section 402(a)(8)(A)(iii) for recipients of aid under the plan generally); and amounts paid as reimbursement to participants under clause (i) or (ii) shall be considered, for purposes of section 403(a), to be expenditures made for the proper and efficient administration of the State's plan approved under section 402".

42 USC 602.

42 USC 603.

MONTHLY REPORTING AND RETROSPECTIVE BUDGETING

42 USC 602.

SEC. 2628. (a) Section 402(a)(13) of the Social Security Act is amended—

(1) by striking out "provide that—" and inserting in lieu thereof "with respect to families who are required to report monthly to the State agency pursuant to paragraph (14) (and at the option of the State with respect to other families), provide that—"; and

(2) by striking out "but only where the Secretary determines it to be appropriate" in subparagraphs (A) and (B) and inserting in lieu thereof "(but only where the Secretary determines it to be appropriate, in the case of families who are required to

report monthly to the State agency pursuant to paragraph (14))".

(b) Section 402(a)(14) of such Act is amended— 42 USC 602.

(1) by striking out "(A) provide that" and inserting in lieu thereof "with respect to families in the category of recent work history or earned income cases (and at the option of the State with respect to families in other categories), provide (A) that";

(2) by striking out "with the prior approval of the Secretary" and inserting in lieu thereof "(with the prior approval of the Secretary in recent work history and earned income cases)"; and

(3) by striking out "upon the State's showing to the satisfaction of the Secretary that" and inserting in lieu thereof "upon a determination that".

(c) Section 402(a) of such Act is further amended by adding at the end thereof (after and below paragraph (37), as added by section 2624(a) of this Act) the following new sentence: "The Secretary may waive any of the requirements imposed under or in connection with paragraphs (13) and (14) of this subsection to the extent necessary to make such requirements compatible with the corresponding reporting and budgeting requirements by the Food Stamp Act of 1977.". 7 USC 2011.

TREATMENT OF EARNED INCOME TAX CREDIT IN DETERMINING COUNTABLE INCOME

SEC. 2629. Section 402(d)(1) of the Social Security Act is amended to read as follows:

"(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1954 (relating to earned income credit) *Ante*, p. 826. and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be 26 USC 3507. considered earned income.".

FEDERALLY ASSISTED PILOT PROJECTS TO DEMONSTRATE ONE-STOP SERVICE DELIVERY SYSTEMS

SEC. 2630. Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"PILOT PROJECTS TO DEMONSTRATE THE USE OF INTEGRATED SERVICE DELIVERY SYSTEMS FOR HUMAN SERVICES PROGRAMS

"SEC. 1136. (a) In order to develop and demonstrate ways of 42 USC 1320b-6. improving the delivery of services to individuals and families who need them under the various human services programs, by eliminating programmatic fragmentation and thereby assuring that an applicant for services under any one such program will be informed of and have access to all of the services which may be available to him or his family under the other human services programs being carried out in the community involved, any State having an approved plan under part A of title IV may, subject to the provisions of 42 USC 601. this section, establish and conduct one or more pilot projects to demonstrate the use of integrated service delivery systems for human services programs in that State or in one or more political subdivisions thereof.

"(b) The integration of service delivery systems for human services programs in any State or locality under a pilot project established under this section shall involve or include—

"(1) the development of a common set of terms for use in all of the human services programs involved;

"(2) the development for each applicant of a single comprehensive family profile which is suitable for use under all of the human services programs involved;

"(3) the establishment and maintenance of a single resources directory by which the citizens of the community involved may be informed of and gain access to the services which are available under all such programs;

"(4) the development of a unified budget and budgeting process, and a unified accounting system, with standardized audit procedures;

"(5) the implementation of unified planning, needs assessment, and evaluation;

"(6) the consolidation of agency locations and related transportation services;

"(7) the standardization of procedures for purchasing services from nongovermental sources;

"(8) the creation of communications linkages among agencies to permit the serving of individual and family needs across program and agency lines;

"(9) the development, to the maximum extent possible, of uniform application and eligibility determination procedures; and

"(10) any other methods, arrangements, and procedures which the Secretary determines are necessary or desirable for, and consistent with, the establishment and operation of an integrated service delivery system.

"(c)(1) Any State which desires to establish and conduct a pilot project under this section, after having published a description of the proposed project and invited comments thereon from interested persons in the community or communities which would be affected, shall submit an application to the Secretary (in such form and containing such information as the Secretary may require) within 6 months after the date of the enactment of this section. The proposed project may be statewide in operation or may be limited to one or more political subdivisions of the State; and the application shall in any event include or be accompanied by satisfactory assurances that the project as proposed would be permitted under applicable State and local law.

"(2) The Secretary shall consider all applications and accompanying comments and materials which are submitted under paragraph (1), and, no later than 9 months after the date of the enactment of this section, shall approve no fewer than 3 nor more than 5 of the proposed projects (including one such project to be operated on a statewide basis). In considering and approving such applications the Secretary shall take into account the size and characteristics of the population that would be served by each proposed project, the desirability of wide geographic distribution among the projects, the number and nature of the human services programs which are in active operation in the various communities involved, and such other factors as may tend to indicate whether or not a particular proposed project would provide a useful and effective demonstration of the value of an integrated service delivery system. Each project

approved under this paragraph shall be deemed for purposes of this section to begin on the first day of the month following the month in which the application with respect to such project is approved.

"(3) The Secretary shall approve any application for a project under this section only after determining that the conduct of such project will not lower or restrict the levels of aid, assistance, benefits, or services, or the income or resource standards, deductions, or exclusions, under any of the human services programs involved, and will not delay the provision of aid, assistance, benefits, or services under any of such programs.

"(d)(1) Any State whose application is approved under subsection (c) may submit to the Secretary a request for the waiver of any requirement which would otherwise apply with respect to the proposed project under any of the laws governing the human services programs to be included in the project; and—

"(A) if the law involved is within the jurisdiction of the Secretary and authority to grant the waiver involved is otherwise available to the Secretary under this title, title IV, or any other provision of law, the Secretary shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system; and

42 USC 601.

"(B) if the law involved is within the jurisdiction of a Federal agency other than the Department of Health and Human Services and authority to grant the waiver involved is available to the head of such other agency under that law or any other provision of law, the Secretary shall transmit such request (on behalf of the requesting State) to the head of such other agency, who shall approve such request upon a determination that the waiver is necessary for the project to provide a useful and effective demonstration of the value of an integrated service delivery system and who shall certify such approval to the Secretary.

"(2) If under the law governing any of the human services programs included within a project there are provisions establishing safeguards which limit or restrict the use or disclosure of information (concerning applicants for or recipients of benefits or services) which has been obtained or developed by the agency involved in the conduct of that program, and a waiver of such provisions is granted under paragraph (1) in order to make such information available for purposes of the project—

Public information.

"(A) the State shall provide each applicant for and recipient of aid, assistance, benefits, or services under the proposed integrated service delivery system with a clear and readily comprehensible notice that such information may be disclosed to and used by project personnel, or exchanged with the other agencies having responsibility for human services programs included within the project;

"(B) the State shall take such steps as may be necessary to ensure that the information disclosed will be used only for purposes of, and by persons directly connected with, such project; and

"(C) the State's application with respect to the project under subsection (c) shall contain or be accompanied by satisfactory assurances that the preceding requirements of this paragraph will be fully complied with.

"(e) The Secretary shall from time to time pay to each State which has an approved pilot project under this section, in such manner and according to such schedule as may be agreed upon by the Secretary and such State, amounts equal in the aggregate to—

"(1) 90 percent of the costs incurred by such State and its political subdivisions in carrying out such project during the first 18 months after the date on which the project begins,

"(2) 80 percent of any such costs incurred during the 12-month period beginning with the nineteenth month after such date, and

"(3) 70 percent of any such costs incurred during the 12-month period beginning with the thirty-first month after such date.

"(f)(1) For purposes of this section, the term 'human services program' includes the program of aid to families with dependent children under part A of title IV, the supplemental security income benefits program under title XVI, the Federal food stamp program, and any other Federal or federally assisted program (other than a program under the Rehabilitation Act of 1973) which provides aid, assistance, or benefits based wholly or partly on need or on income-related qualifications to specified classes or types of individuals or families or which is designed to help in crisis or emergency situations by meeting the basic human needs of individuals or families whose own resources are insufficient for that purpose.

42 USC 601.
42 USC 1381.
29 USC 701 note.

"(2) In carrying out this section the Secretary shall regularly consult with the Secretary of Labor, the Secretary of Agriculture, the Secretary of Housing and Urban Development, and the head of any other Federal agency having jurisdiction over or responsibility for one or more human services programs, in order to ensure that the administrative efforts of the various agencies involved are coordinated with respect to all of the pilot projects being carried out under this section.

Reports.

"(g) The Secretary shall require each State which is carrying out a pilot project under this section to submit periodic reports on the progress of such project, giving particular attention to the cost-effectiveness of the integrated service delivery system involved and the extent to which such system is improving the delivery of services. No pilot project under this section shall be conducted for a period of longer than 42 months. The first such report shall be submitted no later than 3 months after the date on which the project begins.

Report.

"(h) The Secretary shall from time to time submit to the Congress a report on the progress and current status of each of the approved pilot projects under this section. Each such report shall reflect the periodic reports theretofore submitted to the Secretary by the States involved under subsection (g), and shall contain such additional comments, findings, and recommendations with respect to the operation of the program under this section as the Secretary may determine to be appropriate.

"(i) The Comptroller General shall, at such time or times as he determines to be appropriate, review and evaluate any or all of the pilot projects undertaken pursuant to this section, and shall from time to time report to the Congress on the results of such reviews and evaluations together with his findings and recommendations with respect thereto.

Appropriation authorization.

"(j) There are authorized to be appropriated, for the four-fiscal-year period beginning with the fiscal year 1985, such sums, not to

exceed $8,000,000 in the aggregate, as may be necessary to carry out this section.".

EXEMPTION OF CERTAIN PREGNANT WOMEN FROM REGISTRATION FOR WORK OR TRAINING

SEC. 2631. Section 402(a)(19)(A) of the Social Security Act is amended— 42 USC 602.

(1) by striking out "or" at the end of clause (vii);

(2) by adding "or" after the semicolon at the end of clause (viii); and

(3) by inserting immediately after clause (viii) the following new clause:

"(ix) a woman who is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the 3-month period immediately following such month;".

TREATMENT OF NONRECURRING LUMP SUM INCOME

SEC. 2632. (a) Section 402(a)(17) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (B)) the following:

"except that the State may at its option recalculate the period of ineligibility otherwise determined under subparagraph (A) (but only with respect to the remaining months in such period) in any one or more of the following cases: (i) an event occurs which, had the family been receiving aid under the State plan for the month of the occurrence, would result in a change in the amount of aid payable for such month under the plan, or (ii) the income received has become unavailable to the members of the family for reasons that were beyond the control of such members, or (iii) the family incurs, becomes responsible for, and pays medical expenses (as allowed by the State) in a month of ineligibility determined under subparagraph (A) (which expenses may be considered as an offset against the amount of income received in the first month of such ineligibility);".

(b) Section 402(a)(17) of such Act is further amended—

(1) by striking out "a person specified in paragraph (8)(A) (i) or (ii)" in the matter preceding subparagraph (A) and inserting in lieu thereof "a child or relative applying for or receiving aid to families with dependent children, or any other person whose need the State considers when determining the income of a family,"; and

(2) effective on the date of the enactment of this Act, by striking out "an amount of income" in the matter preceding subparagraph (A) and inserting in lieu thereof "an amount of earned or unearned income".

WAIVER OF OVERPAYMENT RECOUPMENT WHEN COST OF COLLECTION WOULD EXCEED AMOUNT DUE

SEC. 2633. (a) Section 402(a)(22) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (C)) the following:

"except that no recovery need be attempted or carried out under subparagraph (B) in any case, other than a case involving fraud on the part of the recipient, where (as determined by the State agency in accordance with criteria for determining cost-effectiveness, and with dollar limitations, which shall be prescribed by the Secretary in regulations) the cost of recovery would equal or exceed the amount of the overpayment involved;".

42 USC 602.

(b) Section 402(a)(22)(A) of such Act is amended by inserting after "current recipient of such aid" the following: "(including a current recipient whose overpayment occurred during a prior period of eligibility)".

EXCEPTIONS TO REQUIREMENTS FOR PROTECTIVE PAYMENTS

SEC. 2634. (a) Section 402(a)(19)(F)(i) of the Social Security Act is amended by striking out "will be made" and inserting in lieu thereof "will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made".

(b) Section 402(a)(26)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: "unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made".

ELIGIBILITY REQUIREMENTS FOR ALIENS

42 USC 615.

SEC. 2635. Section 415(c)(1) of the Social Security Act is amended by striking out "Any individual" and all that follows down through "be required to provide" where it first appears and inserting in lieu thereof the following: "Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for aid under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for aid under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide".

PROVISION BY STATE AGENCIES OF INFORMATION REGARDING FUGITIVE FELONS

42 USC 602.

SEC. 2636. Section 402(a)(9) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: "; but such safeguards shall not prevent the State agency or the local agency responsible for the administration of the State plan in the locality (whether or not the State has enacted legislation allowing public access to Federal welfare records) from furnishing a State or local law enforcement officer, upon his request, with the current address of any recipient if the officer furnishes the agency with such recipient's name and social security account number and satisfactorily demonstrates that such recipient is a fugitive felon, that the

location or apprehension of such felon is within the officer's official duties, and that the request is made in the proper exercise of those duties".

PAYMENT SCHEDULE FOR REIMBURSEMENT OF CERTAIN BACK CLAIMS DUE THE STATES

SEC. 2637. The payment schedule contemplated by section 136 of Public Law 97-276 for reimbursement of expenditures described in that section is hereby established as follows: 96 Stat. 1197.

(1) For expenditures identified in the decree entered by the United States District Court for the District of Columbia on July 21, 1983, in the case of State of Connecticut v. Heckler, No. 81-2237, and allowed by the Secretary of Health and Human Services prior to the date of the enactment of this Act, payment shall be made, by supplemental grant award or otherwise, within 30 days after the date of the enactment of this Act; and

(2) for any other expenditure described in such section 136 which was identified in such decree or in any other decree entered by a Federal court in a suit (with respect to such an expenditure) filed prior to September 30, 1982, payment shall be made, by supplemental grant award or otherwise, as soon as the expenditure or portion thereof involved is finally determined by the Secretary to be an allowable claim under the substantive provisions of the applicable title of the Social Security Act. 42 USC 1305.

MODIFICATION OF REQUIREMENTS FOR WORK SUPPLEMENTATION PROGRAM

SEC. 2638. (a)(1) Section 414(b)(6) of the Social Security Act is amended— 42 USC 614.

(A) by inserting "(A)" before "may"; and

(B) by inserting ", and (B) during one or more of the first nine months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of section 402(a)(8)(A)(iv) without regard to the provisions of (B)(ii)(II) of such section" before the period. 42 USC 602.

(2) Section 414(c)(3) of such Act is amended—

(A) by inserting "or" after the semicolon in subparagraph (A);

(B) by striking out "a public or nonprofit entity" in subparagraph (B) and inserting in lieu thereof "any other employer";

(C) by striking out "; or" in subparagraph (B) and inserting in lieu thereof a period; and

(D) by striking out subparagraph (C).

(3) Section 414(d) of such Act is amended—

(A) by striking out "for any quarter for expenditures incurred in operating" and inserting in lieu thereof "for expenditures incurred in making payments to individuals and employers under"; and

(B) by striking out all after "equal to the" and inserting in lieu thereof "amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this section had received the maximum amount of aid payable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for a period of months equal to the lesser of (1) nine months, or (2) the number

of months in which such individual was employed in such program.".

42 USC 614. (4) Section 414(h) of such Act is amended by inserting "(except during any period in which such individual is employed under such work supplementation program)" before the period.

26 USC 51. (b) Section 51(c)(2) of the Internal Revenue Code of 1954 is amended to read as follows:

"(2) ON-THE-JOB TRAINING AND WORK SUPPLEMENTATION PAYMENTS.—

"(A) EXCLUSION FOR EMPLOYERS RECEIVING ON-THE-JOB TRAINING PAYMENTS.—The term 'wages' shall not include any amounts paid or incurred by an employer for any period to any individual for whom the employer receives federally funded payments for on-the-job training of such individual for such period.

"(B) REDUCTION FOR WORK SUPPLEMENTATION PAYMENTS TO EMPLOYERS.—The amount of wages which would (but for this subparagraph) be qualified wages under this section for an employer with respect to an individual for a taxable year shall be reduced by an amount equal to the amount of the payments made to such employer (however utilized by such employer) with respect to such individual for such taxable year under a program established under section 414 of the Social Security Act.".

42 USC 614.

Effective date. 42 USC 614 note. (c)(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act.

26 USC 51 note. (2) The amendments made by subsection (b) shall apply with respect to payments made on or after the date of the enactment of this Act.

3-YEAR EXTENSION OF PROVISIONS FOR DISREGARDING IN-KIND ASSISTANCE

42 USC 602. SEC. 2639. (a) Section 402(a)(36) of the Social Security Act is amended to read as follows:

"(36) provide, at the option of the State, that in making the determination for any month under paragraph (7), the State agency shall not include as income any support or maintenance assistance furnished to or on behalf of the family which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support and maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.".

42 USC 1382a. (b) Section 1612(b)(13) of such Act is amended to read as follows:

"(13) any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance

furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.".

(c)(1) Section 545 of the Surface Transportation Assistance Act of 1982 is amended by striking out subsections (a), (b), and (c). 42 USC 1382a, 602, 602 note.

(2) Section 404 of the Social Security Amendments of 1983 is repealed. 42 USC 1382a, 602, 602 note.

(d) The amendments made by this section shall be effective with respect to months which begin after September 30, 1984; but sections 402(a)(36) and 1612(b)(13) of the Social Security Act (as amended by subsections (a) and (b) of this section) shall be effective only with respect to months which end before October 1, 1987. Effective date. 42 USC 602 note.

PARENTS AND SIBLINGS OF DEPENDENT CHILD INCLUDED IN AFDC FAMILY; CHILD SUPPORT PAYMENTS

SEC. 2640. (a) Section 402(a) of the Social Security Act (as amended by section 2624 of this Act) is further amended— 42 USC 602.

(1) by striking out "and" at the end of paragraph (36);

(2) by striking out the period at the end of paragraph (37) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (37) the following new paragraphs:

"(38) provide that in making the determination under paragraph (7) with respect to a dependent child and applying paragraph (8), the State agency shall (except as otherwise provided in this part) include—

"(A) any parent of such child, and

"(B) any brother or sister of such child, if such brother or sister meets the conditions described in clauses (1) and (2) of section 406(a), if such parent, brother, or sister is living in the same home as the dependent child, and any income of or available for such parent, brother, or sister shall be included in making such determination and applying such paragraph with respect to the family (notwithstanding section 205(j), in the case of benefits provided under title II); and 42 USC 606. 42 USC 405.

"(39) provide that in making the determination under paragraph (7) with respect to a dependent child whose parent or legal guardian is under the age selected by the State pursuant to section 406(a)(2), the State agency shall (except as otherwise provided in this part) include any income of such minor's own parents or legal guardians who are living in the same home as such minor and dependent child, to the same extent that income of a stepparent is included under paragraph (31).".

(b)(1) Section 457(b) of such Act is amended by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively, and by inserting immediately before the paragraph redesignated as paragraph (2) the following new paragraph: 42 USC 657.

"(1) the first $50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;".

42 USC 657.

(2) Section 457(b) of such Act, as amended by paragraph (1) of this subsection, is further amended—

(A) by inserting "which are in excess of any amount paid to the family under paragraph (1) and" after "periodically" in paragraph (2);

(B) by striking out "paragraph (1)" in paragraph (3) and inserting in lieu thereof "paragraph (2)"; and

(C) by striking out "paragraphs (1) and (2)" in paragraph (4) and inserting in lieu thereof "paragraphs (1), (2), and (3)".

42 USC 602.

(c) Section 402(a)(8)(A) of such Act is amended by striking out "and" after the semicolon at the end of clause (iv), and by adding after clause (v) the following new clause:

"(vi) shall disregard the first $50 of any child support payments received in such month with respect to the dependent child or children in any family applying for or receiving aid to families with dependent children (including support payments collected and paid to the family under section 457(b)); and".

CWEP WORK FOR FEDERAL AGENCIES

42 USC 609.

SEC. 2641. (a) Section 409(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) Participants in community work experience programs under this section may, subject to subparagraph (B), perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(B) The State agency shall provide appropriate workers' compensation and tort claims protection to each participant performing work for a Federal office or agency pursuant to subparagraph (A) on the same basis as such compensation and protection are provided to other participants in community work experience programs in the State.".

Effective date.
42 USC 609 note.

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

EARNED INCOME OF FULL-TIME STUDENTS

42 USC 602.

SEC. 2642. (a) Section 402(a)(18) of the Social Security Act is amended by inserting before the semicolon at the end thereof the following: ", except that in determining the total income of the family the State may exclude any earned income of a dependent child who is a full-time student, in such amounts and for such period of time (not to exceed 6 months) as the State may determine".

(b) Section 402(a)(8)(A) of such Act (as amended by section 2640(c) of this Act) is further amended by striking out "and" after the semicolon at the end of clause (v), and by adding after clause (vi) the following new clause:

"(vii) may disregard all or any part of the earned income of a dependent child who is a full-time student and who is applying for aid to families with dependent children, but only if the earned income of such child is excluded for such

month in determining the family's total income under paragraph (18); and".

(c) The amendments made by this section shall become effective June 1, 1984. Effective date. 42 USC 602 note.

PART 3—GENERAL EFFECTIVE DATE

GENERAL EFFECTIVE DATE

SEC. 2646. Except as otherwise specifically provided in this subtitle, the provisions of parts 1 and 2 and the amendments made thereby shall take effect on October 1, 1984. 42 USC 602 note.

Subtitle C—Implementation of Grace Commission Recommendations

INCOME AND ELIGIBILITY VERIFICATION PROCEDURES

SEC. 2651. (a) Part A of title XI of the Social Security Act (as amended by section 2630 of this Act) is further amended by adding at the end thereof the following new section:

"INCOME AND ELIGIBILITY VERIFICATION SYSTEM

"SEC. 1137. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system under which— 42 USC 1320b-7.

"(1) the State shall require, as a condition of eligibility for benefits under any program listed in subsection (b), that each applicant for or recipient of benefits under that program furnish to the State his social security account number (or numbers, if he has more than one such number), and the State shall utilize such account numbers in the administration of that program so as to enable the association of the records pertaining to the applicant or recipient with his account number;

"(2) wage information from agencies administering State unemployment compensation laws available pursuant to section 3304(a)(16) of the Internal Revenue Code of 1954, wage information reported pursuant to paragraph (3) of this subsection, and wage, income, and other information from the Social Security Administration and the Internal Revenue Service available pursuant to section 6103(l)(7) of such Code, shall be requested and utilized to the extent that such information may be useful in verifying eligibility for, and the amount of, benefits available under any program listed in subsection (b), as determined by the Secretary of Health and Human Services (or, in the case of the unemployment compensation program, by the Secretary of Labor, or, in the case of the food stamp program, by the Secretary of Agriculture); 26 USC 3304. *Ante*, p. 820. *Post*, p. 1150.

"(3) employers in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) except that the Secretary of Labor (in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture) may waive the provisions of this paragraph if he determines that the State has in effect an

alternative system which is as effective and timely for purposes of providing employment related income and eligibility data for the purposes described in paragraph (2);

"(4) the State agencies administering the programs listed in subsection (b) adhere to standardized formats and procedures established by the Secretary of Health and Human Services (in consultation with the Secretary of Agriculture) under which—

"(A) the agencies will exchange with each other information in their possession which may be of use in establishing or verifying eligibility or benefit amounts under any other such program;

"(B) such information shall be made available to assist in the child support program under part D of title IV of this Act, and to assist the Secretary of Health and Human Services in establishing or verifying eligibility or benefit amounts under titles II and XVI of this Act, but subject to the safeguards and restrictions established by the Secretary of the Treasury with respect to information released pursuant to section 6103(l) of the Internal Revenue Code of 1954; and

42 USC 651.

42 USC 401, 1381.

26 USC 6103.

"(C) the use of such information shall be targeted to those uses which are most likely to be productive in identifying and preventing ineligibility and incorrect payments;

"(5) adequate safeguards are in effect so as to assure that—

"(A) the information exchanged by the State agencies is made available only to the extent necessary to assist in the valid administrative needs of the program receiving such information, and the information released pursuant to section 6103(l) of the Internal Revenue Code of 1954 is only exchanged with agencies authorized to receive such information under such section 6103(l); and

"(B) the information is adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Secretary of Health and Human Services, or, in the case of the unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture, or in the case of information released pursuant to section 6103(l) of the Internal Revenue Code of 1954, the Secretary of the Treasury;

"(6) all applicants for and recipients of benefits under any such program shall be notified at the time of application, and periodically thereafter, that information available through the system will be requested and utilized; and

"(7) accounting systems are utilized which assure that programs providing data receive appropriate reimbursement from the programs utilizing the data for the costs incurred in providing the data.

"(b) The programs which must participate in the income verification system are—

"(1) the aid to families with dependent children program under part A of title IV of this Act;

42 USC 601.

"(2) the medicaid program under title XIX of this Act;

42 USC 1396.

"(3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954;

26 USC 3304.

"(4) the food stamp program under the Food Stamp Act of 1977; and

7 USC 2011.

"(5) any State program under a plan approved under title I, X, XIV, or XVI of this Act. 42 USC 301, 1201, 1351, 1381.

"(c)(1) In order to protect applicants for and recipients of benefits under the programs identified in subsection (b), or under the supplemental security income program under title XVI, from the improper use of information obtained from the Secretary of the Treasury under section 6103(l)(7)(B) of the Internal Revenue Code of 1954, no Federal, State, or local agency receiving such information may terminate, deny, suspend, or reduce any benefits of an individual until such agency has taken appropriate steps to independently verify information relating to— *Post*, p. 1150.

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has (or had) access to such asset or income for his own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(2) Such individual shall be informed by the agency of the findings made by the agency on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.".

(b)(1) Section 402(a)(25) of the Social Security Act is amended to read as follows: 42 USC 602.

"(25) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act;". *Ante*, p. 1147.

(2) Section 402(a)(29) of such Act is repealed. 42 USC 602.

(3) Section 411 of such Act is repealed. 42 USC 611.

(c) Section 1902(a) of the Social Security Act (as amended by section 2367 of this Act) is further amended— 42 USC 1396a.

(1) by striking out "and" at the end of paragraph (44);

(2) by striking out the period at the end of paragraph (45) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (45) the following new paragraph:

"(46) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.". *Ante*, p. 1147.

(d) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 503.

"(f) The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.".

(e) Section 2(a) of the Social Security Act is amended— 42 USC 302.

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(11) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.". *Ante*, p. 1147.

(f) Section 1002(a) of the Social Security Act is amended— 42 USC 1202.

(1) by striking out "and" at the end of clause (12); and

(2) by inserting before the period at the end thereof the following: "; and (14) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act".

Ante, p. 1147.
42 USC 1352.

(g) Section 1402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (11); and

(2) by inserting before the period at the end thereof the following: "; and (13) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act".

42 USC 1382 note.

(h) Section 1602(a) of the Social Security Act (as in effect with respect to Puerto Rico, Guam, and the Virgin Islands) is amended—

(1) by striking out "and" at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act.".

Ante, p. 1147.
97 Stat. 1386.
7 USC 2020.

(i) Section 11(e)(19) of the Food Stamp Act of 1977 is amended to read as follows:

"(19) that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of the Social Security Act and that any additional information available from agencies administering State unemployment compensation laws under the provisions of section 303(d) of the Social Security Act shall be requested and utilized by the State agency (described in section 3(n)(1) of this Act) to the extent permitted under the provisions of section 303(d) of the Social Security Act;".

42 USC 503.
7 USC 2012.

42 USC 1383.

(j) Section 1631(e)(1)(B) of the Social Security Act is amended by adding at the end thereof the following: "For this purpose and for purposes of federally administered supplementary payments of the type described in section 1616(a) of this Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1137 of this Act, and shall comply with the requirements applicable to States (with respect to information available pursuant to section 6103(l)(7)(B) of such Code) under subsections (a) (6) and (c) of such section 1137.".

42 USC 1382e.
87 Stat. 155.
Infra.
Ante, p. 1147.

26 USC 6103.
Ante, p. 820.

(k)(1) Section 6103(l)(7) of the Internal Revenue Code of 1954 is amended to read as follows:

"(7) DISCLOSURE OF RETURN INFORMATION TO FEDERAL, STATE, AND LOCAL AGENCIES ADMINISTERING CERTAIN PROGRAMS UNDER THE SOCIAL SECURITY ACT OR THE FOOD STAMP ACT OF 1977.—

"(A) RETURN INFORMATION FROM SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security shall, upon written request, disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a)

or 3401(a)), and payments of retirement income, which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection, to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(B) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the Internal Revenue Service files to any Federal, State, or local agency administering a program listed in subparagraph (D).

"(C) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security and the Secretary shall disclose return information under subparagraphs (A) and (B) only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under a program listed in subparagraph (D).

"(D) PROGRAMS TO WHICH RULE APPLIES.—The programs to which this paragraph applies are:

"(i) aid to families with dependent children provided under a State plan approved under part A of title IV of the Social Security Act; 42 USC 601.

"(ii) medical assistance provided under a State plan approved under title XIX of the Social Security Act; 42 USC 1396.

"(iii) supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66); 42 USC 1381. 42 USC 1382e. 87 Stat. 155.

"(iv) any benefits provided under a State plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands); 42 USC 301, 1201, 1351, 1381.

"(v) unemployment compensation provided under a State law described in section 3304 of this Code;

"(vi) assistance provided under the Food Stamp Act of 1977; and 7 USC 2011.

"(vii) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66).".

(2) Section 6103(a)(2) of such Code is amended by striking out "or of any local child support enforcement agency" and inserting in lieu thereof ", any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D)". 26 USC 6103.

(l)(1) The amendments made by subsections (j) and (k) shall become effective on the date of the enactment of this Act. Effective date. 42 USC 1320b-7 note.

(2) Except as otherwise specifically provided, the amendments made by subsections (a) through (i) shall become effective on April 1, 1985. In the case of any State which submits a plan describing a good faith effort by such State to come into compliance with the requirements of such subsections, the Secretary of Health and Human Services (or, in the case of the State unemployment compensation program, the Secretary of Labor, or, in the case of the food stamp program, the Secretary of Agriculture) may by waiver grant a

delay in the effective date of such subsections, except that no such waiver may delay the effective date of section 1137(c) of the Social Security Act (as added by subsection (a) of this section), or delay the effective date of any other provision of or added by this section beyond September 30, 1986.

Ante, p. 1147.

COLLECTION AND DEPOSIT OF PAYMENTS TO EXECUTIVE AGENCIES

SEC. 2652. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

31 USC 3720.

"§ 3720. Collection of payments

"(a) Each head of an executive agency (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely deposit of money by officials and agents of such agency in accordance with section 3302, and for the collection and timely deposit of sums owed to such agency by the use of such procedures as withdrawals and deposits by electronic transfer of funds, automatic withdrawals from accounts at financial institutions, and a system under which financial institutions receive and deposit, on behalf of the executive agency, payments transmitted to post office lockboxes. The Secretary is authorized to collect from any agency not complying with the requirements imposed pursuant to the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund caused by such noncompliance.

"(b) The head of an executive agency shall pay to the Secretary of the Treasury charges imposed pursuant to subsection (a). Payments shall be made out of amounts appropriated or otherwise made available to carry out the program to which the collections relate. The amounts of the charges paid under this subsection shall be deposited in the Cash Management Improvements Fund established by subsection (c).

"(c) There is established in the Treasury of the United States a revolving fund to be known as the 'Cash Management Improvements Fund'. Sums in the fund shall be available without fiscal year limitation for the payment of expenses incurred in developing the methods of collection and deposit described in subsection (a) of this section and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the costs of the lease or purchase of equipment and operating facilities.".

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3720. Collection of payments.".

Regulations. 31 USC 3720 note.

(3) The Secretary of the Treasury shall prescribe regulations, including regulations under section 3720 of title 31, United States Code, designed to achieve by October 1, 1986, full implementation of the purposes of this subsection.

(b)(1) Subsection (c) of section 3302 of title 31, United States Code, is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out ", but not later than the 30th day after the custodian receives the money,";

(C) by inserting after the first sentence the following new sentence: "Except as provided in paragraph (2), money required to be deposited pursuant to this subsection shall be deposited not later than the third day after the custodian receives the money,"; and

(D) by adding at the end thereof the following new paragraph:

"(2) The Secretary of the Treasury may by regulation prescribe that a person having custody or possession of money required by this subsection to be deposited shall deposit such money during a period of time that is greater or lesser than the period of time specified by the second sentence of paragraph (1).".

(2) The amendments made by this subsection shall become effective January 1, 1985.

Effective date. 31 USC 3302 note.

COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES

SEC. 2653. (a)(1) Subchapter II of chapter 37 of title 31, United States Code, as amended by section 2652(a)(1) of this Act, is further amended by adding at the end thereof the following new section:

"§ 3720A. Reduction of tax refund by amount of debt

31 USC 3720A.

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any OASDI overpayment and past-due support) by a named person shall, in accordance with regulations issued pursuant to subsection (d), notify the Secretary of the Treasury of the amount of such debt.

"(b) No Federal agency may take action pursuant to subsection (a) with respect to any debt until such agency—

"(1) notifies the person incurring such debt that such agency proposes to take action pursuant to such paragraph with respect to such debt;

"(2) gives such person at least 60 days to present evidence that all or part of such debt is not past-due or not legally enforceable;

"(3) considers any evidence presented by such person and determines that an amount of such debt is past due and legally enforceable; and

"(4) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under paragraph (3) with respect to such debt is valid and that the agency has made reasonable efforts to obtain payment of such debt.

"(c) Upon receiving notice from any Federal agency that a named person owes to such agency a past-due legally enforceable debt, the Secretary of the Treasury shall determine whether any amounts, as refunds of Federal taxes paid, are payable to such person. If the Secretary of the Treasury finds that any such amount is payable, he shall reduce such refunds by an amount equal to the amount of such debt, pay the amount of such reduction to such agency, and notify such agency of the individual's home address.

"(d) The Secretary of the Treasury shall issue regulations prescribing the time or times at which agencies must submit notices of past-due legally enforceable debts, the manner in which such notices must be submitted, and the necessary information that must be contained in or accompany the notices. The regulations shall specify the minimum amount of debt to which the reduction procedure established by subsection (c) may be applied and the fee that an

Regulations.

agency must pay to reimburse the Secretary of the Treasury for the full cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence may be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

"(e) Any Federal agency receiving notice from the Secretary of the Treasury that an erroneous payment has been made to such agency under subsection (c) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such agency under such subsection have been paid to such agency).

"(f) For purposes of this section—

"(1) the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code);

"(2) the term 'past-due support' means any delinquency subject to section 464 of the Social Security Act; and

42 USC 664.

"(3) the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act".

(2) The analysis of subchapter II of chapter 37 of title 31, United States Code, as amended by section 2652(a)(2) of this Act, is further amended by adding at the end thereof the following new item: "3720A. Reduction of tax refund by amount of debt.".

26 USC 6402.

(b)(1) Section 6402 of the Internal Revenue Code of 1954 (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsections:

"(d) COLLECTION OF DEBTS OWED TO FEDERAL AGENCIES.—

"(1) IN GENERAL.—Upon receiving notice from any Federal agency that a named person owes a past-due legally enforceable debt (other than any OASDI overpayment and past-due support subject to the provisions of subsection (c)) to such agency, the Secretary shall—

"(A) reduce the amount of any overpayment payable to such person by the amount of such debt;

"(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such agency; and

"(C) notify the person making such overpayment that such overpayment has been reduced by an amount necessary to satisfy such debt.

"(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection after such overpayment is reduced pursuant to subsection (c) with respect to past-due support collected pursuant to an assignment under section 402(a)(26) of the Social Security Act and before such overpayment is credited to the future liability for tax of such person pursuant to subsection (b). If the Secretary receives notice from a Federal agency or agencies of more than one debt subject to paragraph (1) that is owed by a person to such agency or agencies, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

42 USC 602.

"(3) DEFINITIONS.—For purposes of this subsection the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act. 42 USC 401.

"(e) REVIEW OF REDUCTIONS.—No court of the United States shall have jurisdiction to hear any action, whether legal or equitable, brought to restrain or review a reduction authorized by subsection (c) or (d). No such reduction shall be subject to review by the Secretary in an administrative proceeding. No action brought against the United States to recover the amount of any such reduction shall be considered to be a suit for refund of tax. This subsection does not preclude any legal, equitable, or administrative action against the Federal agency to which the amount of such reduction was paid.

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States (other than an agency subject to section 9 of the Act of May 18, 1933 (48 Stat. 63, chapter 32; 16 U.S.C. 831h)), and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).

"(g) CROSS REFERENCE.—For procedures relating to agency notification of the Secretary, see section 3721 of title 31, United States Code.".

(2) Subsection (a) of section 6402 of such Code is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (d)". 26 USC 6402.

(3)(A) Subsection (l) of section 6103 of such Code (relating to confidentiality and disclosure of returns and information), as amended by section 453 of this Act, is further amended by adding at the end thereof the following new paragraph: *Ante*, p. 820.

"(10) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c) OR 6402(d).—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of an agency seeking a reduction under section 6402(c) or 6402(d)— *Ante*, p. 1154.

"(i) the fact that a reduction has been made or has not been made under such subsection with respect to any person;

"(ii) the amount of such reduction; and

"(iii) taxpayer identifying information of the person against whom a reduction was made or not made.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records or in the defense of any litigation or administrative procedure ensuing from reduction made under section 6402(c) or section 6402(d).".

(B)(i) Section 6103(p)(3)(A) of such Code (relating to procedure and recordkeeping), as so amended, is amended by striking out "or (9)" and inserting in lieu thereof "(9), or (10)".

(ii) Section 6103(p)(4) of such Code, as so amended, is amended by striking out "(l) (1), (2), (3), or (5)" and inserting in lieu thereof "(l) (1), (2), (3), (5), or (10)".

26 USC 6103.

(iii) Section 6103(p)(4)(F)(ii) of such Code, as so amended, is amended by striking out "(l) (1), (2), (3), or (5)" and inserting in lieu thereof "(l) (1), (2), (3), (5), or (10)".

26 USC 7213.

(4) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information), as so amended, is amended by striking out "(l) (6), (7), (8), or (9)" and inserting in lieu thereof "(l) (6), (7), (8), (9), or (10)".

Effective date.
26 USC 6402 note.

(c) The amendments made by this section shall apply with respect to refunds payable under section 6402 of the Internal Revenue Code of 1954 after December 31, 1985, and before January 1, 1988.

Subtitle D—Technical Corrections

CHANGES IN OASDI PROVISIONS NECESSITATED BY THE 1983 AMENDMENTS

97 Stat. 99.
42 USC 401.

SEC. 2661. (a) Section 201(l)(3)(B)(i) of the Social Security Act is amended by inserting "Insurance" after "Survivors".

42 USC 402.
97 Stat. 109.

(b)(1) Section 202(c)(1) of such Act is amended (in the matter appearing between subparagraphs (D) and (E) of such section)—

(A) by striking out all that follows "has attained" and precedes ", the first month" in clause (i) and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(B) by striking out all that follows "has not attained" and precedes ", or" in clause (ii)(I) and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(C) by striking out "to which" in the matter following clause (ii) and inserting in lieu thereof "in which".

(2) Section 202(c)(5)(A) of such Act is amended by striking out "classes (i) and (ii)" and inserting in lieu thereof "clauses (i) and (ii)".

97 Stat. 95.

(c)(1) Section 202(e)(2)(A) of such Act is amended by striking out all that follows "subsection (q)," and precedes "subparagraph (D) of this paragraph" and inserting in lieu thereof "paragraph (7) of this subsection, and".

(2) Section 202(e)(2)(C) of such Act is amended—

(A) by striking out the period immediately after "deceased individual"; and

(B) by inserting a closing parenthesis after "paragraph (3) of such subsection (w)".

97 Stat. 92.

(3) Paragraph (7) of section 202(e) of such Act is amended by striking out "paragraph (2)(B)," and inserting in lieu thereof "paragraph (2)(D),".

97 Stat. 114.

(d)(1) Section 202(f)(1)(C)(ii) of such Act is amended by striking out all that follows "attained" and precedes ", and" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

(2) Section 202(f)(2)(A) of such Act is amended by striking out "paragraph (3)(B)," and inserting in lieu thereof "paragraph (3)(D),".

97 Stat. 96.

(3) Section 202(f)(3)(C) of such Act is amended by striking out the period immediately after "deceased individual".

97 Stat. 108.

(e) Section 202(q)(9)(B)(i) of such Act is amended by striking out "section 216(a)" and inserting in lieu thereof "section 216(l)".

97 Stat. 133.

(f) Section 202(x) of such Act is amended by adding at the beginning thereof the following heading:

"Limitation on Payments to Prisoners".

(g)(1)(A) Section 203(d) of such Act is amended— 97 Stat. 94. 42 USC 403.

(i) by striking out "on seven or more different calendar days of which he engaged" in paragraph (1)(A) and inserting in lieu thereof "for more than forty-five hours of which such individual engaged"; and

(ii) by striking out "on seven or more different calendar days" in paragraph (2) and inserting in lieu thereof "for more than forty-five hours".

(B) The amendments made by subparagraph (A) shall apply only with respect to months beginning with the second month after the month in which this Act is enacted. Effective date. 42 USC 403 note.

(2)(A) Section 203(f) of such Act is amended by adding at the end thereof the following new paragraph:

"(9) For purposes of paragraphs (3), (5)(D)(i), and (8)(D), the term 'retirement age (as defined in section 216(l))', with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.". 97 Stat. 107. 42 USC 416. 42 USC 402.

(B) The amendment made by subparagraph (A) shall be effective as though it had been enacted on April 20, 1983, as a part of section 201 of the Social Security Amendments of 1983. Effective date. 42 USC 403 note. 97 Stat. 107.

(h) Section 205(r) of such Act is amended— 97 Stat. 130. 42 USC 405.

(1) by striking out "(r)(3)(A) and (r)(3)(B)" in paragraph (4) and inserting in lieu thereof "subparagraphs (A) and (B) of paragraph (3)";

(2) by striking out "the Act" in paragraph (7) and inserting in lieu thereof "this Act"; and

(3) by striking out the heading and inserting in lieu thereof the following:

"Use of Death Certificates to Correct Program Information".

(i)(1) Section 209(e) of such Act is amended by striking out the semicolon after "Act of 1974". 97 Stat. 125. 42 USC 409.

(2) The next to last unnumbered paragraph of section 209 of such Act is amended by striking out "section 414(h)(2) of such Code" in subdivision (2) and inserting in lieu thereof "section 414(h)(2) of such Code where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise)".

(j) Section 210(a) of such Act, in the matter preceding paragraph (1), is amended by striking out the matter which follows "such affiliate" and precedes "or (C)" and the matter which follows "section 233" and precedes "except", and by inserting in lieu thereof a comma and a semicolon, respectively. 97 Stat. 120. 42 USC 410.

(k)(1) Section 215(a)(7)(B)(ii)(I) of such Act is amended by striking out "who initially become eligible for old-age or disability insurance benefits" and inserting in lieu thereof "who become eligible (as defined in paragraph (3)(B)) for old-age insurance benefits (or became eligible as so defined for disability insurance benefits before attaining age 62)". 97 Stat. 76. 42 USC 415.

42 USC 415.
97 Stat. 76.

(2) Section 215(a)(7)(C)(ii) of such Act is amended by striking out "survivors" and inserting in lieu thereof "survivor's".

97 Stat. 78.

(3) Section 215(f)(9)(B)(i) of such Act is amended by striking out "as though such primary insurance amount had initially been computed without regard to subsection (a)(7) or (d)(5)" and inserting in lieu thereof "as though the recomputed primary insurance amount were being computed under subsection (a)(7) or (d)(5)".

97 Stat. 74.

(4) Section 215(i)(5)(A) of such Act is amended by adding at the end thereof the following new sentence: "Any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10.".

(5) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) multiplying such quotient by 100 so as to yield such applicable additional percentage (which shall be rounded to the nearest one-tenth of 1 percent),";

(B) by striking out "ending with such subsequent calendar year" in clauses (iv) and (v) and inserting in lieu thereof "ending with the year before such subsequent calendar year"; and

(C) by striking out "initially became eligible for an old-age or disability insurance benefit" in clause (v) and inserting in lieu thereof "became eligible (as defined in subsection (a)(3)(B)) for the old-age or disability insurance benefit that is being increased under this subsection".

42 USC 416.

(l)(1) Section 216(f) of such Act is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (C) of section 202(c)(1), a divorced husband shall be deemed not to be married throughout the month which he becomes divorced.".

42 USC 402.

(2) Section 216(h)(3)(A)(i) of such Act (as in effect after the application of section 2662(c)(1) of this Act) is amended by striking out "(as defined in section 216(l))" and inserting in lieu thereof "(as defined in subsection (l))".

Post, p. 1159.

(3) Section 216(i)(2) of such Act (as amended by section 2662(c)(1) of this Act) is amended by striking out "(as defined in section 216(l))" in subparagraphs (B) and (D) and inserting in lieu thereof "(as defined in subsection (l))".

97 Stat. 129.
42 USC 423.

(m) Subparagraph (B) of section 223(c)(1) of such Act is amended by moving clause (iii) two ems to the left, and by moving the preceding provisions of such subparagraph two ems to the right, so that the left margin of such subparagraph and its clauses is indented four ems and is aligned with the margin of subparagraph (A) of such section.

97 Stat. 104.
42 USC 429.

(n) Section 229(b) of such Act is amended by adding at the end thereof the following new sentence: "Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages deemed to have been paid in 1983 were in excess of or were less than the amount which the Secretary, on the basis of appropriate data, determines should have been so transferred.".

97 Stat. 103.

97 Stat. 80.
26 USC 86.

(o)(1) Subsection (f) of section 86 of the Internal Revenue Code of 1954 is amended by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively, and by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) section 37(c)(3)(A) (relating to reduction for amounts received as pension or annuity),".

(2) Subsection (a) of section 134 of such Code is amended by striking out paragraphs (6) and (7) and by redesignating paragraph (8) as paragraph (6). *Ante*, p. 891.

(3) Effective January 1, 1984, subparagraph (B) of section 3121(v)(1) of such Code is amended to read as follows: 97 Stat. 122. 26 USC 3121.

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).".

(4) Effective January 1, 1985, subparagraph (B) of section 3306(r)(1) of such Code is amended to read as follows: 97 Stat. 123. 26 USC 3306.

"(B) any amount treated as an employer contribution under section 414(h)(2) where the pickup referred to in such section is pursuant to a salary reduction agreement (whether evidenced by a written instrument or otherwise).".

(5) Section 6334(c) of such Code is amended by inserting "(including section 207 of the Social Security Act)" immediately after "any other law of the United States". 26 USC 6334.

CHANGES IN TEXT OF THE 1983 AMENDMENTS

SEC. 2662. (a) Section 101(d) of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking out "remuneration paid" and inserting in lieu thereof "service performed". 97 Stat. 67. 26 USC 3121 note.

(b) Section 112(f) of such Amendments is amended by inserting "of such Act" after "section 201(a)". 97 Stat. 73. 42 USC 415 note.

(c) Section 201(c) of such Amendments is amended— 97 Stat. 107.

(1) by inserting "the" immediately before "age of 65" in paragraph (1); and 42 USC 402, 403, 415, 416, 423.

(2) by inserting "the" immediately before "age of sixty-five" in paragraph (3). 42 USC 423.

(d) Section 301(a)(5) of such Amendments is amended by striking out "Section 202(c)" and inserting in lieu thereof "Effective with respect to monthly insurance benefits for months after December 1984 (but only on the basis of applications filed on or after January 1, 1985), section 202(c)". 97 Stat. 109. 42 USC 402 note.

(e) Section 305(d)(2) of such Amendments is amended by inserting "each place it appears" immediately before "in subsection (c)(4)(C)". 97 Stat. 113. 42 USC 428.

(f)(1) Section 422A(c)(9) of the Internal Revenue Code of 1954 (relating to special rule when disabled) is amended by striking out "section 105(d)(4)" and inserting in lieu thereof "section 37(e)(3)". 26 USC 422A.

(2)(A) Section 324(d)(1) of the Social Security Amendments of 1983 is amended by adding at the end thereof the following new sentence: "For purposes of applying such amendments to remuneration paid after December 31, 1983, which would have been taken into account before January 1, 1984, if such amendments had applied to periods before January 1, 1984, such remuneration shall be taken into account when paid (or, at the election of the payor, at the time which would be appropriate if such amendments had applied).". 97 Stat. 122. 26 USC 3121 note.

(B) Section 324(d)(2) of such Amendments is amended by adding at the end thereof the following new sentence: "For purposes of applying such amendments to remuneration paid after December 31, 1984, which would have been taken into account before January 1, 1985, if such amendments had applied to periods before January 1, 1985, such remuneration shall be taken into account when paid (or, 26 USC 3121 note.

at the election of the payor, at the time which would be appropriate if such amendments had applied).".

97 Stat. 122. 26 USC 3121 note.

(C) Section 324(d)(4) of such Amendments is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, any plan or agreement to make payments described in paragraph (2), (3), or (13)(A)(iii) of section 3121(a) of such Code (as in effect on the day before the date of the enactment of this Act) shall be treated as a nonqualified deferred compensation plan.".

Effective date. 97 Stat. 126. 26 USC 3121 note.

(g) Section 327(d) of such Amendments (relating to codification of Rowan decision with respect to meals and lodging) is amended to read as follows:

"(d)(1) The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1983.

"(2) The amendments made by subsection (b) and subsection (c)(4) shall apply to remuneration (other than amounts excluded under section 119 of the Internal Revenue Code of 1954) paid after March 4, 1983, and to any such remuneration paid on or before such date which the employer treated as wages when paid.

"(3) The amendments made by paragraphs (1), (2), and (3) of subsection (c) shall apply to remuneration paid after December 31, 1984.".

97 Stat. 132. 42 USC 902 note.

(h)(1) Section 338(b) of such Amendments is amended by adding at the end thereof the following new paragraph:

"(6) The provisions of section 8344 of title 5, United States Code, shall not apply to service by an individual as a member of the Panel.".

Effective date. 42 USC 902 note.

(2) The amendment made by this subsection shall take effect on January 1, 1984.

97 Stat. 133. 42 USC 423.

(i) Section 339(b) of such Amendments is amended to read as follows:

"(b) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

" '(h) For provisions relating to limitation on payments to prisoners, see section 202(x).'.".

97 Stat. 72. 38 USC 3023 note.

(j) Section 111(e) of such Amendments is amended by inserting "Budget" before "Reconciliation".

OTHER TECHNICAL CORRECTIONS IN THE SOCIAL SECURITY ACT AND RELATED PROVISIONS

42 USC 401.

SEC. 2663. (a)(1)(A) The fourth sentence of section 201(d) of the Social Security Act is amended—

(i) by striking out "the Second Liberty Bond Act, as amended," and inserting in lieu thereof "chapter 31 of title 31, United States Code,"; and

(ii) by striking out "public-debt obligation" and inserting in lieu thereof "public-debt obligations".

(B) Section 201(g)(1)(B) of such Act is amended by striking out "clauses" in the first sentence and inserting in lieu thereof "clause".

42 USC 402.

(2)(A)(i) Section 202(d)(1) of such Act, in clause (ii) in the matter which follows subparagraph (C) and precedes subparagraph (D), is amended by striking out "paragraphs" and "paragraph" and inserting in lieu thereof "subparagraphs" and "subparagraph", respectively.

(ii) Section 202(d)(1)(G) of such Act is amended—

(I) by striking out the comma after "age of 18";

(II) by striking out "the age of 22," and inserting in lieu thereof "the age of 22—";

(III) by striking out ", or, subject to section 223(e), the termination month (and for purposes" and inserting in lieu thereof the following:

"(i) the termination month, subject to section 223(e) (and for purposes";

(IV) by striking out "after the 15 months" and all that follows down through "such earlier month." and inserting in lieu thereof the following:

"after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity),

or (if later) the earlier of—

"(ii) the first month during no part of which he is a full-time elementary or secondary school student, or

"(iii) the month in which he attains the age of 19,

but only if he was not under a disability (as so defined) in such earlier month."; and

(V) by indenting all of clause (i) (as designated and amended by the preceding provisions of this subparagraph) four ems, so as to align its left margin with the margins of clauses (ii) and (iii) (as so designated).

(iii) The second sentence of section 202(d)(7)(A) of such Act is amended by striking out "the date of the enactment of this paragraph" and inserting in lieu thereof "the effective date of this sentence". 42 USC 402.

(B) Section 202(e)(1) of such Act is amended—

(i) by striking out the first comma after "age 60" in the matter following subparagraph (F)(ii); and

(ii) by striking out "he engages" in the last sentence and inserting in lieu thereof "she engages".

(C) Section 202(f)(1) of such Act is amended by striking out the first comma after "age 60" in the matter following subparagraph (F)(ii).

(D) Section 202(f)(3)(D)(i) of such Act is amended by striking out the semicolon after "applicable,". 97 Stat. 96.

(E) Section 2202(a)(1)(B) of Public Law 97-35 is amended by striking out "as". 42 USC 402.

(F)(i) Section 202(q)(3)(G) of the Social Security Act is amended by striking out "as if the period" and inserting in lieu thereof "if the period".

(ii) Section 202(q)(7)(E) of such Act is amended by striking out "he attained retirement age" and inserting in lieu thereof "she or he attained retirement age".

(G) Section 202(t)(4)(E) of such Act is amended—

(i) by inserting "of 1937 or 1974" after "Railroad Retirement Act" where it first appears; and

(ii) by inserting before the semicolon at the end thereof the following: "of 1937 or section 18(2) of the Railroad Retirement Act of 1974".

(H) Section 202(u)(1)(B) of such Act is amended by striking out ", 112, or 113".

(3)(A) Section 203(a)(8) of such Act is amended by adding a period at the end thereof. 42 USC 403.

42 USC 403.

(B) Section 203(d)(2) of such Act is amended by striking out "an individual who is entitled" and inserting in lieu thereof "an individual under the age of seventy who is entitled".

(C) Section 203(f)(5)(B)(ii) of such Act is amended by striking out "702(a)(9)" and inserting in lieu thereof "702(a)(8)".

(D) Section 203(f)(8) of such Act is amended by indenting subparagraphs (B) and (C) two additional ems (for a total indentation of four ems) so as to align their left margins with the margins of subparagraphs (A) and (D).

42 USC 405.

(4)(A) Section 205(c)(5)(D) of such Act is amended by inserting "of 1937 or 1974" after "Railroad Retirement Act" each place it appears.

(B) Section 205(c)(5)(I) of such Act is amended by inserting before the semicolon at the end thereof the following: "or section 7(b)(7) of the Railroad Retirement Act of 1974".

(C) Section 205(e) of such Act is amended by striking out "on order" and inserting in lieu thereof "an order".

(D) Section 205(h) of such Act is amended by striking out "section 24 of the Judicial Code of the United States" and inserting in lieu thereof "section 1331 or 1346 of title 28, United States Code,".

(E) Section 205(i) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury,".

(F) Section 205(p)(1) of such Act is amended by striking out "section 1420(e) of the Internal Revenue Code" and inserting in lieu thereof "section 3122 of the Internal Revenue Code of 1954".

42 USC 408.

(5) Section 208 of such Act is amended by indenting paragraphs (f) through (h) two ems so as to align their left margins with the margins of paragraphs (a) through (e) (and by appropriately further indenting subdivisions (1), (2), and (3) of paragraph (g)).

42 USC 409.

(6)(A) Section 209 of such Act is amended—

(i) by indenting paragraphs (5) through (9) of subsection (a) two ems so as to align their left margins with the margins of the preceding paragraphs of such subsection;

(ii) by striking out "(p) Remuneration" and inserting in lieu thereof "(p)(1) Remuneration";

(iii) by striking out the period at the end of paragraph (p)(1) as redesignated by clause (ii) of this subparagraph and inserting in lieu thereof a semicolon;

(iv) by striking out "(p) Any contribution" and inserting in lieu thereof "(2) Any contribution"; and

97 Stat. 127.

(v) by indenting subsections (e), (f), and (k) through (r) two ems so as to align their left margins with the margins of subsections (a) through (d) and subsections (g), (h), and (j) (appropriately further indenting paragraphs (1) and (2) of subsection (f) and paragraphs (1) and (2) of subsection (m)).

(B) The seventh unnumbered paragraph from the end of section 209 of such Act (relating to remuneration for service performed as a member of a uniformed service) is amended by striking out "section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "chapter 3 and section 1009 of title 37, United States Code".

42 USC 410.

(7)(A) Section 210(a)(1) of such Act is amended by striking out "(A)" and all that follows down through "or (B)".

(B) Section 210(a)(7) of such Act is amended by indenting subparagraph (D) two additional ems (for a total indentation of four ems) so

as to align its left margin with the margins of subparagraphs (A) through (C).

(C) Section 210(a)(9) of such Act is amended by striking out "section 1532 of the Internal Revenue Code" and inserting in lieu thereof "section 3231 of the Internal Revenue Code of 1954". 42 USC 410.

(D) Section 210(a)(19) of such Act is amended by striking out the comma after "; or".

(E) Section 210(l)(2) of such Act is amended—

(i) by striking out "section 102 of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "paragraph (21) of section 101 of title 38, United States Code"; and

(ii) by striking out "such section" and inserting in lieu thereof "paragraph (22) of such section".

(F) Section 210(l)(3) of such Act is amended by striking out "such section 102" and inserting in lieu thereof "paragraph (23) of such section 101".

(G) Section 210(m) of such Act is amended—

(i) by striking out "a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act" in the first sentence and inserting in lieu thereof "a reserve component as defined in section 101(27) of title 38, United States Code";

(ii) by inserting ", the National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the first sentence;

(iii) by striking out "military or naval" each place it appears in paragraph (5) and inserting in lieu thereof "military, naval, or air"; and

(iv) by striking out "Universal Military Training and Service Act" in paragraph (5)(B) and inserting in lieu thereof "Military Selective Service Act".

(8)(A) Section 211(a) of such Act is amended by striking out "chapter 1 of the Internal Revenue Code", "such chapter", and "section 183 of such code" in the matter preceding paragraph (1) and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954", "such subtitle", and "section 702(a)(8) of such Code", respectively. 42 USC 411.

(B) Section 211(a)(3) of such Act is amended—

(i) by striking out "chapter 1 of the Internal Revenue Code" and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954"; and

(ii) by inserting "or" before "(C)".

(C) Section 211(a)(4) of such Act is amended by striking out "section 23(s) of such code" and inserting in lieu thereof "section 172 of the Internal Revenue Code of 1954".

(D) Section 211(a) of such Act is further amended by striking out "702(a)(9)" in clauses (iii) and (iv) (in the matter following paragraph (12)) and inserting in lieu thereof in each instance "702(a)(8)". 97 Stat. 90.

(E) Section 211(b)(1) of such Act is amended by indenting subparagraphs (D), (G), (H), and (I) an additional two ems (for a total indentation of four ems) so as to align their left margins with the margins of the other subparagraphs of such section.

(F) Section 211(c) of such Act is amended by striking out "section 23 of the Internal Revenue Code" and inserting in lieu thereof "section 162 of the Internal Revenue Code of 1954".

42 USC 411.

(G) Section 211(c)(3) of such Act is amended by striking out "section 1532 of the Internal Revenue Code" and inserting in lieu thereof "section 3231 of the Internal Revenue Code of 1954".

(H) Section 211(d) of such Act is amended by striking out "supplement F of chapter 1 of the Internal Revenue Code" and inserting in lieu thereof "subchapter K of chapter 1 of the Internal Revenue Code of 1954".

(I) Section 211(e) of such Act is amended by striking out "chapter 1 of the Internal Revenue Code", "chapter 1 of such code", and "such chapter 1" and inserting in lieu thereof "subtitle A of the Internal Revenue Code of 1954", "subtitle A of such Code", and "such subtitle A", respectively.

42 USC 413.

(9)(A) Section 213(a)(1) of such Act is amended by striking out "means" and inserting in lieu thereof "mean".

(B) Section 213(a)(2)(B)(ii) of such Act is amended by striking out "equal to $3,000" and inserting in lieu thereof "equal $3,000".

42 USC 415.

(10)(A) Section 215(a)(1) of such Act is amended—

(i) by striking out "of such benefits" in subparagraph (B)(i) and inserting in lieu thereof "for such benefits";

(ii) by striking out "amounts" in subparagraph (B)(iii) and inserting in lieu thereof "amount"; and

(iii) by striking out "scetion 217" in subparagraph (C)(ii) and inserting in lieu thereof "section 217".

(B) Section 215(a)(4) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A) (and by appropriately further indenting clauses (i) and (ii) of such subparagraph (B)).

(C) Section 215(f)(2)(A) of such Act is amended by striking out "primary insurance account" and inserting in lieu thereof "primary insurance amount".

(D) Section 215(h) of such Act is amended—

(i) by adding at the beginning thereof the following heading: "Service of Certain Public Health Service Officers"; and

(ii) by striking out "Civil Service Commission" in paragraph (1) and inserting in lieu thereof "Director of the Office of Personnel Management".

42 USC 416.

(11)(A) Section 2203(d)(4) of Public Law 97-35 is amended by inserting after "at the end of paragraph (3)" the following: "(after and below subparagraph (C)(ii))".

42 USC 416.

(B) Section 216(i)(2)(F)(ii) of the Social Security Act is amended by striking out "enacted," in the matter immediately preceding subdivision (I) and inserting in lieu thereof "enacted—".

42 USC 417.

(12)(A) Section 217(d) of such Act is amended by indenting paragraphs (1) and (2) two ems.

(B) Section 217(e)(1) of such Act is amended by inserting ", National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the last sentence.

(C) Section 217(f)(1) of such Act is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Director of the Office of Personnel Management".

42 USC 418.

(13) Section 218(i) of such Act is amended by striking out "subchapter A or E of chapter 9 of the Internal Revenue Code" and inserting in lieu thereof "chapter 21 and subtitle F of the Internal Revenue Code of 1954".

42 USC 421.

(14) Section 221(e) of such Act is amended by striking out "Federal Disability Trust Fund is charged" and inserting in lieu thereof "Federal Disability Insurance Trust Fund is charged".

(15)(A) Subsections (a) and (b)(1) of section 222 of such Act are amended by striking out "the Vocational Rehabilitation Act" each place it appears and inserting in lieu thereof "title I of the Rehabilitation Act of 1973". 42 USC 422.

(B) Section 222(b)(3) of such Act is amended by striking out "equal" and inserting in lieu thereof "equals".

(C) Section 222(b)(4) of such Act is amended by striking out "full-time student" and inserting in lieu thereof "full-time elementary or secondary school student".

(16) Section 223(d)(2)(A) of such Act is amended by striking out "an individual" and inserting in lieu thereof "An individual". 42 USC 423.

(17) Section 226(b) of such Act is amended (in the matter following paragraph (2)(C)) by striking out "part (A)" and inserting in lieu thereof "part A". 42 USC 426.

(18) The last sentence of section 230(c) of such Act is amended by striking out "(3)(f)(3)" and inserting in lieu thereof "3(f)(3)". 97 Stat. 425. 42 USC 430.

(b)(1) Section 302(b) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury". 42 USC 502.

(2) Section 303(a)(4) of such Act is amended by striking out "1606(b)" and inserting in lieu thereof "3305(b)". 42 USC 503.

(3) Section 303(a)(5) of such Act (as amended by the 1983 Amendments) is amended—

(A) by striking out "1606(b)" and inserting in lieu thereof "3305(b)"; and

(B) by striking out the punctuation mark immediately before the last proviso and inserting in lieu thereof a colon.

(4) Section 303(c) of such Act is amended by striking out "That" in paragraphs (1) and (2) and inserting in lieu thereof "that".

(5) Section 303(e)(2)(A)(i) of such Act is amended by striking out "child support obligatons" and inserting in lieu thereof "child support obligations".

(c)(1)(A) Section 402(a)(9) of such Act is amended by striking out "use of disclosure" and inserting in lieu thereof "use or disclosure". 42 USC 602.

(B) Section 402(a)(14) of such Act is amended by striking out "(A) provide that" and inserting in lieu thereof "provide (A) that".

(C) Section 402(a)(19)(F)(i) of such Act is amended by striking out "or section 408" and inserting in lieu thereof "or section 472".

(D) Section 402(a)(19)(G) of such Act is amended by striking out the comma before "that" in clause (iv).

(E) Section 402(a) of such Act is further amended—

(i) by striking out "must" immediately before the first of its 36 numbered subdivisions and inserting in lieu thereof "must—";

(ii) by indenting and aligning such numbered subdivisions (without altering any of the numbering, language, or punctuation) to the extent necessary to make each of such subdivisions a numbered paragraph with its left margin indented two ems (and with any designated internal subdivisions within such paragraphs (including the numbered subdivisions in subparagraphs (A) and (B) of paragraph (8) and in subparagraph (A) of paragraph (14) but not including such subparagraphs themselves, and not including any of the subdivisions in paragraphs (9), (10), (15), (19)(G), (25), (30), (31), (33), and (36)) being appropriately further indented and aligned as subparagraphs or clauses);

(iii) by striking out "and" after the semicolon at the end of paragraph (5);

(iv) by striking out "clause" each place it appears in paragraphs (15)(A), (15)(B), and (19)(F) and inserting in lieu thereof "paragraph"; and

(v) by striking out "section 402(a)(7)" in paragraph (19)(D) and inserting in lieu thereof "paragraph (7)".

42 USC 602. (F) Section 402(c) of such Act is amended by striking out "clause" each place it appears and inserting in lieu thereof "paragraph".

(G) Section 402(d)(2) of such Act is amended by striking out "section 43" and "section 43(g)" and inserting in lieu thereof "section 32" and "section 32(g)", respectively.

42 USC 603. (2)(A) Section 403(b)(3) of such Act is amended by striking out all that follows "through" and precedes "and prior" and inserting in lieu thereof "the Fiscal Service of the Department of the Treasury".

(B) Clause (ii) in the last sentence of section 403(j) of such Act is amended by striking out the comma after "excess payments".

42 USC 606. (3)(A) Section 406(b)(2) of such Act is amended by adding "and" after the semicolon at the end of clause (C), by striking out clause (D), and by redesignating clause (E) as clause (D).

(B)(i) The last sentence of section 406(b) of such Act, and section

42 USC 602. 402(a)(19)(F)(i) of such Act, are each amended by striking out "clauses (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".

(ii) Section 402(a)(26)(B) of such Act is amended by striking out "subparagraphs (A) through (E)" and inserting in lieu thereof "clauses (A) through (D)".

42 USC 607. (4)(A) Section 407(b)(1)(C) of such Act is amended by striking out "such father", and "he" each place it appears, and by inserting in lieu thereof in each instance "such parent".

(B) Section 407(b)(2)(A) of such Act is amended by striking out "thirty days" and inserting in lieu thereof "30 days".

42 USC 609. (5) Section 409(a) of such Act is amended—

(A) by striking out "vacanies" in paragraph (1)(B) and inserting in lieu thereof "vacancies"; and

(B) by striking out "part (C)" in paragraph (3) and inserting in lieu thereof "part C"

42 USC 610. (6) Section 410 of such Act is amended by striking out "Food Stamp Act of 1964" in subsections (a) and (c) and inserting in lieu thereof "Food Stamp Act of 1977".

42 USC 614. (7)(A) Section 414(b)(5) of such Act is amended by striking out "receipients" and inserting in lieu thereof "recipients".

42 USC 615. (B) Section 415(b)(1)(B)(ii) of such Act is amended by striking out "determinig" and inserting in lieu thereof "determining".

42 USC 620. (8) Section 420(b) of such Act is amended by striking out the comma immediately after "preceding sentence".

42 USC 641. (9) Section 441 of such Act is amended by striking out "(a)".

42 USC 644. (10) Section 444(d) of such Act is amended by striking out "rereferred" and inserting in lieu thereof "referred".

42 USC 645. (11) Section 445(b)(1)(E) of such Act is amended by striking out "Comprehensive Employment and Training Act of 1973" and inserting in lieu thereof "Job Training Partnership Act".

42 USC 652. (12) The second sentence of section 452(c)(2) of such Act is amended by striking out "preceding section" and inserting in lieu thereof "preceding sentence".

42 USC 653. (13) Section 453(b)(2) of such Act is amended by striking out ", or the United States" and inserting in lieu thereof "of the United States".

42 USC 654. (14) Section 454 of such Act is amended—

(A) by striking out "of such parent" in paragraph (9)(C);

(B) by striking out "collection and distribution," in clause (A)(ii) of paragraph (16) and inserting in lieu thereof "collection, and distribution"; and

(C) by indenting paragraph (17) two ems so as to align its left margin with the margins of the preceding paragraphs, and amending such paragraph (as so indented)—

(i) by striking out "to accept" and inserting in lieu thereof "provide that the State will accept",

(ii) by striking out "and to impose" and inserting in lieu thereof "will impose",

(iii) by striking out "to transmit" and inserting in lieu thereof "will transmit", and

(iv) by striking out ", otherwise to comply" and inserting in lieu thereof "will otherwise comply".

(15) Section 456 of such Act is amended— 42 USC 656.

(A) by inserting "(1)" after "SEC. 456. (a)";

(B) by striking out "(1) The amount" and inserting in lieu thereof "(2) The amount";

(C) by striking out "(2) Any" and inserting in lieu thereof "(3) Any"; and

(D) by striking out "paragraphs (1) (A) and (B)" and inserting in lieu thereof "subparagraphs (A) and (B) of paragraph (2)".

(16) The heading of section 458 of such Act is amended by striking out "STATES" and inserting in lieu thereof "STATES". 42 USC 658.

(17) Section 462(f)(2) of such Act is amended by striking out "dependents" and inserting in lieu thereof "dependents' ". 42 USC 662.

(18)(A) Section 474(b)(4)(A) of such Act is amended by striking out "subparagraph (c)" and inserting in lieu thereof "subparagraph (C)". 42 USC 674.

(B) Section 474(c)(2) of such Act is amended by striking out "relvant" and inserting in lieu thereof "relevant".

(C) Section 474(d)(1) of such Act is amended—

(i) by striking out "and (c)" the second place it appears and inserting in lieu thereof "and (C)"; and

(ii) by striking out "secretary" and inserting in lieu thereof "Secretary".

(d)(1) Section 901(c) of such Act is amended by aligning paragraphs (1) through (4) (including the subparagraphs in paragraph (3)) flush with the left margin (but with appropriate indentation in the case of the subparagraphs and clauses in paragraph (1)). 42 USC 1101.

(2) Section 901(f) of such Act is amended by moving paragraph (3) two ems to the left, so that its left margin is in flush alignment with the margins of the other paragraphs in such section.

(3) Section 904(b) of such Act is amended by striking out "the Second Liberty Bond Act, as amended," and inserting in lieu thereof "chapter 31 of title 31, United States Code,". 42 USC 1104.

(4) Section 908(d) of such Act is amended by striking out "5703(b)" and inserting in lieu thereof "5703". 42 USC 1108.

(e)(1)(A) Subparagraphs (C) and (D) of section 1101(a)(8) of such Act are amended by indenting them 2 ems so as to align their left margin with the left margin of subparagraphs (A) and (B) of such section. 42 USC 1301.

(B) Paragraph (9) of section 1101(a) of such Act is amended by indenting it (including subparagraphs (A) through (D) and clauses (i) and (ii) of subparagraph (C)) 2 ems so as to align the left margin at the beginning of such paragraph with the left margin of paragraph (8)(A) of such section.

42 USC 1307.

(2)(A) Section 1107(a) of such Act is amended by striking out "subchapter E of chapter 1 or subchapter A, C, or E of chapter 9 of the Internal Revenue Code," and inserting in lieu thereof "of chapter 2, 21, or 23 of the Internal Revenue Code of 1954, or of any provision of subtitle F of such Code which corresponds (within the meaning of section 7852(b) of such Code) to a provision contained in subchapter E of chapter 9 of the Internal Revenue Code of 1939,".

Effective date. 42 USC 1307 note.

(B) The amendment made by subparagraph (A) shall not apply to returns filed or representations made on or before the date of the enactment of this Act.

(3) Section 1107(b) of such Act is amended by striking out "former wife divorced," each place it appears and inserting in lieu thereof "divorced wife, divorced husband, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father,".

42 USC 1314.

(4)(A) Section 1114(g) of such Act is amended by striking out the period after "Code" and inserting in lieu thereof a comma.

(B) Section 1114(h)(1) of such Act is amended by striking out "sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99)" and insert in lieu thereof "sections 203, 205, and 209 of title 18, United States Code".

42 USC 1315.

(5) Section 1115(a) of such Act is amended by striking out "VI,", "602,", and "603,".

42 USC 1316.

(6) Section 1116 of such Act is amended—

(A) by striking out "VI," in subsections (a)(1), (b), and (d);

(B) by striking out "604," in subsection (a)(3); and

(C) by striking out "XVI," and all that follows through "part A" in subsection (d) and inserting in lieu thereof "XVI, or XIX, or part A".

42 USC 1320b-1.

(7) Section 1131(a) of such Act is amended—

(A) by striking out the period after "section 204(d) of this Act" in paragraph (2)(B) and inserting in lieu thereof a comma; and

(B) by moving the matter following paragraph (2)(B) two ems to the left so that it is flush with the left margin.

42 USC 1331-1336.

(f) Title XIII of such Act is repealed.

(g)(1) Section 1611(c) of such Act is amended by adding at the beginning thereof the following heading:

"Period for Determination of Benefits".

42 USC 1382.

(2) Section 1611(g) of such Act is amended by striking out "or individuals" and inserting in lieu thereof "or such individual".

42 USC 1382a.

(3) Section 1612(b)(2) of such Act is amended by indenting subparagraph (B) two ems so as to align its left margin with the margin of subparagraph (A).

(4) Section 1612(b)(9) of such Act is amended by inserting a comma after "child".

42 USC 1382b.

(5) The heading of section 1613(c) of such Act is amended to read as follows:

"Disposal of Resources For Less Than Fair Market Value".

42 USC 1382c.

(6) Section 1614(a)(3) of such Act is amended by moving subparagraph (E) two ems to the left, so that its left margin is in flush alignment with the margins of the other subparagraphs in such section.

(7) Section 1614(d)(1) of such Act is amended by striking out "man and women" and inserting in lieu thereof "man and woman". 42 USC 1382c.

(8) Section 1615 of such Act is amended by striking out "the Vocational Rehabilitation Act" in subsections (a), (c), and (d) and inserting in lieu thereof "title I of the Rehabilitation Act of 1973". 42 USC 1382d.

(9) Section 1618 of such Act is amended— 42 USC 1382g.

(A) by moving subsection (d) two ems to the left, so that its left margin is in flush alignment with the margins of the other subsections in such section;

(B) by striking out the comma after "levels of its" in such subsection (d); and

(C) by inserting a comma after "1980", and after "1976" each place it appears, in such subsection.

(10) Section 1621(e) of such Act is amended by striking out "severably" and inserting in lieu thereof "severally". 42 USC 1382j.

(11)(A) Section 1631(b)(1) of such Act is amended by striking out "equity or" and inserting in lieu thereof "equity and". 42 USC 1383.

(B) Section 1631(b)(2) of such Act is amended by striking out "section 43" and "section 43(g)" and inserting in lieu thereof "section 32" and "section 32(g)", respectively.

(12) Section 1631(d)(1) of such Act is amended by striking out "(e), and (f)" and inserting in lieu thereof "and (e)".

(h)(1) Section 2002(b) of such Act is amended by striking out "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)" and inserting in lieu thereof "section 6503 of title 31, United States Code,". 42 USC 1397a.

(2) Section 2006(c) of such Act is amended by striking out "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)" and inserting in lieu thereof "section 6503 of title 31, United States Code". 42 USC 1397e.

(i)(1) Section 3121(b)(1) of the Internal Revenue Code of 1954 is amended by striking out "(A)" and all that follows down through "or (B)". 26 USC 3121.

(2) Section 3121(i)(2) of such Code is amended by striking out "section 102(10) of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "chapter 3 and section 1009 of title 37, United States Code".

(3) Section 3121(m)(2) of such Code is amended—

(A) by striking out "section 102 of the Servicemen's and Veterans' Survivor Benefits Act" and inserting in lieu thereof "paragraph (21) of section 101 of title 38, United States Code"; and

(B) by striking out "such section" and inserting in lieu thereof "paragraph (22) of such section".

(4) Section 3121(m)(3) of such Code is amended by striking out "such section 102" and inserting in lieu thereof "paragraph (23) of such section 101".

(5) Section 3121(n) of such Code is amended—

(A) by striking out "a reserve component of a uniformed service as defined in section 102(3) of the Servicemen's and Veterans' Survivor Benefits Act" in the first sentence and inserting in lieu thereof "a reserve component as defined in section 101(27) of title 38, United States Code";

(B) by inserting ", the National Oceanic and Atmospheric Administration Corps," after "Coast and Geodetic Survey" in the first sentence;

(C) by striking out "military or naval" each place it appears in paragraph (5) and inserting in lieu thereof "military, naval, or air"; and

(D) by striking out "Universal Military Training and Service Act" in paragraph (5)(B) and inserting in lieu thereof "Military Selective Service Act".

42 USC 1301.

(j)(1) Section 1101(a)(6) of the Social Security Act is amended by striking out "means" and all that follows and inserting in lieu thereof "means the Secretary of Health and Human Services.".

(2) The following provisions of such Act are amended by striking out "Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Health and Human Services":

(A) In title II—

(i) subsections (a)(3), (a)(4), (b)(1), (b)(2), (g)(1), (g)(2), (g)(4), and (i)(1) of section 201;

42 USC 401.

(ii) subsections (q)(4)(B), (q)(6)(B), and (r)(1) of section 218; and

42 USC 418.

(iii) subsections (b)(3) and (b)(4) of section 231;

42 USC 431.

(B) in title IV—

(i) subsections (b)(2) and (b)(3) of section 403;

42 USC 603.

(ii) subsection (a) of section 431;

42 USC 631.

(iii) subsection (b) of section 436;

42 USC 636.

(iv) section 439;

42 USC 639.

(v) section 441;

42 USC 641.

(vi) section 443;

42 USC 643.

(vii) subsection (a) of section 444;

42 USC 644.

(viii) subsection (a) of section 452;

42 USC 652.

(ix) subsection (b)(1) of section 453;

42 USC 653.

(x) paragraph (8)(B) of section 454; and

42 USC 654.

(xi) section 460;

42 USC 660.

(C) in title VII—

(i) section 702; and

42 USC 902.

(ii) subsection (c)(1) of section 706;

42 USC 907.

(D) in title XI—

(i) section 1102;

42 USC 1302.

(ii) subsection (b) of section 1106;

42 USC 1306.

(iii) subsection (b) of section 1107;

42 USC 1307.

(iv) subsection (c) of section 1114;

42 USC 1314.

(v) section 1120; and

42 USC 1320.

(vi) subsection (a) of section 1126;

42 USC 1320a-5.

(E) in title XVI, section 1602; and

42 USC 1381a.

(F) in title XVIII—

(i) subsections (a), (f)(1), (g), and (h) of section 1817;

42 USC 1395i.

(ii) subsections (a)(2) and (d)(1) of section 1840;

42 USC 1395s.

(iii) subsections (f), (g), (h), and (i) of section 1841; and

42 USC 1395t.

(iv) subsection (b)(3) of section 1842.

42 USC 1395u.

(3) The following provisions of such Act are amended by striking out "of Health, Education, and Welfare" wherever it appears:

(A) In title II—

(i) subsections (a)(10)(B) and (l)(4)(A) of section 210;

42 USC 410.

(ii) subsections (a)(2), (a)(3), (b)(2), (e)(2), (e)(3), and (f)(1) of section 217;

42 USC 417.

(iii) subsections (a)(1), (c)(4), (d)(3), (d)(7), (h)(2), (h)(3), (i), (j), (k)(1), (l), and (p)(2) of section 218;

42 USC 418.

(iv) subsection (g) of section 228; and

42 USC 428.

(v) subsection (d) of section 233;

42 USC 433.

(B) in title IV—

(i) subsection (a)(3) of section 403; and 42 USC 603.
(ii) subsection (e) of section 407; and 42 USC 607.
(C) in title XIX, section 1901. 42 USC 1396.

(4) Section 205(l) of such Act is amended by striking out "employee" and all that follows down through "designated" and inserting in lieu thereof "employee of the Department of Health and Human Services designated". 42 USC 405.

(5) The following provisions of the Internal Revenue Code of 1954 are amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services":

(A) Subsection (d)(6)(B)(ii) of section 51; 26 USC 51.
(B) subsections (c)(1), (c)(2)(E), (g)(1), (g)(3)(A), and (g)(3)(B) of section 1402; 26 USC 1402.
(C) subsection (b)(10)(B) of section 3121; 26 USC 3121.
(D) subsections (d) and (f) of section 6057; 26 USC 6057.
(E) subsection (l)(5) of section 6103; and 26 USC 6103.
(F) paragraph (5) of section 6511(d). 26 USC 6511.

(k) Sections 432(d), 432(f)(1), 433(g), and 434(b) of the Social Security Act are each amended by striking out "of Labor" wherever it appears. 42 USC 632, 633, 634.

(l) Any reference to the Federal Security Administrator which may remain in the provisions of title II, IV, VII, or XI of the Social Security Act (other than section 1101(a)(6) of such Act) is amended— 42 USC 1301 note. 42 USC 401, 601, 901, 1301.

(1) by substituting "Secretary" or "Secretary's" for the term "Administrator" or "Administrator's", where the reference is to that term alone; 42 USC 1301.

(2) by substituting "Secretary of Health, Education, and Welfare" for the term "Federal Security Administrator", where the reference is to that term, if the provision containing such reference is amended by paragraph (2) or (3) of subsection (j) (in which case the amendment of such provision under this paragraph shall be deemed to have taken effect immediately prior to the amendment of such provision under such paragraph (2) or (3)); and

(3) by substituting "Secretary of Health and Human Services" for the term "Federal Security Administrator" in any other case where the reference is to that term;

and any reference to the Federal Security Agency which may remain in such provisions is amended by substituting "Department of Health and Human Services" for the term "Federal Security Agency"; but nothing in this subsection shall affect the exercise under section 402(a)(5) of such Act of the functions, powers, and duties relating to the prescription of personnel standards on a merit basis which were transferred from the Secretary of Health, Education, and Welfare by section 208(a)(3)(D) of Public Law 91-648. 42 USC 602. 42 USC 4728.

EFFECTIVE DATES

SEC. 2664. (a) Except as otherwise specifically provided, the amendments made by sections 2661 and 2662 shall be effective as though they had been included in the enactment of the Social Security Amendments of 1983 (Public Law 98-21). 42 USC 401 note. *Ante*, pp. 1156, 1159. 97 Stat. 65.

(b) Except to the extent otherwise specifically provided in this subtitle, the amendments made by section 2663 shall be effective on the date of the enactment of this Act; but none of such amendments shall be construed as changing or affecting any right, liability, 42 USC 1305 note. *Ante*, p. 1160.

status, or interpretation which existed (under the provisions of law involved) before that date.

Subtitle E—Trade Adjustment Assistance

LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES

19 USC 2296.

SEC. 2671. The first sentence of section 233(a)(3) of the Trade Act of 1974 (19 U.S.C. 2293(a)(3)) is amended to read as follows: "Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that—

"(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

"(B) begins with the first week of such training, if such training is approved after the last week described in subparagraph (A).".

JOB SEARCH AND RELOCATION ALLOWANCES

SEC. 2672. (a) Section 237(a)(1) of the Trade Act of 1974 (19 U.S.C. 2297(a)(1)) is amended by striking out "$600" and inserting in lieu thereof "$800".

(b) Section 238(d)(2) of the Trade Act of 1974 (19 U.S.C. 2298(d)(2)) is amended by striking out "$600" and inserting in lieu thereof "$800".

ASSISTANCE TO INDUSTRY

SEC. 2673. Section 265 of the Trade Act of 1974 (19 U.S.C. 2355) is amended—

(1) by amending subsection (a)—

(A) by inserting "or workers" immediately after "substantial number of firms", and

(B) by inserting "223 or" immediately before "251"; and

(2) by striking out "$2,000,000" in subsection (b) and inserting in lieu thereof "$10,000,000".

Subtitle F—Certain Provisions Relating to Puerto Rico and the Virgin Islands

SEC. 2681. CLARIFICATION OF DEFINITION OF ARTICLES PRODUCED IN PUERTO RICO OR THE VIRGIN ISLANDS.

97 Stat. 395.
26 USC 7652.

(a) IN GENERAL.—Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) ARTICLES CONTAINING DISTILLED SPIRITS.—For purposes of subsections (a)(3) and (b)(3), any article containing distilled spirits shall in no event be treated as produced in Puerto Rico or the Virgin Islands unless at least 92 percent of the alcoholic content in such article is attributable to rum.

"(d) ARTICLES OTHER THAN ARTICLES CONTAINING DISTILLED SPIRITS.—For purposes of subsections (a)(3) and (b)(3)—

"(1) VALUE ADDED REQUIREMENT FOR PUERTO RICO.—Any article, other than an article containing distilled spirits, shall in no event be treated as produced in Puerto Rico unless the sum of—

"(A) the cost or value of the materials produced in Puerto Rico, plus

"(B) the direct costs of processing operations performed in Puerto Rico,

equals or exceeds 50 percent of the value of such article as of the time it is brought into the United States.

"(2) PROHIBITION OF FEDERAL EXCISE TAX SUBSIDIES.—

"(A) IN GENERAL.—No amount shall be transferred under subsection (a)(3) or (b)(3) in respect of taxes imposed on any article, other than an article containing distilled spirits, if the Secretary determines that a Federal excise tax subsidy was provided by Puerto Rico or the Virgin Islands (as the case may be) with respect to such article.

"(B) FEDERAL EXCISE TAX SUBSIDY.—For purposes of this paragraph, the term 'Federal excise tax subsidy' means any subsidy—

"(i) of a kind different from, or

"(ii) in an amount per value or volume of production greater than,

the subsidy which Puerto Rico or the Virgin Islands offers generally to industries producing articles not subject to Federal excise taxes.

"(3) DIRECT COSTS OF PROCESSING OPERATIONS.—For purposes of this subsection, the term 'direct cost of processing operations' has the same meaning as when used in section 213 of the Caribbean Basin Economic Recovery Act.".

97 Stat. 384.
19 USC 2703.
26 USC 7652 note.

(b) EFFECTIVE DATES AND SPECIAL RULES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to articles brought into the United States on or after March 1, 1984.

(2) EXCEPTION FOR PUERTO RICO FOR PERIODS BEFORE JANUARY 1, 1985.—

(A) IN GENERAL.—Subject to the limitations of subparagraphs (B) and (C), the amendments made by subsection (a) shall not apply with respect to articles containing distilled spirits brought into the United States from Puerto Rico after February 29, 1984, and before January 1, 1985.

(B) $130,000,000 LIMITATION.—In the case of such articles brought into the United States after February 29, 1984, and before July 1, 1984, the aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed the excess of—

(i) $130,000,000, over

(ii) the aggregate amount payable to Puerto Rico under section 7652(a) of the Internal Revenue Code of 1954 with respect to such articles which were brought into the United States after June 30, 1983, and before March 1, 1984, and which would not meet the requirements of section 7652(c) of such Code.

Ante, p. 1172.

(C) $75,000,000 LIMITATION.—The aggregate amount payable to Puerto Rico by reason of subparagraph (A) shall not exceed $75,000,000 in the case of articles—

(i) brought into the United States after June 30, 1984, and before January 1, 1985,

(ii) which would not meet the requirements of section 7652(c) of such Code,

Ante, p. 1172.

(iii) which have been redistilled in Puerto Rico, and

(iv) which do not contain distilled spirits derived from cane.

(3) LIMITATION ON INCENTIVE PAYMENTS TO UNITED STATES DISTILLERS.—

(A) IN GENERAL.—In the case of articles to which this paragraph applies, the aggregate amount of incentive payments paid to any United States distiller with respect to such articles shall not exceed the limitation described in subparagraph (C).

(B) ARTICLES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any article containing distilled spirits described in clauses (i) through (iv) of paragraph (2)(C).

(C) LIMITATION.—

(i) IN GENERAL.—The limitation described in this subparagraph is $1,500,000.

(ii) SPECIAL RULE.—The limitation described in this subparagraph shall be zero with respect to any distiller who was not entitled to or receiving incentive payments as of March 1, 1984.

(D) PAYMENTS IN EXCESS OF LIMITATION.—If any United States distiller receives any incentive payment with respect to articles to which this paragraph applies in excess of the limitation described in subparagraph (C), such distiller shall pay to the United States the total amount of such incentive payments with respect to such articles in the same manner, and subject to the same penalties, as if such amount were tax due and payable under section 5001 of such Code on the date such payments were received.

(E) INCENTIVE PAYMENTS.—

(i) IN GENERAL.—For purposes of this paragraph, the term "incentive payment" means any payment made directly or indirectly by the commonwealth of Puerto Rico to any United States distiller as an incentive to engage in redistillation operations.

(ii) TRANSPORTATION PAYMENTS EXCLUDED.—Such term shall not include any payment of a direct cost of transportation to or from Puerto Rico with respect to any article to which this paragraph applies.

SEC. 2682. LIMITATIONS ON TRANSFERS OF EXCISE TAX REVENUES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by adding at the end thereof the following new subsection:

Ante, p. 1172.

"(f) LIMITATION ON COVER OVER OF TAX ON DISTILLED SPIRITS.—For purposes of this section, with respect to taxes imposed under section 5001 or this section on distilled spirits, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the lesser of the rate of—

"(1) $10.50, or

"(2) the tax imposed under section 5001(a)(1), on each proof gallon.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles containing distilled spirits brought into the United States after September 30, 1985. 26 USC 7652 note.

TITLE VII—COMPETITION IN CONTRACTING

Competition in Contracting Act of 1984.

SHORT TITLE

SEC. 2701. This title may be cited as the "Competition in Contracting Act of 1984". 41 USC 251 note.

Subtitle A—Amendments to the Federal Property and Administrative Services Act of 1949

PROCUREMENT PROCEDURES

SEC. 2711. (a)(1) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended to read as follows:

"COMPETITION REQUIREMENTS

"SEC. 303. (a)(1) Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, an executive agency in conducting a procurement for property or services—

"(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this title and the modifications to regulations promulgated pursuant to section 2752 of the Competition in Contracting Act of 1984; and *Post*, p. 1203.

"(B) shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

"(2) In determining the competitive procedures appropriate under the circumstance, an executive agency—

"(A) shall solicit sealed bids if—

"(i) time permits the solicitation, submission, and evaluation of sealed bids;

"(ii) the award will be made on the basis of price and other price-related factors;

"(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

"(iv) there is a reasonable expectation of receiving more than one sealed bid; and

"(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

"(b)(1) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures but excluding a particular source in order to establish or maintain any alternative source or sources of supply for that property or service if the agency head determines that to do so—

"(A) would increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of such property or services;

"(B) would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the property or service in case of a national emergency or industrial mobilization; or

"(C) would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

"(2) In fulfilling the statutory requirements relating to small business concerns and socially and economically disadvantaged small business concerns, an executive agency shall use competitive procedures but may restrict a solicitation to allow only such business concerns to compete.

"(c) An executive agency may use procedures other than competitive procedures only when—

"(1) the property or services needed by the executive agency are available from only one responsible source and no other type of property or services will satisfy the needs of the executive agency;

"(2) the executive agency's need for the property or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the executive agency is permitted to limit the number of sources from which it solicits bids or proposals;

"(3) it is necessary to award the contract to a particular source or sources in order (A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, or (B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center;

"(4) the terms of an international agreement or treaty between the United States Government and a foreign government or international organization, or the written directions of a foreign government reimbursing the executive agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of procedures other than competitive procedures;

"(5) a statute expressly authorizes or requires that the procurement be made through another executive agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;

"(6) the disclosure of the executive agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; or

"(7) the head of the executive agency—

"(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

"(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

"(d)(1) For the purposes of applying subsection (c)(1)—

"(A) in the case of a contract for property or services to be awarded on the basis of acceptance of an unsolicited research

proposal, the property or services shall be considered to be available from only one source if the source has submitted an unsolicited research proposal that demonstrates a unique and innovative concept the substance of which is not otherwise available to the United States and does not resemble the substance of a pending competitive procurement; and

"(B) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment when it is likely that award to a source other than the original source would result in (i) substantial duplication of cost to the Government which is not expected to be recovered through competition, or (ii) unacceptable delays in fulfilling the executive agency's needs, such property may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures.

"(2) The authority of the head of an executive agency under subsection (c)(7) may not be delegated.

"(e) An executive agency using procedures other than competitive procedures to procure property or services by reason of the application of subsection (c)(2) or (c)(6) shall request offers from as many potential sources as is practicable under the circumstances.

"(f)(1) Except as provided in paragraph (2), an executive agency may not award a contract using procedures other than competitive procedures unless—

"(A) the contracting officer for the contract justifies the use of such procedures in writing and certifies the accuracy and completeness of the justification;

"(B) the justification is approved—

"(i) in the case of a contract for an amount exceeding $100,000 (but equal to or less than $1,000,000), by the competition advocate for the procuring activity (without further delegation);

"(ii) in the case of a contract for an amount exceeding $1,000,000 (but equal to or less than $10,000,000), by the head of the procuring activity or a delegate who, if a member of the armed forces, is a general or flag officer or, if a civilian; is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or 5 USC 5332.

"(iii) in the case of a contract for an amount exceeding $10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and 97 Stat. 1330.

"(C) Any required notice has been published with respect to such contract pursuant to section 18 of the Office of Federal Procurement Policy Act and all bids or proposals received in response to such notice have been considered by such executive agency. *Post*, p. 1196.

"(2) In the case of a procurement permitted by subsection (c)(2), the justification and approval required by paragraph (1) may be made after the contract is awarded. The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act.

"(3) The justification required by paragraph (1)(A) shall include—

"(A) a description of the agency's needs;

"(B) an identification of the statutory exception from the requirement to use competitive procedures and a demonstration, based on the proposed contractor's qualifications or the nature of the procurement, of the reasons for using that exception;

"(C) a determination that the anticipated cost will be fair and reasonable;

"(D) a description of the market survey conducted or a statement of the reasons a market survey was not conducted;

"(E) a listing of the sources, if any, that expressed in writing an interest in the procurement; and

"(F) a statement of the actions, if any, the agency may take to remove or overcome a barrier to competition before a subsequent procurement for such needs.

"(4) The justification required by paragraph (1)(A) and any related information shall be made available for inspection by the public consistent with the provisions of section 552 of title 5, United States Code.

"(5) In no case may an executive agency—

"(A) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount of funds available to the agency for procurement functions; or

"(B) procure property or services from another executive agency unless such other executive agency complies fully with the requirements of this title in its procurement of such property or services.

The restriction set out in clause (B) is in addition to, and not in lieu of, any other restriction provided by law.

"(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984 shall provide for special simplified procedures for small purchases of property and services.

Post, p. 1203.

"(2) For the purposes of this title, a small purchase is a purchase or contract for an amount which does not exceed $25,000.

"(3) A proposed purchase or contract for an amount above $25,000 may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required by paragraph (1).

"(4) In using small purchase procedures, an executive agency shall promote competition to the maximum extent practicable.".

(2) Title III of such Act is further amended by inserting after section 303 the following new sections:

"PLANNING AND SOLICITATION REQUIREMENTS

41 USC 253a.

"SEC. 303A. (a)(1) In preparing for the procurement of property or services, an executive agency shall—

"(A) specify its needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

"(B) use advance procurement planning and market research; and

"(C) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

"(2) Each solicitation under this title shall include specifications which—

"(A) consistent with the provisions of this title, permit full and open competition;

"(B) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the executive agency or as authorized by law.

"(3) For the purposes of paragraphs (1) and (2), the type of specification included in a solicitation shall depend on the nature of the needs of the executive agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(A) function, so that a variety of products or services may qualify;

"(B) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(C) design requirements.

"(b) In addition to the specifications described in subsection (a), each solicitation for sealed bids or competitive proposals (other than for small purchases) shall at a minimum include—

"(1) a statement of—

"(A) all significant factors (including price) which the executive agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(B) the relative importance assigned to each of those factors; and

"(2)(A) in the case of sealed bids—

"(i) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(ii) the time and place for the opening of the sealed bids; or

"(B) in the case of competitive proposals—

"(i) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors, but might be evaluated and awarded without discussions with the offerors; and

"(ii) the time and place for submission of proposals.

"EVALUATION AND AWARD

"SEC. 303B. (a) An executive agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation. 41 USC 253b.

"(b) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the agency head determines that such action is in the public interest.

"(c) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The executive agency shall evaluate the bids without discussions with the bidders and, except as provided in subsection (b), shall award a contract with reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the United States, considering only price and the other price-related factors included in the solicitation. The

award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(d)(1) The executive agency shall evaluate competitive proposals and may award a contract—

"(A) after discussions conducted with the offerors at any time after receipt of the proposals and before the award of the contract; or

"(B) without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in the lowest overall cost to the Government.

"(2) In the case of award of a contract under paragraph (1)(A), the executive agency shall conduct, before such award, written or oral discussions with all responsible sources who submit proposals within the competitive range, considering only price and the other factors included in the solicitation.

"(3) In the case of award of a contract under paragraph (1)(B), the executive agency shall award the contract based on the proposals as received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(4) Except as otherwise provided in subsection (b), the executive agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the United States, considering only price and the other factors included in the solicitation. The executive agency shall award the contract by transmitting written notice of the award to such source and shall promptly notify all other offerors of the rejection of their proposals.

"(e) If the agency head considers that a bid or proposal evidences a violation of the antitrust laws, such agency head shall refer the bid or proposal to the Attorney General for appropriate action.".

(3) Section 309 of such Act (41 U.S.C. 259) is amended by adding at the end thereof the following new subsections:

"(b) The term 'competitive procedures' means procedures under which an executive agency enters into a contract pursuant to full and open competition. Such term also includes—

"(1) procurement of architectural or engineering services conducted in accordance with title IX of this Act (40 U.S.C. 541 et seq.);

"(2) the competitive selection of basic research proposals resulting from a general solicitation and the peer review or scientific review (as appropriate) of such proposals; and

"(3) the procedures established by the Administrator for the multiple awards schedule program of the General Services Administration if—

"(A) participation in the program has been open to all responsible sources; and

"(B) orders and contracts under such procedures result in the lowest overall cost alternative to meet the needs of the Government.

"(c) The terms 'full and open competition' and 'responsible source' have the same meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

Post, p. 1195.

(b) The table of contents of such Act is amended by striking out the item relating to section 303 and inserting in lieu thereof the following:

"Sec. 303. Competition requirements.
"Sec. 303A. Planning and solicitation requirements.
"Sec. 303B. Evaluation and award.".

(c) The amendments made by this section do not supersede or affect the provisions of section 8(a) of the Small Business Act (15 U.S.C. 637(a)). 41 USC 253 note.

COST OR PRICING DATA

SEC. 2712. Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by adding at the end thereof the following new subsection:

"(d)(1) A prime contractor or any subcontractor shall be required to submit cost or pricing data under the circumstances listed below, and shall be required to certify that, to the best of such contractor's or subcontractor's knowledge and belief, the cost or pricing data submitted were accurate, complete, and current—

"(A) before the award of any prime contract under this title using procedures other than sealed-bid procedures, if the contract price is expected to exceed $100,000;

"(B) before the pricing of any contract change or modification, if the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the agency head;

"(C) before the award of a subcontract at any tier, when the prime contractor and each higher tier subcontractor have been required to furnish such a certificate, if the price of such subcontract is expected to exceed $100,000; or

"(D) before the pricing of any contract change or modification to a subcontract covered by clause (C), if the price adjustment is expected to exceed $100,000, or such lesser amount as may be prescribed by the agency head.

"(2) Any prime contract or change or modification thereto under which a certificate is required under paragraph (1) shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the agency head that such price was increased because the contractor or any subcontractor required to furnish such a certificate, furnished cost or pricing data which, as of a date agreed upon between the parties (which date shall be as close to the date of agreement on the price as is practicable), were inaccurate, incomplete, or noncurrent.

"(3) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this subsection, any authorized representative of the agency who is an employee of the United States Government shall have the right, until the expiration of three years after final payment under the contract or subcontract, to examine all books, records, documents, and other data of the contractor or subcontractor related to the proposal for the contract, the discussions conducted on the proposal, pricing, or performance of the contract or subcontract.

"(4) When cost or pricing data are not required to be submitted by this subsection, such data may nevertheless be required by the agency if the agency head determines that such data are necessary for the evaluation by the executive agency of the reasonableness of the price of the contract or subcontract.

"(5) The requirements of this subsection need not be applied to contracts or subcontracts—

"(A) where the price is based on—

"(i) adequate price competition,

"(ii) established catalog or market prices of commercial items sold in substantial quantities to the general public, or

"(iii) prices set by law or regulation, or

"(B) in exceptional cases, where the agency head determines that the requirements of this subsection may be waived and states in writing the reasons for such determination.".

AUTOMATED DATA PROCESSING DISPUTE RESOLUTION

SEC. 2713. (a) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end thereof the following new subsection:

"(h)(1) Upon request of an interested party in connection with any procurement conducted under the authority of this section (including procurements conducted under delegations of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board'), shall review any decision by a contracting officer alleged to violate a statute or regulation. Such review shall be conducted under the standard applicable to review of contracting officer final decisions by boards of contract appeals. An interested party who has filed a protest under subchapter V of chapter 35 of title 31, United States Code, with respect to a procurement or proposed procurement may not file a protest with respect to that procurement or proposed procurement under this subsection.

Post, p. 1199.

"(2)(A) When a protest under this subsection is filed before the award of a contract in a protested procurement, the board, at the request of an interested party and within 10 days of the filing of the protest, shall hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(B) The board shall suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority unless the Federal agency concerned establishes that—

"(i) absent action by the board, contract award is likely to occur within 30 days of the hearing; and

"(ii) urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

"(3)(A) If the Board receives notice of a protest under this subsection after the contract has been awarded but within 10 days after the contract award, the board shall, at the request of an interested party and within 10 days after the date of the filing of the protest, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the challenged procurement on an interim basis until the board can decide the protest.

"(B) The board shall suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority to acquire any goods or services under the contract which are not previously delivered and accepted unless the Federal agency concerned establishes that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the board.

"(4)(A) The board shall conduct such proceedings and allow such discovery as may be required for the expeditious, fair, and reasonable resolution of the protest.

"(B) Subject to any deadlines imposed by section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)), the board shall give priority to protests filed under this subsection. The board shall issue its final decision within 45 working days after the date of the filing of the protest, unless the board's chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the board shall issue such decision within the longer period determined by the chairman.

"(C) The board may dismiss a protest the board determines is frivolous or which, on its face, does not state a valid basis for protest.

"(5)(A) In making a decision on the merits of protests brought under this section, the board shall accord due weight to the policies of this section and the goals of economic and efficient procurement set forth in this section.

"(B) If the board determines that a challenged agency action violates a statute or regulation or the conditions of any delegation of procurement authority issued pursuant to this section, the board may suspend, revoke, or revise the procurement authority of the Administrator or the Administrator's delegation of procurement authority applicable to the challenged procurement.

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate interested party to be entitled to the costs of—

"(i) filing and pursuing the protest, including reasonable attorney's fees, and

"(ii) bid and proposal preparation.

"(6)(A) The final decision of the board may be appealed by the head of the Federal agency concerned and by any interested party, including interested parties who intervene in any protest filed under this subsection, as set forth in the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

"(B) If the board revokes, suspends, or revises the procurement authority of the Administrator or the Administrator's delegation of procurement authority after the contract award, the affected contract shall be presumed valid as to all goods or services delivered and accepted under the contract before the suspension, revocation, or revision of such procurement authority or delegation.

"(C) Nothing contained in this subsection shall affect the board's power to order any additional relief which it is authorized to provide under any statute or regulation. However, the procedures set forth in this subsection shall only apply to procurements conducted under the authority contained in this section. In addition, nothing contained in this subsection shall affect the right of any interested party to file a protest with the contracting agency or to file an action in a district court of the United States or the United States Claims Court.

"(8) Not later than January 15, 1985, the board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(9) For purposes of this subsection—

"(A) the term 'protest' means a written objection by an interested party to a solicitation by a Federal agency for bids or

proposals for a proposed contract for the procurement of property or services or a written objection to a proposed award or the award of such a contract; and

"(B) the term 'interested party' means, with respect to a contract or proposed contract described in subparagraph (A), an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.".

Effective date. 40 USC 759 note.

(b) The amendment made by this section shall cease to be effective on January 15, 1988.

CONFORMING AMENDMENTS

SEC. 2714. (a)(1) Section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252) is amended—

(A) by striking out the second sentence in subsection (b); and

(B) by striking out subsections (c), (d), (e), and (f) and inserting in lieu thereof the following:

"(c)(1) This title does not (A) authorize the erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items using procedures other than sealed-bid procedures under section 303(a)(2)(A), if the conditions set forth in section 303(a)(2)(A) apply or the contract is to be performed outside the United States.

Ante, p. 1175.

"(2) Section 303(a)(2)(A) does not require the use of sealed-bid procedures in cases in which section 204(e) of title 23, United States Code, applies.".

(2) The heading of section 304 of such Act (41 U.S.C. 254) is amended to read as follows:

"CONTRACT REQUIREMENTS".

(3) Section 304 of such Act (41 U.S.C. 254) is amended—

(A) by striking out "negotiated pursuant to section 302(c)" in the first sentence of subsection (a) and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures";

(B) by striking out "negotiated pursuant to section 302(c)" in the second sentence of subsection (a) and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures"; and

(C) by striking out "negotiated without advertising pursuant to authority contained in this Act" in the first sentence of subsection (c) and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures".

(4) Section 307 of such Act (41 U.S.C. 257) is amended—

(A) by striking out the first sentence of subsection (a) and inserting in lieu thereof the following: "Determinations and decisions provided in this Act to be made by the Administrator or other agency head shall be final. Such determinations or decisions may be made with respect to individual purchases or contracts or, except for determinations or decisions under sections 303, 303A, and 303B, with respect to classes of purchases or contracts.";

Ante, p. 1175.

(B) by striking out "Except as provided in subsection (b)," in the second sentence of subsection (a) and inserting in lieu thereof "Except as provided in section 303(d)(2),";

(C) by striking out "this chapter" in such sentence and inserting in lieu thereof "this Act";

(D) by striking out subsection (b);

(E) by striking out "by paragraphs (11), (12), (13), or (14) of section 302(c)," in subsection (c);

(F) by redesignating subsection (c) as subsection (b); and

(G) by striking out subsection (d).

(5) Section 308 of such Act (41 U.S.C. 258) is amended by striking out "entered into pursuant to section 302(c) without advertising," and inserting in lieu thereof "made or awarded after using procedures other than sealed-bid procedures".

(6) Section 310 of such Act (41 U.S.C. 260) is amended by striking out "section 302(c)(15) of this title without regard to the advertising requirements of sections 302(c) and 303" and inserting in lieu thereof "the provisions of this title relating to procedures other than sealed-bid procedures".

(b) The table of contents of such Act is amended by striking out the item relating to section 304 and inserting in lieu thereof the following:

"Sec. 304. Contract requirements.".

Subtitle B—Amendments to Title 10, United States Code

DECLARATION OF POLICY

SEC. 2721. Section 2301 of title 10, United States Code, is amended to read as follows:

"§ 2301. Congressional defense procurement policy

"(a) The Congress finds that in order to ensure national defense preparedness, conserve fiscal resources, and enhance defense production capability, it is in the interest of the United States that property and services be acquired for the Department of Defense in the most timely, economic, and efficient manner. It is therefore the policy of Congress that—

"(1) full and open competitive procedures shall be used by the Department of Defense in accordance with the requirements of this chapter;

"(2) services and property (including weapon systems and associated items) for the Department of Defense be acquired by any kind of contract, other than cost-plus-a-percentage-of-cost contracts, but including multiyear contracts, that will promote the interest of the United States;

"(3) contracts, when appropriate, provide incentives to contractors to improve productivity through investment in capital facilities, equipment, and advanced technology;

"(4) contracts for advance procurement of components, parts, and materials necessary for manufacture or for logistics support of a weapon system should, if feasible and practicable, be entered into in a manner to achieve economic-lot purchases and more efficient production rates;

"(5) the head of an agency use advance procurement planning and market research and prepare contract specifications in such a manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired; and

"(6) the head of an agency encourage the development and maintenance of a procurement career management program to ensure a professional procurement work force.

"(b) Further, it is the policy of Congress that procurement policies and procedures for the agencies named in section 2303 of this title shall in accordance with the requirements of this chapter—

"(1) promote full and open competition;

"(2) be implemented to support the requirements of such agencies in time of war or national emergency as well as in peacetime;

"(3) promote responsiveness of the procurement system to agency needs by simplifying and streamlining procurement processes;

"(4) promote the attainment and maintenance of essential capability in the defense industrial base and the capability of the United States for industrial mobilization;

"(5) provide incentives to encourage contractors to take actions and make recommendations that would reduce the costs to the United States relating to the purchase or use of property or services to be acquired under contracts;

"(6) promote the use of commercial products whenever practicable; and

"(7) require descriptions of agency requirements, whenever practicable, in terms of functions to be performed or performance required.

"(c) Further, it is the policy of Congress that a fair proportion of the purchases and contracts entered into under this chapter be placed with small business concerns.".

CLARIFICATION OF APPLICABILITY OF CHAPTER 137 OF TITLE 10 TO THE SECRETARY OF DEFENSE; DEFINITIONS

SEC. 2722. (a) Section 2302 of title 10, United States Code, is amended to read as follows:

"§ 2302. Definitions

"In this chapter:

"(1) 'Head of an agency' means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(2) 'Competitive procedures' means procedures under which the head of an agency enters into a contract pursuant to full and open competition. Such term also includes—

"(A) procurement of architectural or engineering services conducted in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 541 et seq.);

40 USC 541.

"(B) the competitive selection for award of basic research proposals resulting from a general solicitation and the peer

review or scientific review (as appropriate) of such proposals; and

"(C) the procedures established by the Administrator of General Services for the multiple award schedule program of the General Services Administration if—

"(i) participation in the program has been open to all responsible sources; and

"(ii) orders and contracts under such program result in the lowest overall cost alternative to meet the needs of the United States.

"(3) The terms 'full and open competition' and 'responsible source' have the same meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).".

Post, p. 1195.

(b) Section 2303 of such title is amended— 10 USC 2303.

(1) in subsection (a)—

(A) by striking out "purchase, and contract to purchase," and inserting in lieu thereof "procurement";

(B) by striking out "named in subsection (b), and all services," and inserting in lieu thereof "(other than land) and all services";

(C) by redesignating clauses (1) through (5) as clauses (2) through (6), respectively; and

(D) by inserting before clause (2) (as so redesignated) the following new clause:

"(1) The Department of Defense.";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

PROCUREMENT PROCEDURES

SEC. 2723. (a)(1) Section 2304 of title 10, United States Code, is amended—

(A) by striking out subsections (a) through (e) and (g), (h), and (i);

(B) by redesignating subsection (f) as subsection (h); and

(C) by inserting after the section heading the following:

"(a)(1) Except as provided in subsections (b), (c), and (g) and except in the case of procurement procedures otherwise expressly authorized by statute, the head of an agency in conducting a procurement for property or services—

"(A) shall obtain full and open competition through the use of competitive procedures in accordance with the requirements of this chapter and the modifications to regulations promulgated pursuant to section 2752 of the Competition in Contracting Act of 1984; and

Post, p. 1203.

"(B) shall use the competitive procedure or combination of competitive krocedures that is best suited under the circumstances of the procurement.

"(2) In determining the competitive procedure appropriate under the circumstances, the head of an agency—

"(A) shall solicit sealed bids if—

"(i) time permits the solicitation, submission, and evaluation of sealed bids;

"(ii) the award will be made on the basis of price and other price-related factors;

"(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

"(iv) there is a reasonable expectation of receiving more than one sealed bid; and

"(B) shall request competitive proposals if sealed bids are not appropriate under clause (A).

"(b)(1) The head of an agency may provide for the procurement of property or services covered by this chapter using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property or service if the head of the agency determines that to do so—

"(A) would increase or maintain competition and would likely result in reduced overall costs for such procurement, or for any anticipated procurement, of property or services;

"(B) would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the property or service in case of a national emergency or industrial mobilization; or

"(C) would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

"(2) In fulfilling the statutory requirements relating to small business concerns and socially and economically disadvantaged small business concerns, the head of an agency shall use competitive procedures but may restrict a solicitation to allow only such business concerns to compete.

"(c) The head of an agency may use procedures other than competitive procedures only when—

"(1) the property or services needed by the agency are available from only one responsible source and no other type of property or services will satisfy the needs of the agency;

"(2) the agency's need for the property or services is of such an unusual and compelling urgency that the United States would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals;

"(3) it is necessary to award the contract to a particular source or sources in order (A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve industrial mobilization, or (B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center;

"(4) the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the procurement of the property or services for such government, have the effect of requiring the use of procedures other than competitive procedures;

"(5) a statute expressly authorizes or requires that the procurement be made through another agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;

"(6) the disclosure of the agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals; or

"(7) the head of the agency—

"(A) determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned, and

"(B) notifies the Congress in writing of such determination not less than 30 days before the award of the contract.

"(d)(1) For the purposes of applying subsection (c)(1)—

"(A) in the case of a contract for property or services to be awarded on the basis of acceptance of an unsolicited research proposal, the property or services shall be considered to be available from only one source if the source has submitted an unsolicited research proposal that demonstrates a unique and innovative concept the substance of which is not otherwise available to the United States and does not resemble the substance of a pending competitive procurement; and

"(B) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment when it is likely that award to a source other than the original source would result in (i) substantial duplication of cost to the United States which is not expected to be recovered through competition, or (ii) unacceptable delays in fulfilling the agency's needs, such property may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures.

"(2) The authority of the head of an agency under subsection (c)(7) may not be delegated.

"(e) The head of an agency using procedures other than competitive procedures to procure property or services by reason of the application of subsection (c)(2) or (c)(6) shall request offers from as many potential sources as is practicable under the circumstances.

"(f)(1) Except as provided in paragraph (2), the head of an agency may not award a contract using procedures other than competitive procedures unless—

"(A) the contracting officer for the contract justifies the use of such procedures in writing and certifies the accuracy and completeness of the justification;

"(B) the justification is approved—

"(i) in the case of a contract for an amount exceeding $100,000 (but equal to or less than $1,000,000), by the competition advocate for the procuring activity (without further delegation);

"(ii) in the case of a contract for an amount exceeding $1,000,000 (but equal to or less than $10,000,000), by the head of the procuring activity or a delegate who, if a member of the armed forces, is a general or flag officer or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or 5 USC 5332.

"(iii) in the case of a contract for an amount exceeding $10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and 97 Stat. 1330.

"(C) any required notice has been published with respect to such contract pursuant to section 18 of the Office of Federal Procurement Policy Act and all bids or proposals received in response to that notice have been considered by the head of the agency.

Post, p. 1196.

"(2) In the case of a procurement permitted by subsection (c)(2), the justification and approval required by paragraph (1) may be made after the contract is awarded. The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act.

"(3) The justification required by paragraph (1)(A) shall include—

"(A) a description of the agency's needs;

"(B) an identification of the statutory exception from the requirement to use competitive procedures and a demonstration, based on the proposed contractor's qualifications or the nature of the procurement, of the reasons for using that exception;

"(C) a determination that the anticipated cost will be fair and reasonable;

"(D) a description of the market survey conducted or a statement of the reasons a market survey was not conducted;

"(E) a listing of the sources, if any, that expressed in writing an interest in the procurement; and

"(F) a statement of the actions, if any, the agency may take to remove or overcome any barrier to competition before a subsequent procurement for such needs.

"(4) The justification required by paragraph (1)(A) and any related information shall be made available for inspection by the public consistent with the provisions of section 552 of title 5.

5 USC 552.

"(5) In no case may the head of an agency—

"(A) enter into a contract for property or services using procedures other than competitive procedures on the basis of the lack of advance planning or concerns related to the amount of funds available to the agency for procurement functions; or

"(B) procure property or services from another agency unless such other agency complies fully with the requirements of this chapter in its procurement of such property or services.

The restriction contained in clause (B) is in addition to, and not in lieu of, any other restriction provided by law.

"(g)(1) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the regulations modified in accordance with section 2752 of the Competition in Contracting Act of 1984 shall provide for special simplified procedures for small purchases of property and services.

Post, p. 1203.

"(2) For the purposes of this chapter, a small purchase is a purchase or contract for an amount which does not exceed $25,000.

"(3) A proposed purchase or contract for an amount above $25,000 may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required by paragraph (1).

"(4) In using small purchase procedures, the head of an agency shall promote competition to the maximum extent practicable.".

(2) The heading of such section is amended to read as follows:

"§ 2304. Contracts: competition requirements".

(b) Section 2305 of such title is amended to read as follows: 10 USC 2305.

"§ 2305. Contracts: planning, solicitation, evaluation, and award procedures

"(a)(1)(A) In preparing for the procurement of property or services, the head of an agency shall—

"(i) specify the agency's needs and solicit bids or proposals in a manner designed to achieve full and open competition for the procurement;

"(ii) use advance procurement planning and market research; and

"(iii) develop specifications in such manner as is necessary to obtain full and open competition with due regard to the nature of the property or services to be acquired.

"(B) Each solicitation under this chapter shall include specifications which—

"(i) consistent with the provisions of this chapter, permit full and open competition; and

"(ii) include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.

"(C) For the purposes of subparagraphs (A) and (B), the type of specification included in a solicitation shall depend on the nature of the needs of the agency and the market available to satisfy such needs. Subject to such needs, specifications may be stated in terms of—

"(i) function, so that a variety of products or services may qualify;

"(ii) performance, including specifications of the range of acceptable characteristics or of the minimum acceptable standards; or

"(iii) design requirements.

"(2) In addition to the specifications described in paragraph (1), a solicitation for sealed bids or competitive proposals (other than for small purchases) shall at a minimum include—

"(A) a statement of—

"(i) all significant factors (including price) which the head of the agency reasonably expects to consider in evaluating sealed bids or competitive proposals; and

"(ii) the relative importance assigned to each of those factors; and

"(B)(i) in the case of sealed bids—

"(I) a statement that sealed bids will be evaluated without discussions with the bidders; and

"(II) the time and place for the opening of the sealed bids; or

"(ii) in the case of competitive proposals—

"(I) a statement that the proposals are intended to be evaluated with, and awards made after, discussions with the offerors, but might be evaluated and awarded without discussions with the offerors; and

"(II) the time and place for submission of proposals.

(b)(1) The head of an agency shall evaluate sealed bids and competitive proposals based solely on the factors specified in the solicitation.

"(2) All sealed bids or competitive proposals received in response to a solicitation may be rejected if the head of the agency determines that such action is in the public interest.

"(3) Sealed bids shall be opened publicly at the time and place stated in the solicitation. The head of the agency shall evaluate the bids without discussions with the bidders and, except as provided in paragraph (2), shall award a contract with reasonable promptness to the responsible bidder whose bid conforms to the solicitation and is most advantageous to the United States, considering only price and the other price-related factors included in the solicitation. The award of a contract shall be made by transmitting written notice of the award to the successful bidder.

"(4)(A) The head of an agency shall evaluate competitive proposals and may award a contract—

"(i) after discussions conducted with the offerors at any time after receipt of the proposals and before the award of the contract; or

"(ii) without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) when it can be clearly demonstrated from the existence of full and open competition or accurate prior cost experience with the product or service that acceptance of an initial proposal without discussions would result in the lowest overall cost to the United States.

"(B) In the case of award of a contract under subparagraph (A)(i), the head of the agency shall conduct, before such award, written or oral discussions with all responsible sources who submit proposals within the competitive range, considering only price and the other factors included in the solicitation.

"(C) In the case of award of a contract under subparagraph (A)(ii), the head of the agency shall award the contract based on the proposals received (and as clarified, if necessary, in discussions conducted for the purpose of minor clarification).

"(D) Except as provided in paragraph (2), the head of the agency shall award a contract with reasonable promptness to the responsible source whose proposal is most advantageous to the United States, considering only price and the other factors included in the solicitation. The head of the agency shall award the contract by transmitting written notice of the award to such source and shall promptly notify all other offerors of the rejection of their proposals.

"(5) If the head of an agency considers that a bid or proposal evidences a violation of the antitrust laws, he shall refer the bid or proposal to the Attorney General for appropriate action.".

10 USC 2304 note.

(c) The amendments made by this section do not supersede or affect the provisions of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

COST OR PRICING DATA; CONFORMING AMENDMENTS

SEC. 2724. (a) The second sentence of subsection (a) of section 2306 of title 10, United States Code, is amended to read as follows: "Subject to the limitation in the preceding sentence, the other provisions of this section, and other applicable provisions of law, the head of an agency, in awarding contracts under this chapter after using procedures other than sealed-bid procedures, may enter into any kind of contract that he considers will promote the best interests of the United States".

(b) Subsection (b) of such section is amended by striking out "negotiated under section 2304" in the first sentence of subsection (b) and inserting in lieu thereof "awarded under this chapter after using procedures other than sealed-bid procedures".

(c) Subsection (c) of such section is amended by striking out "section 2304 of this title," and inserting in lieu thereof "this chapter".

(d) Subsection (e) of such section is amended by striking out "$25,000 or" in clause (2) and inserting in lieu thereof "the greater of (A) the small purchase amount under section 2304(g) of this title, or (B)".

(e) Subsection (f) of such section is amended—

(A) in paragraph (1)—

(i) by striking out "his" in the matter preceding clause (A) and inserting in lieu thereof "such contractor's or subcontractor's";

(ii) by striking out "he" in the matter preceding clause (A);

(iii) by striking out "negotiated prime contract under this title where" in clause (A) and inserting in lieu thereof "prime contract under this chapter entered into after using procedures other than sealed-bid procedures, if";

(iv) by striking out "for which" in clauses (B) and (D) and inserting in lieu thereof "if";

(v) by striking out "where" in clause (C) and inserting in lieu thereof "when";

(vi) by striking out "$500,000" each place it appears and inserting in lieu thereof "$100,000"; and

(vii) by striking out "prior to" each place it appears and inserting in lieu thereof "before";

(B) in paragraph (2), by striking out "negotiated" both places it appears;

(C) by redesignating paragraph (3) as paragraph (5) and striking out "negotiation," in such paragraph and inserting in lieu thereof "proposal for the contract, the discussions conducted on the proposal,";

(D) by inserting a period after "noncurrent" in paragraph (2);

(E) by striking out ": *Provided,* That the requirements" in paragraph (2) and inserting in lieu thereof the following:

"(3) The requirements"; and

(F) by inserting after paragraph (3) (as designated by clause (E)) the following new paragraph:

"(4) When cost or pricing data is not required to be submitted by this subsection, such data may nevertheless be required by the head of the agency if the head of the agency determines that such data is necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.".

(f) The heading of such section is amended to read as follows:

"§ 2306. Kinds of contracts; cost or pricing data: truth in negotiation".

DETERMINATIONS AND DECISIONS

SEC. 2725. Section 2310 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", except for determinations and decisions under section 2304 or 2305 of title," in the first sentence after "contract or"; and

(B) by inserting ", including a determination or decision under section 2304 or 2305 of this title," in the second sentence after "decision"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Each determination or decision under section 2306(c), 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision, which finding shall set out facts and circumstances that—

"(1) clearly indicate why the type of contract selected under section 2306(c) of this title is likely to be less costly than any other type or that it is impracticable to obtain property or services of the kind or quality required except under such a contract;

"(2) support the findings required by section 2306(g)(1) of this title;

"(3) clearly indicate why advance payments under section 2307(c) of this title would be in the public interest; or

"(4) clearly indicate why the application of section 2313(b) of this title to a contract or subcontract with a foreign contractor or foreign subcontractor would not be in the public interest.

Such a finding is final and shall be kept available in the agency for at least six years after the date of the determination or decision. A copy of the finding shall be submitted to the General Accounting Office with each contract to which it applies.".

LIMITATION ON AUTHORITY TO DELEGATE CERTAIN FUNCTIONS

SEC. 2726. Section 2311 of title 10, United States Code, is amended—

(1) by striking out "The head" and inserting in lieu thereof "Except as provided in section 2304(d)(2) of this title, the head"; and

(2) by striking out "chapter" and all that follows and inserting in lieu thereof "chapter.".

CONFORMING AMENDMENTS

SEC. 2727. (a) The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended—

(1) by striking out the item relating to section 2301 and inserting in lieu thereof the following:

"2301. Congressional defense procurement policy."; and

(2) by striking out the items relating to sections 2304, 2305, and 2306 and inserting in lieu thereof the following:

"2304. Contracts: competition requirements.
"2305. Contracts: planning, solicitation, evaluation, and award procedures.
"2306. Kinds of contracts; cost or pricing data: truth in negotiation.".

Ante, p. 1187.

(b) Subsection (h) of section 2304 of such title (as redesignated by section 2723(a)(1)(B)) is amended—

(1) by striking out "negotiated under this section" and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures"; and

(2) by striking out "formal advertising" and inserting in lieu thereof "sealed-bid procedures".

(c) Section 2313(b) of such title is amended by striking out "negotiated under this chapter" and inserting in lieu thereof "awarded after using procedures other than sealed-bid procedures". 10 USC 2313.

(d) Section 2356 of such title is amended by striking out "the formal advertising prescribed by section 2305 of this title" and inserting in lieu thereof "a solicitation for sealed bids under chapter 137 of this title". 10 USC 2356.

Subtitle C—Amendments to the Office of Federal Procurement Policy Act

DEFINITIONS

SEC. 2731. The section of the Office of Federal Procurement Policy Act relating to definitions (41 U.S.C. 403) is redesignated as section 4 and is amended— 97 Stat. 1326.

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(6) the term 'competitive procedures' means procedures under which an agency enters into a contract pursuant to full and open competition;

"(7) the term 'full and open competition', when used with respect to a procurement, means that all responsible sources are permitted to submit sealed bids or competitive proposals on the procurement; and

"(8) the term 'responsible source' means a prospective contractor who—

"(A) has adequate financial resources to perform the contract or the ability to obtain such resources;

"(B) is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and Government business commitments;

"(C) has a satisfactory performance record;

"(D) has a satisfactory record of integrity and business ethics;

"(E) has the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain such organization, experience, controls, and skills;

"(F) has the necessary production, construction, and technical equipment and facilities, or the ability to obtain such equipment and facilities; and

"(G) is otherwise qualified and eligible to receive an award under applicable laws and regulations.".

PROCUREMENT NOTICE AND RECORDS; ADVOCATES FOR COMPETITION

SEC. 2732. (a) The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following new sections:

"PROCUREMENT NOTICE

41 USC 416.

"SEC. 18. (a)(1) Except as provided in subsection (c)—

"(A) an executive agency intending to solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000 shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services for a price exceeding $25,000 shall furnish for publication by the Secretary of Commerce a notice announcing such award if there is likely to be any subcontract under such contract.

Commerce Business Daily, publication.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice of a solicitation to the Secretary of Commerce, such executive agency may not—

"(A) issue such solicitation earlier than 15 days after the date on which such notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to such solicitation that is earlier than 30 days after the date on which such solicitation is issued.

"(b) Each notice required by subsection (a)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description is not unnecessarily restrictive of competition;

"(2) the name, business address, and telephone number of the officer or employee of the executive agency who may be contacted for the purpose of obtaining a copy of the solicitation;

"(3) the name, business address, and telephone number of the contracting officer;

"(4) a statement that all responsible sources may submit a bid, proposal, or quotation which shall be considered by the executive agency; and

"(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

"(B) the proposed procurement would result from acceptance of any unsolicited proposal that demonstrates a unique and innovative research concept, and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal;

"(C) the procurement is made against an order placed under a requirements contract, or

"(D) the procurement is made for perishable subsistence supplies.

"(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in clause (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or clause (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

Ante, p. 1175.
Ante, p. 1187.

"(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, with the concurrence of the Administrator, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"RECORD REQUIREMENTS

"SEC. 19. (a) Each executive agency shall establish and maintain for a period of five years a computer file, by fiscal year, containing unclassified records of all procurements, other than small purchases, in such fiscal year. 41 USC 417.

"(b) The record established under subsection (a) shall include—

"(1) with respect to each procurement carried out using competitive procedures—

"(A) the date of contract award;

"(B) information identifying the source to whom the contract was awarded;

"(C) the property or services obtained by the Government under the procurement; and

"(D) the total cost of the procurement;

"(2) with respect to each procurement carried out using procedures other than competitive procedures—

"(A) the information described in clauses (1)(A), (1)(B), (1)(C), and (1)(D);

"(B) the reason under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or section 2304(c) of title 10, United States Code, as the case may be, for the use of such procedures; and *Ante*, p. 1175. *Ante*, p. 1187.

"(C) the identity of the organization or activity which conducted the procurement.

"(c) The information that is included in such record pursuant to subsection (b)(1) and relates to procurements resulting in the submission of a bid or proposal by only one responsible source shall be separately categorized from the information relating to other procurements included in such record. The record of such information shall be designated 'noncompetitive procurements using competitive procedures'.

"(d) The information included in the record established and maintained under subsection (a) shall be transmitted to the General Services Administration and shall be entered in the Federal Procurement Data System referred to in section 6(d)(4).

"ADVOCATES FOR COMPETITION

"SEC. 20. (a)(1) There is established in each executive agency an advocate for competition. 41 USC 418.

"(2) The head of each executive agency shall—

"(A) designate for the executive agency and for each procuring activity of the executive agency one officer or employee serving in a position authorized for such executive agency on the date of enactment of the Competition in Contracting Act of 1984 (other than the senior procurement executive designated pursuant to section 16(3)) to serve as the advocate for competition; *Ante*, p. 1175. 97 Stat. 1330. 41 USC 414.

"(B) not assign such officers or employees any duties or responsibilities that are inconsistent with the duties and responsibilities of the advocates for competition; and

"(C) provide such officers or employees with such staff or assistance as may be necessary to carry out the duties and responsibilities of the advocate for competition, such as persons who are specialists in engineering, technical operations, contract administration, financial management, supply management, and utilization of small and disadvantaged business concerns.

"(b) The advocate for competition of an executive agency shall—

"(1) be responsible for challenging barriers to and promoting full and open competition in the procurement of property and services by the executive agency;

"(2) review the procurement activities of the executive agency;

97 Stat. 1330.
41 USC 414.

"(3) identify and report to the senior procurement executive of the executive agency designated pursuant to section 16(3)—

"(A) opportunities and actions taken to achieve full and open competition in the procurement activities of the executive agency; and

"(B) any condition or action which has the effect of unnecessarily restricting competition in the procurement actions of the executive agency; and

Report.

"(4) prepare and transmit to such senior procurement executive an annual report describing—

"(A) such advocate's activities under this section;

"(B) new initiatives required to increase competition; and

"(C) barriers to full and open competition that remain;

"(5) recommend to the senior procurement executive of the executive agency goals and the plans for increasing competition on a fiscal year basis;

"(6) recommend to the senior procurement executive of the executive agency a system of personal and organizational accountability for competition, which may include the use of recognition and awards to motivate program managers, contracting officers, and others in authority to promote competition in procurement programs; and

"(7) describe other ways in which the executive agency has emphasized competition in programs for procurement training and research.

"(c) The advocate for competition for each procuring activity shall be responsible for challenging barriers to and promoting full and open competition in the procuring activity, including unnecessarily detailed specifications and unnecessarily restrictive statements of need.

"ANNUAL REPORT ON COMPETITION

41 USC 419.

"SEC. 21. (a) Not later than January 31 of each of 1986, 1987, 1988, 1989, and 1990, the head of each executive agency shall transmit to each House of Congress a report including the information specified in subsection (b).

"(b) Each report under subsection (a) shall include—

"(1) a specific description of all actions that the head of the executive agency intends to take during the current fiscal year to—

"(A) increase competition for contracts with the executive agency on the basis of cost and other significant factors; and

"(B) reduce the number and dollar value of noncompetitive contracts entered into by the executive agency; and

"(2) a summary of the activities and accomplishments of the advocate for competition of the executive agency during the preceding fiscal year.".

(b)(1) Section 6(e) of such Act (41 U.S.C. 405(e)) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)". 97 Stat. 1326.

(2) Section 16(1) of such Act (41 U.S.C. 414(1)) is amended to read as follows: 97 Stat. 1330.

"(1) increase the use of full and open competition in the procurement of property or services by the executive agency by establishing policies, procedures, and practices that assure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements (including performance and delivery schedules) at the lowest reasonable cost considering the nature of the property or service procured;".

Subtitle D—Procurement Protest System

PROCUREMENT PROTEST SYSTEM

SEC. 2741. (a) Chapter 35 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—PROCUREMENT PROTEST SYSTEM

"§ 3551. Definitions

31 USC 3551.

"In this subchapter—

"(1) 'protest' means a written objection by an interested party to a solicitation by an executive agency for bids or proposals for a proposed contract for the procurement of property or services or a written objection by an interested party to a proposed award or the award of such a contract;

"(2) 'interested party', with respect to a contract or proposed contract described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

"(3) 'Federal agency' has the meaning given such term by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

"§ 3552. Protests by interested parties concerning procurement actions

31 USC 3552.

"A protest concerning an alleged violation of a procurement statute or regulation shall be decided by the Comptroller General if filed in accordance with this subchapter. An interested party who has filed a protest under section 111(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(h)) with respect to a procurement or proposed procurement may not file a protest with respect to that procurement under this subchapter.

Ante, p. 1182.

31 USC 3553.

"§ 3553. Review of protests; effect on contracts pending decision

Post, p. 1202.

"(a) Under procedures prescribed under section 3555 of this title, the Comptroller General shall decide a protest submitted to the Comptroller General by an interested party.

"(b)(1) Within one working day of the receipt of a protest, the Comptroller General shall notify the Federal agency involved of the protest.

Report.

"(2) Except as provided in paragraph (3) of this subsection, a Federal agency receiving a notice of a protested procurement under paragraph (1) of this subsection shall submit to the Comptroller General a complete report (including all relevant documents) on the protested procurement—

"(A) within 25 working days from the date of the agency's receipt of that notice;

"(B) if the Comptroller General, upon a showing by the Federal agency, determines (and states the reasons in writing) that the specific circumstances of the protest require a longer period, within the longer period determined by the Comptroller General; or

"(C) in a case determined by the Comptroller General to be suitable for the express option under section 3554(a)(2) of this title, within 10 working days from the date of the Federal agency's receipt of that determination.

Post, p. 1201.

"(3) A Federal agency need not submit a report to the Comptroller General pursuant to paragraph (2) of this subsection if the agency is sooner notified by the Comptroller General that the protest concerned has been dismissed under section 3554(a)(3) of this title.

"(c)(1) Except as provided in paragraph (2) of this subsection, a contract may not be awarded in any procurement after the Federal agency has received notice of a protest with respect to such procurement from the Comptroller General and while the protest is pending.

"(2) The head of the procuring activity responsible for award of a contract may authorize the award of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(A) upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General under this subchapter; and

"(B) after the Comptroller General is advised of that finding.

"(3) A finding may not be made under paragraph (2)(A) of this subsection unless the award of the contract is otherwise likely to occur within 30 days thereafter.

"(d)(1) If a Federal agency receives notice of a protest under this section after the contract has been awarded but within 10 days of the date of the contract award, the Federal agency (except as provided under paragraph (2)) shall, upon receipt of that notice, immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract. Performance of the contract may not be resumed while the protest is pending.

"(2) The head of the procuring activity responsible for award of a contract may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(A) upon a written finding—

"(i) that performance of the contract is in the best interests of the United States; or

"(ii) that urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(B) after the Comptroller General is notified of that finding.

"(e) The authority of the head of the procuring activity to make findings and to authorize the award and performance of contracts under subsections (c) and (d) of this section may not be delegated.

"(f) Within such deadlines as the Comptroller General prescribes, upon request each Federal agency shall provide to an interested party any document relevant to a protested procurement action (including the report required by subsection (b)(2) of this section) that would not give that party a competitive advantage and that the party is otherwise authorized by law to receive.

"§ 3554. Decisions on protests 31 USC 3554.

"(a)(1) To the maximum extent practicable, the Comptroller General shall provide for the inexpensive and expeditious resolution of protests under this subchapter. Except as provided under paragraph (2) of this subsection, the Comptroller General shall issue a final decision concerning a protest within 90 working days from the date the protest is submitted to the Comptroller General unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period.

"(2) The Comptroller General shall, by regulation prescribed pursuant to section 3555 of this title, establish an express option for deciding those protests which the Comptroller General determines suitable for resolution within 45 calendar days from the date the protest is submitted. *Post*, p. 1202.

"(3) The Comptroller General may dismiss a protest that the Comptroller General determines is frivolous or which, on its face, does not state a valid basis for protest.

"(b)(1) With respect to a solicitation for a contract, or a proposed award or the award of a contract, protested under this subchapter, the Comptroller General may determine whether the solicitation, proposed award, or award complies with statute and regulation. If the Comptroller General determines that the solicitation, proposed award, or award does not comply with a statute or regulation, the Comptroller General shall recommend that the Federal agency—

"(A) refrain from exercising any of its options under the contract;

"(B) recompete the contract immediately;

"(C) issue a new solicitation;

"(D) terminate the contract;

"(E) award a contract consistent with the requirements of such statute and regulation;

"(F) implement any combination of recommendations under clauses (A), (B), (C), (D), and (E); or

"(G) implement such other recommendations as the Comptroller General determines to be necessary in order to promote compliance with procurement statutes and regulations.

"(2) If the head of the procuring activity responsible for a contract makes a finding under section 3553(d)(2)(A)(i) of this title, the Comp- *Ante*, p. 1200.

troller General shall make recommendations under this subsection without regard to any cost or disruption from terminating, recompeting, or reawarding the contract.

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may declare an appropriate interested party to be entitled to the costs of—

"(A) filing and pursuing the protest, including reasonable attorneys' fees; and

"(B) bid and proposal preparation.

"(2) Monetary awards to which a party is declared to be entitled under paragraph (1) of this subsection shall be paid promptly by the Federal agency concerned out of funds available to or for the use of the Federal agency for the procurement of property and services.

"(d) Each decision of the Comptroller General under this subchapter shall be signed by the Comptroller General or a designee for that purpose. A copy of the decision shall be made available to the interested parties, the head of the procuring activity responsible for the solicitation, proposed award, or award of the contract, and the senior procurement executive of the Federal agency involved.

"(e)(1) The head of the procuring activity responsible for the solicitation, proposed award, or award of the contract shall report to the Comptroller General, if the Federal agency has not fully implemented those recommendations within 60 days of receipt of the Comptroller General's recommendations under subsection (b) of this section.

Report.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to Congress a report describing each instance in which a Federal agency did not fully implement the Comptroller General's recommendations during the preceding fiscal year.

31 USC 3555.

"§ 3555. Regulations; authority of Comptroller General to verify assertions

"(a) Not later than January 15, 1985, the Comptroller General shall prescribe such procedures as may be necessary to the expeditious decision of protests under this subchapter, including procedures for accelerated resolution of protests under the express option authorized by section 3554(a)(2) of this title. Such procedures shall provide that the protest process may not be delayed by the failure of a party to make a filing within the time provided for the filing.

Ante, p. 1201.

"(b) The Comptroller General may use any authority available under chapter 7 of this title and this chapter to verify assertions made by parties in protests under this subchapter.

31 USC 701 *et seq.*

31 USC 3556.

"§ 3556. Nonexclusivity of remedies; matters included in agency record

"This subchapter does not give the Comptroller General exclusive jurisdiction over protests, and nothing contained in this subchapter shall affect the right of any interested party to file a protest with the contracting agency or to file an action in a district court of the United States or the United States Claims Court. In any such action based on a procurement or proposed procurement with respect to which a protest has been filed under this subchapter, the reports required by sections 3553(b)(2) and 3554(e)(1) of this title with respect to such procurement or proposed procurement and any decision or recommendation of the Comptroller General under this subchapter

Ante, p. 1200.

with respect to such procurement or proposed procurement shall be considered to be part of the agency record subject to review.".

(b) The analysis for such chapter is amended by adding at the end thereof the following:

"SUBCHAPTER V—PROCUREMENT PROTEST SYSTEM

"3551. Definitions.
"3552. Protests by interested parties concerning procurement actions.
"3553. Review of protests; effect on contracts pending decision.
"3554. Decisions on protests.
"3555. Regulations; authority of Comptroller General to verify assertions.
"3556. Nonexclusivity of remedies; matters included in agency record.".

Subtitle E—Effective Date; Regulations; Study

EFFECTIVE DATES

SEC. 2751. (a) Except as provided in subsection (b), the amendments made by this title shall apply with respect to any solicitation for bids or proposals issued after March 31, 1985. 41 USC 251 note.

(b) The amendments made by section 2713 and subtitle D shall apply with respect to any protest filed after January 14, 1985. *Ante*, pp. 1182, 1199.

MODIFICATION OF FEDERAL ACQUISITION REGULATIONS

SEC. 2752. Not later than March 31, 1985, the single Government-wide procurement regulation referred to in section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)) shall be modified to conform to the requirements of this title and the amendments made by this title. 41 USC 403 note. *Ante*, p. 1195.

STUDY OF ALTERNATIVES

SEC. 2753. (a) Not later than January 31, 1985, the Administrator of the Office of Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration, shall complete a study of alternatives and recommend to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a plan to increase the opportunities to achieve full and open competition on the basis of technical qualifications, quality, and other factors in the procurement of professional, technical, and managerial services. 41 USC 407 note.

(b) Such plan shall provide for testing the recommended alternative and be developed in accordance with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413), and be consistent with the policies set forth in section 2 of such Act (41 U.S.C. 401). 97 Stat. 1329. 97 Stat. 1325.

TITLE VIII—FEDERAL CREDIT UNION ACT AMENDMENTS

SEC. 2801. Section 201(b)(8) of the Federal Credit Union Act (12 U.S.C. 1781(b)(8)) is amended to read as follows:

"(8) to pay and maintain its deposit and to pay the premium charges for insurance imposed by this title; and".

SEC. 2802. Section 202 (b) of the Federal Credit Union Act (12 U.S.C. 1782(b)) is amended to read as follows:

"(b)(1) For each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Board, at such time as the Board prescribes, a certified statement showing the total amount of insured shares in the credit union at the close of the preceding insurance year and both the amount of its deposit or adjustment thereof and the amount of the premium charge for insurance due to the fund for that year, both as computed under subsection (c) of this section.

"(2) The certified statements required to be filed with the Board pursuant to this subsection shall be in such form and shall set forth such supporting information as the Board shall require.

"(3) Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief that statement is true, correct, and complete and in accordance with this title and regulations issued thereunder.".

SEC. 2803. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (1) as paragraph (2);

(3) by striking out "Except as provided in paragraph (2) of this subsection, each" in paragraph (2), as redesignated, and inserting in lieu thereof "Each";

(4) by striking out "on or before January 31 of each insurance year" in paragraph (2), as redesignated, and inserting in lieu thereof "at such time as the Board prescribes";

(5) by striking out "member accounts" in paragraph (2), as redesignated, and inserting in lieu thereof "insured shares"; and

(6) by inserting before paragraph (2) the following:

"(1)(A)(i) Each insured credit union shall pay to and maintain with the National Credit Union Share Insurance Fund a deposit in an amount equaling 1 per centum of the credit union's insured shares.

"(ii) The Board may, in its discretion, authorize insured credit unions to initially fund such deposit over a period of time in excess of one year if necessary to avoid adverse effects on the condition of insured credit unions.

"(iii) The amount of each insured credit union's deposit shall be adjusted annually, in accordance with procedures determined by the Board, to reflect changes in the credit union's insured shares.

"(B)(i) The deposit shall be returned to an insured credit union in the event that its insurance coverage is terminated, it converts to insurance coverage from another source, or in the event the operations of the fund are transferred from the National Credit Union Administration Board.

"(ii) The deposit shall be returned in accordance with procedures and valuation methods determined by the Board, but in no event shall the deposit be returned any later than one year after the final date on which no shares of the credit union are insured by the Board.

"(iii) The deposit shall not be returned in the event of liquidation on account of bankruptcy or insolvency.

"(iv) The deposit funds may be used by the fund if necessary to meet its expenses, in which case the amount so used shall be

expensed and shall be replenished by insured credit unions in accordance with procedures established by the Board.".

SEC. 2804. Section 202(c)(3) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)) is amended to read as follows:

"(3) When, at the end of a given insurance year, any loans to the fund from the Federal Government and the interest thereon have been repaid and the equity of the fund exceeds the normal operating level, the Board shall effect for that insurance year a pro rata distribution to insured credit unions of an amount sufficient to reduce the equity in the fund to its normal operating level.".

SEC. 2805. Section 202(c)(4) of the Federal Credit Union Act (12 U.S.C. 1782(c)(4)) is repealed.

SEC. 2806. (a) Subsections (d) through (f) of section 202 of the Federal Credit Union Act (12 U.S.C. 1782 (d) through (f)) are amended—

(1) by inserting "its deposit or" before the words "the premium charge" and "any premium charge" each time they appear, other than in the second sentence of subsection (e) of section 202; and

(2) by striking out "member accounts" and inserting in lieu thereof "insured shares".

(b) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) in the first sentence of subsection (e), by inserting "deposit or" after "the amount of any unpaid";

(2) in the second sentence of subsection (e), by inserting "deposit or" before "premium charge due"; and

(3) in the first sentence of subsection (f), by inserting "deposit or" after "statement or pay any such".

SEC. 2807. Section 202(g) of the Federal Credit Union Act (12 U.S.C. 1782(g)) is amended—

(1) by striking out "statements, and premium charges" and inserting in lieu thereof "statements, and deposit and premium charges";

(2) by striking out "payment of any premium charge" and inserting in lieu thereof "payment of any deposit or adjustment thereof or any premium charge"; and

(3) by striking out "any premium charge for insurance" and inserting in lieu thereof "any deposit or adjustment thereof or any premium charge for insurance".

SEC. 2808. Section 202(h)(1) of the Federal Credit Union Act (12 U.S.C. 1782(h)(1)) is amended by inserting before the semicolon at the end thereof the following: ", unless otherwise prescribed by the Board".

SEC. 2809. Section 202(h)(2) of the Federal Credit Union Act (12 U.S.C. 1782(h)(2)) is amended to read as follows:

"(2) the term 'normal operating level', when applied to the fund, means an amount equal to 1.3 per centum of the aggregate amount of the insured shares in all insured credit unions, or such lower level as the Board may determine; and".

SEC. 2810. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

"(3) the term 'insured shares' when applied to this section includes share, share draft, share certificate and other similar accounts as determined by the Board, but does not include amounts in excess of the insured account limit set forth in section 207(c)(1).". 12 USC 1787.

SEC. 2811. Section 203(b) of the Federal Credit Union Act (12 U.S.C. 1783(b)) is amended—

(1) by inserting "deposits and" before "premium charges"; and

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(2) by adding at the end thereof the following: "The Board shall report annually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives with respect to the operating level of the fund. Such report shall also include the results of an independent audit of the fund.".

SEC. 2812. Section 206(d)(1) of the Federal Credit Union Act (12 U.S.C. 1786(d)(1)) is amended—

(1) by inserting "(1)" after "subsection (a)";

(2) by inserting "maintain its deposit with and" before "pay premiums to the Board"; and

(3) by adding at the end thereof the following sentence: "Notwithstanding the above, when an insured credit union's insured status is terminated and the credit union subsequently obtains comparable insurance coverage from another source, insurance of its accounts by the fund may cease immediately upon the effective date of such comparable coverage by mutual consent of the credit union and the Board.".

SEC. 2813. (a) Title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.) is amended—

12 USC 1795b.

(1) in section 303 by inserting ", an instrumentality of the United States," after "Central Liquidity Facility" in the second sentence; and

(2) by adding at the end thereof the following:

"STATE AND LOCAL TAX EXEMPTION

12 USC 1795k.

"SEC. 312. (a) The Central Liquidity Facility, and its franchise, activities, capital reserves, surplus, and income, shall be exempt from all State and local taxation now or hereafter imposed, other than taxes on real property held by the Facility (to the same extent, according to its value, as other similar property held by other persons is taxed).

"(b)(1) Except as provided in paragraph (2), the notes, bonds, debentures, and other obligations issued on behalf of the Central Liquidity Facility and the income therefrom shall be exempt from all State and local taxation now or hereafter imposed.

"(2) Any obligation described in paragraph (1) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

"(c) For purposes of this section—

"(1) the term 'State' includes the District of Columbia; and

"(2) taxes imposed by counties or municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.".

Ante, p. 1033.

(b)(1) Section 501 of the Internal Revenue Code of 1954 (relating to organizations exempt from tax), as amended by section 1032(a) of this Act, is amended by redesignating subsection (l) as subsection (m) and by adding after subsection (k) the following new subsection:

"(l) GOVERNMENT CORPORATIONS EXEMPT UNDER SUBSECTION (c)(1).—The organization described in this subsection is the Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).".

(2) Paragraph (1) of section 501(c) of such Code (listing exempt organizations) is amended to read as follows: 26 USC 501. *Ante*, p. 1056.

"(1) any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

"(A) is exempt from Federal income taxes under such Act, as amended and supplemented, or

"(B) is described in subsection (l).".

(c) The amendments made by this section shall take effect on October 1, 1979. 12 USC 1795k note.

ELIMINATION OF PAYROLL DEDUCTION FEES ON FINANCIAL ORGANIZATIONS; ADMINISTRATION OF DISBURSING FUNCTIONS

SEC. 2814. (a) Section 3332(b) of title 31, United States Code, is amended by inserting "without charge" after "shall be sent".

(b) Section 3332 of title 31, United States Code, is amended by striking out subsection (c) and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

TITLE IX—MISCELLANEOUS PROVISIONS

COST SAVINGS BY ADMINISTRATIVE ACTION

SEC. 2901. (a) It is the sense of the Congress that—

(1) departments, agencies, and instrumentalities of the executive branch of government can continue to make significant management improvements in—

(A) the travel and transportation of personnel and transportation of things for personnel;

(B) the use of consultant services;

(C) public affairs, public relations, and advertising activities;

(D) publishing, printing, reproduction, and audio visual activities;

(E) identification, recovery, and collection of Federal overpayments, delinquencies, and indebtedness; and

(F) the operation, maintenance, management, leasing, acquisition, and disposal of motor vehicles; and

(2) such improvements can result in better use of funds and reductions in expenditures for such activities.

(b) Within six months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prepare and transmit to the Committees on Appropriations and Budget of the Senate and House of Representatives and the Senate Governmental Affairs and House Government Operations Committees a report describing for each of the categories specified in subparagraphs (A) through (F) of subsection (a)(1)— Report.

(1) the baseline cost (or best estimate thereof) for fiscal year 1984;

(2) the savings (below such baseline cost or estimate) that can reasonably be expected to be achieved for fiscal year 1985 by improved management;

(3) an explanation of how such savings will be achieved; and

(4) if necessary, draft legislation to achieve such savings.

(c) If the expected savings described pursuant to subsection (b)(2) are—

(1) less than $750,000,000 for the category specified in subparagraph (A) of subsection (a)(1),

(2) less than $1,000,000,000 for the category specified in subparagraph (B) of such subsection,

(3) less than $100,000,000 for the category specified in subparagraph (C) of such subsection,

(4) less than $250,000,000 for the category specified in subparagraph (D) of such subsection,

(5) less than $2,100,000,000 for the category specified in subparagraph (E) of such subsection, or

(6) less than $160,000,000 for the category specified in subparagraph (F) of such subsection,

the report shall state the reasons why the amount specified in paragraph (1), (2), (3), (4), (5), or (6) is not achievable.

DISPOSAL OF CERTAIN LANDS AT MONTAUK AIR FORCE BASE

SEC. 2902. (a) The Congress finds that—

(1) the highest and best use of the lands described in subsection (b)(1) of this section is use as a park or recreational area;

(2) the State of New York has indicated a willingness to convey by donation to the United States the fee interest to the lands described in subsection (b)(2);

(3) therefore the Administrator of General Services should assign to the Secretary of the Interior the lands described in subsection (b)(1) for use as a public park or recreational area; and

(4) the Secretary of the Interior should, simultaneous with acceptance of the lands described in subsection (b)(2), convey the property described in subsection (b)(1) to the State of New York for use as a public park or recreational area through a public discount conveyance under section 203(k)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(2)).

(b)(1) The lands described in this subsection are those portions of the Montauk Air Force Station in East Hampton Township, Suffolk County, New York, totaling approximately 278 acres, that were declared surplus to the needs of the United States Government on December 21, 1981.

(2) The lands described in this subsection are approximately 125 acres of real property owned by the State of New York within the boundaries of the Fire Island National Seashore.

COST SAVINGS REPORT BY THE PRESIDENT

SEC. 2903. The President shall review recent recommendations for management improvement and cost control opportunities including those made by congressional committees, executive and legislative branch agencies, educational and research organizations, and public and private boards, task forces, councils, panels, and study groups, which require administrative or Presidential action. A report on such review shall be submitted with the Budget of the United States Government transmitted in January 1985 under section 1105(a) of title 31, United States Code, and shall contain a list of the recommendations the President has reviewed, the source of those recommendations, the actions which the President proposes to take or has

taken, and the amount of cost savings expected to result therefrom in fiscal years 1985, 1986, and 1987.

COST SAVINGS BY COMMITTEE

SEC. 2904. Each authorizing committee of the Senate and House of Representatives shall review the report required under section 2903 and make recommendations from that report to the Budget Committees including any necessary changes in laws to allow for or facilitate the achievement of savings as identified in that report. The resulting recommendations shall be transmitted to the Budget Committee as part of each committee's report submitted pursuant to section 301(c) of Public Law 93-344, on March 15, 1985.

Ante, p. 1208.

2 USC 632.

ANALYSES OF BUDGET ASSUMPTIONS

SEC. 2905. (a) The director of the Congressional Budget Office shall conduct a study of the nature and reliability of the assumptions upon which budget estimates are based for concurrent resolutions on the budget adopted by the Congress and make a report to the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate by June 1, 1985. Such study shall identify—

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(1) the reasons for the differences between actual revenues and outlays and the revenue and outlay estimates used for concurrent resolutions on the budget;

(2) the extent to which any systematic biases exist in the assumptions or methods used for making revenue and outlay estimates for the concurrent resolutions on the budget; and

(3) the extent to which the use of alternative assumptions or estimating methods would improve the accuracy of budget estimates used by the Congress. This would include time-series analyses of historical budget patterns and economic trends.

(b) On a trial basis, the Congressional Budget Office shall conduct in consultation with the General Accounting Office a review of the budget estimates prepared by the Department of Defense and one civilian agency to determine whether:

(1) there is a systematic underestimation of the costs required to carry out the policies, programs and projects proposed; and

(2) what effects any systematic costing errors may have upon the long-run costs of programs, the mix of programs implemented and the effectiveness of programs in meeting agency missions and goals.

The General Accounting Office component of this review shall look at all phases of budget preparation and program evaluation in the agencies selected, and shall examine historical patterns of funding to determine the effect of cost estimation biases.

FORMULA APPROACH TO FEDERAL BUDGETING

SEC. 2906. The Director of the Congressional Budget Office and the Director of the Office of Management and Budget shall each, in consultation with the Chairman and ranking member of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate, conduct a study of the administrative feasibility and potential impact in terms of effectiveness and equitability of applying alternative formula approaches to

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the entire Federal budget. These studies may include, but need not be limited to, the following formulas:

(1) a fraction (not necessarily limited to less than 1.0) of historical trends in spending within functions or categories of the budget;

(2) an equal percentage growth rate, or an equal percentage reduction in the growth rate of, each function or category of the budget;

(3) a set of percentage growth rates, whereby the budget is divided into major categories and a different percentage growth rate is then applied to each category;

(4) a fraction (not necessarily limited to less than 1.0) of the growth in the Gross National Product (as calculated by the Congressional Budget Office or the Office of Management and Budget) applied to each function or category of the budget.

The Congressional Budget Office and the Office of Management and Budget shall each report the findings of such study to the Congress no later than December 31, 1984.

MINING OF NICARAGUAN PORTS

22 USC 2151 note.

SEC. 2907. It is the sense of the Congress that no funds heretofore or hereafter appropriated in any Act of Congress shall be obligated or expended for the purpose of planning, directing, executing, or supporting the mining of the ports or territorial waters of Nicaragua.

Approved July 18, 1984.

LEGISLATIVE HISTORY—H.R. 4170 (H.R. 2163):

HOUSE REPORTS: No. 98-432 and Pt. 2 (Comm. on Ways and Means), No. 98-133 accompanying H.R. 2163, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means), and No. 98-861 (Comm. of Conference).

SENATE REPORT No. 98-312 accompanying H.R. 2163 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 129 (1983): July 12, H.R. 2163 considered and passed House.

Vol. 130 (1984): Apr. 5, 9-12, 24-26, 30, May 1-3, 8-11, 14-17, H.R. 2163 considered in Senate.

Apr. 11, H.R. 4170 considered and passed House.

May 17, considered and passed Senate, amended, in lieu of H.R. 2163.

May 23, House concurred in Senate amendment with an amendment.

June 27, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 29 (1984): July 18, Presidential statement.