

Public Law 109–135
109th Congress

An Act

To amend the Internal Revenue Code of 1986 to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma, and for other purposes.

Dec. 21, 2005

[H.R. 4440]

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

Gulf Opportunity
Zone Act of 2005.

SECTION 1. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This Act may be cited as the “Gulf Opportunity Zone Act of 2005”.

26 USC 1 note.

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

(c) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—ESTABLISHMENT OF GULF OPPORTUNITY ZONE

Sec. 101. Tax benefits for Gulf Opportunity Zone.

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Sec. 103. Housing relief for individuals affected by Hurricane Katrina.

Sec. 104. Extension of special rules for mortgage revenue bonds.

Sec. 105. Special extension of bonus depreciation placed in service date for taxpayers affected by Hurricanes Katrina, Rita, and Wilma.

TITLE II—TAX BENEFITS RELATED TO HURRICANES RITA AND WILMA

Sec. 201. Extension of certain emergency tax relief for Hurricane Katrina to Hurricanes Rita and Wilma.

TITLE III—OTHER PROVISIONS

Sec. 301. Gulf Coast Recovery Bonds.

Sec. 302. Election to include combat pay as earned income for purposes of earned income credit.

Sec. 303. Modification of effective date of exception from suspension rules for certain listed and reportable transactions.

Sec. 304. Authority for undercover operations.

Sec. 305. Disclosures of certain tax return information.

TITLE IV—TECHNICALS

Subtitle A—Tax Technicals

Sec. 401. Short title.

Sec. 402. Amendments related to Energy Policy Act of 2005.

Sec. 403. Amendments related to the American Jobs Creation Act of 2004.

Sec. 404. Amendments related to the Working Families Tax Relief Act of 2004.

Sec. 405. Amendments related to the Jobs and Growth Tax Relief Reconciliation Act of 2003.

Sec. 406. Amendment related to the Victims of Terrorism Tax Relief Act of 2001.

- Sec. 407. Amendments related to the Economic Growth and Tax Relief Reconciliation Act of 2001.
- Sec. 408. Amendments related to the Internal Revenue Service Restructuring and Reform Act of 1998.
- Sec. 409. Amendments related to the Taxpayer Relief Act of 1997.
- Sec. 410. Amendment related to the Omnibus Budget Reconciliation Act of 1990.
- Sec. 411. Amendment related to the Omnibus Budget Reconciliation Act of 1987.
- Sec. 412. Clerical corrections.
- Sec. 413. Other corrections related to the American Jobs Creation Act of 2004.

Subtitle B—Trade Technicals

- Sec. 421. Technical corrections to regional value content methods for rules of origin under Public Law 109–53.

TITLE V—EMERGENCY REQUIREMENT

- Sec. 501. Emergency requirement.

TITLE I—ESTABLISHMENT OF GULF OPPORTUNITY ZONE

SEC. 101. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.

(a) IN GENERAL.—Subchapter Y of chapter 1 is amended by adding at the end the following new part:

“PART II—TAX BENEFITS FOR GO ZONES

“Sec. 1400M. Definitions.

“Sec. 1400N. Tax benefits for Gulf Opportunity Zone.

“SEC. 1400M. DEFINITIONS.

“For purposes of this part—

“(1) GULF OPPORTUNITY ZONE.—The terms ‘Gulf Opportunity Zone’ and ‘GO Zone’ mean that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

“(2) HURRICANE KATRINA DISASTER AREA.—The term ‘Hurricane Katrina disaster area’ means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of such Act by reason of Hurricane Katrina.

“(3) RITA GO ZONE.—The term ‘Rita GO Zone’ means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Rita.

“(4) HURRICANE RITA DISASTER AREA.—The term ‘Hurricane Rita disaster area’ means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of such Act by reason of Hurricane Rita.

“(5) WILMA GO ZONE.—The term ‘Wilma GO Zone’ means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Wilma.

“(6) HURRICANE WILMA DISASTER AREA.—The term ‘Hurricane Wilma disaster area’ means an area with respect to which

a major disaster has been declared by the President before November 14, 2005, under section 401 of such Act by reason of Hurricane Wilma.

“SEC. 1400N. TAX BENEFITS FOR GULF OPPORTUNITY ZONE.

“(a) **TAX-EXEMPT BOND FINANCING.**—

“(1) **IN GENERAL.**—For purposes of this title—

“(A) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(i) shall be treated as an exempt facility bond, and

“(B) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(ii) shall be treated as a qualified mortgage bond.

“(2) **QUALIFIED GULF OPPORTUNITY ZONE BOND.**—For purposes of this subsection, the term ‘qualified Gulf Opportunity Zone Bond’ means any bond issued as part of an issue if—

“(A)(i) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs, or

“(ii) such issue meets the requirements of a qualified mortgage issue, except as otherwise provided in this subsection,

“(B) such bond is issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof,

“(C) such bond is designated for purposes of this section by—

“(i) in the case of a bond which is required under State law to be approved by the bond commission of such State, such bond commission, and

“(ii) in the case of any other bond, the Governor of such State,

“(D) such bond is issued after the date of the enactment of this section and before January 1, 2011, and

“(E) no portion of the proceeds of such issue is to be used to provide any property described in section 144(c)(6)(B).

“(3) **LIMITATIONS ON BONDS.**—

“(A) **AGGREGATE AMOUNT DESIGNATED.**—The maximum aggregate face amount of bonds which may be designated under this subsection with respect to any State shall not exceed the product of \$2,500 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

“(B) **MOVABLE PROPERTY.**—No bonds shall be issued which are to be used for movable fixtures and equipment.

“(4) **QUALIFIED PROJECT COSTS.**—For purposes of this subsection, the term ‘qualified project costs’ means—

“(A) the cost of any qualified residential rental project (as defined in section 142(d)) located in the Gulf Opportunity Zone, and

“(B) the cost of acquisition, construction, reconstruction, and renovation of—

Applicability.

“(i) nonresidential real property (including fixed improvements associated with such property) located in the Gulf Opportunity Zone, and
 “(ii) public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone.
 “(5) SPECIAL RULES.—In applying this title to any qualified Gulf Opportunity Zone Bond, the following modifications shall apply:

“(A) Section 142(d)(1) (defining qualified residential rental project) shall be applied—

“(i) by substituting ‘60 percent’ for ‘50 percent’ in subparagraph (A) thereof, and

“(ii) by substituting ‘70 percent’ for ‘60 percent’ in subparagraph (B) thereof.

“(B) Section 143 (relating to mortgage revenue bonds: qualified mortgage bond and qualified veterans’ mortgage bond) shall be applied—

“(i) only with respect to owner-occupied residences in the Gulf Opportunity Zone,

“(ii) by treating any such residence in the Gulf Opportunity Zone as a targeted area residence,

“(iii) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and

“(iv) by substituting ‘\$150,000’ for ‘\$15,000’ in subsection (k)(4) thereof.

“(C) Except as provided in section 143, repayments of principal on financing provided by the issue of which such bond is a part may not be used to provide financing.

“(D) Section 146 (relating to volume cap) shall not apply.

“(E) Section 147(d)(2) (relating to acquisition of existing property not permitted) shall be applied by substituting ‘50 percent’ for ‘15 percent’ each place it appears.

“(F) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds which are part of an issue described in paragraph (2)(A)(i).

“(G) Section 57(a)(5) (relating to tax-exempt interest) shall not apply.

“(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

“(b) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

“(1) IN GENERAL.—With respect to a bond described in paragraph (3), one additional advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) if—

“(A) the Governor of the State designates the advance refunding bond for purposes of this subsection, and

“(B) the requirements of paragraph (5) are met.

“(2) CERTAIN PRIVATE ACTIVITY BONDS.—With respect to a bond described in paragraph (3) which is an exempt facility

bond described in paragraph (1) or (2) of section 142(a), one advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) (notwithstanding paragraph (2) thereof) if the requirements of subparagraphs (A) and (B) of paragraph (1) are met.

“(3) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on August 28, 2005, and is issued by the State of Alabama, Louisiana, or Mississippi, or a political subdivision thereof.

“(4) AGGREGATE LIMIT.—The maximum aggregate face amount of bonds which may be designated under this subsection by the Governor of a State shall not exceed—

“(A) \$4,500,000,000 in the case of the State of Louisiana,

“(B) \$2,250,000,000 in the case of the State of Mississippi, and

“(C) \$1,125,000,000 in the case of the State of Alabama.

“(5) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (3) if—

“(A) no advance refundings of such bond would be allowed under this title on or after August 28, 2005,

“(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

“(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

“(6) USE OF PROCEEDS REQUIREMENT.—This subsection shall not apply to any advance refunding of a bond which is issued as part of an issue if any portion of the proceeds of such issue (or any prior issue) was (or is to be) used to provide any property described in section 144(c)(6)(B).

“(c) LOW-INCOME HOUSING CREDIT.—

“(1) ADDITIONAL HOUSING CREDIT DOLLAR AMOUNT FOR GULF OPPORTUNITY ZONE.—

“(A) IN GENERAL.—For purposes of section 42, in the case of calendar years 2006, 2007, and 2008, the State housing credit ceiling of each State, any portion of which is located in the Gulf Opportunity Zone, shall be increased by the lesser of—

“(i) the aggregate housing credit dollar amount allocated by the State housing credit agency of such State to buildings located in the Gulf Opportunity Zone for such calendar year, or

“(ii) the Gulf Opportunity housing amount for such State for such calendar year.

“(B) GULF OPPORTUNITY HOUSING AMOUNT.—For purposes of subparagraph (A), the term ‘Gulf Opportunity housing amount’ means, for any calendar year, the amount equal to the product of \$18.00 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

“(C) ALLOCATIONS TREATED AS MADE FIRST FROM ADDITIONAL ALLOCATION AMOUNT FOR PURPOSES OF DETERMINING CARRYOVER.—For purposes of determining the

unused State housing credit ceiling under section 42(h)(3)(C) for any calendar year, any increase in the State housing credit ceiling under subparagraph (A) shall be treated as an amount described in clause (ii) of such section.

“(2) ADDITIONAL HOUSING CREDIT DOLLAR AMOUNT FOR TEXAS AND FLORIDA.—For purposes of section 42, in the case of calendar year 2006, the State housing credit ceiling of Texas and Florida shall each be increased by \$3,500,000.

“(3) DIFFICULT DEVELOPMENT AREA.—

“(A) IN GENERAL.—For purposes of section 42, in the case of property placed in service during 2006, 2007, or 2008, the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone—

“(i) shall be treated as difficult development areas designated under subclause (I) of section 42(d)(5)(C)(iii), and

“(ii) shall not be taken into account for purposes of applying the limitation under subclause (II) of such section.

“(B) APPLICATION.—Subparagraph (A) shall apply only to—

“(i) housing credit dollar amounts allocated during the period beginning on January 1, 2006, and ending on December 31, 2008, and

“(ii) buildings placed in service during such period to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

“(4) SPECIAL RULE FOR APPLYING INCOME TESTS.—In the case of property placed in service—

“(A) during 2006, 2007, or 2008,

“(B) in the Gulf Opportunity Zone, and

“(C) in a nonmetropolitan area (as defined in section 42(d)(5)(C)(iv)(IV)),

section 42 shall be applied by substituting ‘national nonmetropolitan median gross income (determined under rules similar to the rules of section 142(d)(2)(B))’ for ‘area median gross income’ in subparagraphs (A) and (B) of section 42(g)(1).

“(5) DEFINITIONS.—Any term used in this subsection which is also used in section 42 shall have the same meaning as when used in such section.

“(d) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER AUGUST 28, 2005.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified Gulf Opportunity Zone property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

“(B) the adjusted basis of the qualified Gulf Opportunity Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified Gulf Opportunity Zone property’ means property—

“(i)(I) which is described in section 168(k)(2)(A)(i),
or

“(II) which is nonresidential real property or residential rental property,

“(ii) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

“(iii) the original use of which in the Gulf Opportunity Zone commences with the taxpayer on or after August 28, 2005,

“(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) on or after August 28, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and

“(v) which is placed in service by the taxpayer on or before December 31, 2007 (December 31, 2008, in the case of nonresidential real property and residential rental property).

“(B) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

“(ii) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

“(iii) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

“(iv) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(3) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

“(A) by substituting ‘August 27, 2005’ for ‘September 10, 2001’ each place it appears therein,

“(B) by substituting ‘January 1, 2008’ for ‘January 1, 2005’ in clause (i) thereof, and

“(C) by substituting ‘qualified Gulf Opportunity Zone property’ for ‘qualified property’ in clause (iv) thereof.

“(4) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

“(5) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be qualified Gulf Opportunity Zone property.

“(e) INCREASE IN EXPENSING UNDER SECTION 179.—

“(1) IN GENERAL.—For purposes of section 179—

“(A) the dollar amount in effect under section 179(b)(1) for the taxable year shall be increased by the lesser of—

“(i) \$100,000, or

“(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year, and

“(B) the dollar amount in effect under section 179(b)(2) for the taxable year shall be increased by the lesser of—

“(i) \$600,000, or

“(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year.

“(2) QUALIFIED SECTION 179 GULF OPPORTUNITY ZONE PROPERTY.—For purposes of this subsection, the term ‘qualified section 179 Gulf Opportunity Zone property’ means section 179 property (as defined in section 179(d)) which is qualified Gulf Opportunity Zone property (as defined in subsection (d)(2)).

“(3) COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.—For purposes of sections 1397A and 1400J, qualified section 179 Gulf Opportunity Zone property shall not be treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 Gulf Opportunity Zone property into account for purposes of this subsection.

Applicability.

“(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified section 179 Gulf Opportunity Zone property which ceases to be qualified section 179 Gulf Opportunity Zone property.

“(f) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—

“(1) IN GENERAL.—A taxpayer may elect to treat 50 percent of any qualified Gulf Opportunity Zone clean-up cost as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such cost is paid or incurred.

“(2) QUALIFIED GULF OPPORTUNITY ZONE CLEAN-UP COST.—For purposes of this subsection, the term ‘qualified Gulf Opportunity Zone clean-up cost’ means any amount paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007, for the removal of debris from, or the demolition of structures on, real property which is located in the Gulf Opportunity Zone and which is—

“(A) held by the taxpayer for use in a trade or business or for the production of income, or

“(B) property described in section 1221(a)(1) in the hands of the taxpayer.

For purposes of the preceding sentence, amounts paid or incurred shall be taken into account only to the extent that such amount would (but for paragraph (1)) be chargeable to capital account.

“(g) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—With respect to any qualified environmental remediation expenditure (as defined in section 198(b)) paid or incurred on or after August 28, 2005, in connection with a qualified contaminated site located in the Gulf Opportunity Zone, section 198

(relating to expensing of environmental remediation costs) shall be applied—

“(1) in the case of expenditures paid or incurred on or after August 28, 2005, and before January 1, 2008, by substituting ‘December 31, 2007’ for the date contained in section 198(h), and

“(2) except as provided in section 198(d)(2), by treating petroleum products (as defined in section 4612(a)(3)) as a hazardous substance.

“(h) INCREASE IN REHABILITATION CREDIT.—In the case of qualified rehabilitation expenditures (as defined in section 47(c)) paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2008, with respect to any qualified rehabilitated building or certified historic structure (as defined in section 47(c)) located in the Gulf Opportunity Zone, subsection (a) of section 47 (relating to rehabilitation credit) shall be applied—

“(1) by substituting ‘13 percent’ for ‘10 percent’ in paragraph (1) thereof, and

“(2) by substituting ‘26 percent’ for ‘20 percent’ in paragraph (2) thereof.

“(i) SPECIAL RULES FOR SMALL TIMBER PRODUCERS.—

“(1) INCREASED EXPENSING FOR QUALIFIED TIMBER PROPERTY.—In the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone, the limitation under subparagraph (B) of section 194(b)(1) shall be increased by the lesser of—

“(A) the limitation which would (but for this subsection) apply under such subparagraph, or

“(B) the amount of reforestation expenditures (as defined in section 194(c)(3)) paid or incurred by the taxpayer with respect to such qualified timber property during the specified portion of the taxable year.

“(2) 5 YEAR NOL CARRYBACK OF CERTAIN TIMBER LOSSES.—For purposes of determining any farming loss under section 172(i), income and deductions which are allocable to the specified portion of the taxable year and which are attributable to qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone shall be treated as attributable to farming businesses.

“(3) RULES NOT APPLICABLE TO CERTAIN ENTITIES.—Paragraphs (1) and (2) shall not apply to any taxpayer which—

“(A) is a corporation the stock of which is publicly traded on an established securities market, or

“(B) is a real estate investment trust.

“(4) RULES NOT APPLICABLE TO LARGE TIMBER PRODUCERS.—

“(A) EXPENSING.—Paragraph (1) shall not apply to any taxpayer if such taxpayer holds more than 500 acres of qualified timber property at any time during the taxable year.

“(B) NOL CARRYBACK.—Paragraph (2) shall not apply with respect to any qualified timber property unless—

“(i) such property was held by the taxpayer—

“(I) on August 28, 2005, in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone,

“(II) on September 23, 2005, in the case of qualified timber property (other than property described in subclause (I)) any portion of which is located in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or

“(III) on October 23, 2005, in the case of qualified timber property (other than property described in subclause (I) or (II)) any portion of which is located in the Wilma GO Zone, and

“(ii) such taxpayer held not more than 500 acres of qualified timber property on such date.

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

“(A) SPECIFIED PORTION.—

“(i) IN GENERAL.—The term ‘specified portion’ means—

“(I) in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after August 28, 2005, and before the termination date,

“(II) in the case of qualified timber property (other than property described in clause (i)) any portion of which is located in the Rita GO Zone, that portion of the taxable year which is on or after September 23, 2005, and before the termination date, or

“(III) in the case of qualified timber property (other than property described in clause (i) or (ii)) any portion of which is located in the Wilma GO Zone, that portion of the taxable year which is on or after October 23, 2005, and before the termination date.

“(ii) TERMINATION DATE.—The term ‘termination date’ means—

“(I) for purposes of paragraph (1), January 1, 2008, and

“(II) for purposes of paragraph (2), January 1, 2007.

“(B) QUALIFIED TIMBER PROPERTY.—The term ‘qualified timber property’ has the meaning given such term in section 194(c)(1).

“(j) SPECIAL RULE FOR GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSSES.—

“(1) IN GENERAL.—The amount described in section 172(f)(1)(A) for any taxable year shall be increased by the Gulf Opportunity Zone public utility casualty loss for such taxable year.

“(2) GULF OPPORTUNITY ZONE PUBLIC UTILITY CASUALTY LOSS.—For purposes of this subsection, the term ‘Gulf Opportunity Zone public utility casualty loss’ means any casualty loss of public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone if—

“(A) such loss is allowed as a deduction under section 165 for the taxable year,

“(B) such loss is by reason of Hurricane Katrina, and

“(C) the taxpayer elects the application of this subsection with respect to such loss.

“(3) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of any Gulf Opportunity Zone public utility casualty loss which would (but for this paragraph) be taken into account under paragraph (1) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of public utility property (as so defined) located in the Gulf Opportunity Zone.

“(4) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Subsection (k) and section 165(i) shall not apply to any Gulf Opportunity Zone public utility casualty loss to the extent such loss is taken into account under paragraph (1).

“(5) ELECTION.—Any election under paragraph (2)(C) shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

“(k) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO GULF OPPORTUNITY ZONE LOSSES.—

“(1) IN GENERAL.—If a portion of any net operating loss of the taxpayer for any taxable year is a qualified Gulf Opportunity Zone loss, the following rules shall apply:

Applicability.

“(A) EXTENSION OF CARRYBACK PERIOD.—Section 172(b)(1) shall be applied with respect to such portion—

“(i) by substituting ‘5 taxable years’ for ‘2 taxable years’ in subparagraph (A)(i), and

“(ii) by not taking such portion into account in determining any eligible loss of the taxpayer under subparagraph (F) thereof for the taxable year.

“(B) SUSPENSION OF 90 PERCENT AMT LIMITATION.—Section 56(d)(1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of any net operating loss attributable to such portion.

“(2) QUALIFIED GULF OPPORTUNITY ZONE LOSS.—For purposes of paragraph (1), the term ‘qualified Gulf Opportunity Zone loss’ means the lesser of—

“(A) the excess of—

“(i) the net operating loss for such taxable year, over

“(ii) the specified liability loss for such taxable year to which a 10-year carryback applies under section 172(b)(1)(C), or

“(B) the aggregate amount of the following deductions to the extent taken into account in computing the net operating loss for such taxable year:

“(i) Any deduction for any qualified Gulf Opportunity Zone casualty loss.

“(ii) Any deduction for moving expenses paid or incurred after August 27, 2005, and before January

1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

“(I) whose principal place of abode was located in the Gulf Opportunity Zone before August 28, 2005,

“(II) who was unable to remain in such abode as the result of Hurricane Katrina, and

“(III) whose principal place of employment with the taxpayer after such expense is located in the Gulf Opportunity Zone.

For purposes of this clause, the term ‘moving expenses’ has the meaning given such term by section 217(b), except that the taxpayer’s former residence and new residence may be the same residence if the initial vacating of the residence was as the result of Hurricane Katrina.

“(iii) Any deduction allowable under this chapter for expenses paid or incurred after August 27, 2005, and before January 1, 2008, to temporarily house any employee of the taxpayer whose principal place of employment is in the Gulf Opportunity Zone.

“(iv) Any deduction for depreciation (or amortization in lieu of depreciation) allowable under this chapter with respect to any qualified Gulf Opportunity Zone property (as defined in subsection (d)(2), but without regard to subparagraph (B)(iv) thereof) for the taxable year such property is placed in service.

“(v) Any deduction allowable under this chapter for repair expenses (including expenses for removal of debris) paid or incurred after August 27, 2005, and before January 1, 2008, with respect to any damage attributable to Hurricane Katrina and in connection with property which is located in the Gulf Opportunity Zone.

“(3) QUALIFIED GULF OPPORTUNITY ZONE CASUALTY LOSS.—

“(A) IN GENERAL.—For purposes of paragraph (2)(B)(i), the term ‘qualified Gulf Opportunity Zone casualty loss’ means any uncompensated section 1231 loss (as defined in section 1231(a)(3)(B)) of property located in the Gulf Opportunity Zone if—

“(i) such loss is allowed as a deduction under section 165 for the taxable year, and

“(ii) such loss is by reason of Hurricane Katrina.

“(B) REDUCTION FOR GAINS FROM INVOLUNTARY CONVERSION.—The amount of qualified Gulf Opportunity Zone casualty loss which would (but for this subparagraph) be taken into account under subparagraph (A) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of property located in the Gulf Opportunity Zone.

“(C) COORDINATION WITH GENERAL DISASTER LOSS RULES.—Section 165(i) shall not apply to any qualified Gulf Opportunity Zone casualty loss to the extent such loss is taken into account under this subsection.

“(4) SPECIAL RULES.—For purposes of paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 172(i) shall apply with respect to such portion. Applicability.

“(1) CREDIT TO HOLDERS OF GULF TAX CREDIT BONDS.—

“(1) ALLOWANCE OF CREDIT.—If a taxpayer holds a Gulf tax credit bond on one or more credit allowance dates of the bond occurring during any taxable year, 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 the credits determined under paragraph (2) with respect to such dates.

“(2) AMOUNT OF CREDIT.—

“(A) IN GENERAL.—The amount of the credit determined under this paragraph with respect to any credit allowance date for a Gulf tax credit bond is 25 percent of the annual credit determined with respect to such bond.

“(B) ANNUAL CREDIT.—The annual credit determined with respect to any Gulf tax credit bond is the product of—

“(i) the credit rate determined by the Secretary under subparagraph (C) for the day on which such bond was sold, multiplied by

“(ii) the outstanding face amount of the bond.

“(C) DETERMINATION.—For purposes of subparagraph (B), with respect to any Gulf tax credit bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary’s designee estimates will permit the issuance of Gulf tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the issuer.

“(D) CREDIT ALLOWANCE DATE.—For purposes of this subsection, the term ‘credit allowance date’ means March 15, June 15, September 15, and December 15. Such term also includes the last day on which the bond is outstanding.

“(E) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this paragraph with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

“(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under paragraph (1) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C and this subsection).

“(4) GULF TAX CREDIT BOND.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘Gulf tax credit bond’ means any bond issued as part of an issue if—

“(i) the bond is issued by the State of Alabama, Louisiana, or Mississippi,

“(ii) 95 percent or more of the proceeds of such issue are to be used to—

“(I) pay principal, interest, or premiums on qualified bonds issued by such State or any political subdivision of such State, or

“(II) make a loan to any political subdivision of such State to pay principal, interest, or premiums on qualified bonds issued by such political subdivision,

“(iii) the Governor of such State designates such bond for purposes of this subsection,

“(iv) the bond is a general obligation of such State and is in registered form (within the meaning of section 149(a)),

“(v) the maturity of such bond does not exceed 2 years, and

“(vi) the bond is issued after December 31, 2005, and before January 1, 2007.

“(B) STATE MATCHING REQUIREMENT.—A bond shall not be treated as a Gulf tax credit bond unless—

“(i) the issuer of such bond pledges as of the date of the issuance of the issue an amount equal to the face amount of such bond to be used for payments described in subclause (I) of subparagraph (A)(ii), or loans described in subclause (II) of such subparagraph, as the case may be, with respect to the issue of which such bond is a part, and

“(ii) any such payment or loan is made in equal amounts from the proceeds of such issue and from the amount pledged under clause (i).

The requirement of clause (ii) shall be treated as met with respect to any such payment or loan made during the 1-year period beginning on the date of the issuance (or any successor 1-year period) if such requirement is met when applied with respect to the aggregate amount of such payments and loans made during such period.

“(C) AGGREGATE LIMIT ON BOND DESIGNATIONS.—The maximum aggregate face amount of bonds which may be designated under this subsection by the Governor of a State shall not exceed—

“(i) \$200,000,000 in the case of the State of Louisiana,

“(ii) \$100,000,000 in the case of the State of Mississippi, and

“(iii) \$50,000,000 in the case of the State of Alabama.

“(D) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a Gulf tax credit bond unless, with respect to the issue of which the bond is a part, the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue and any loans made with such proceeds.

“(5) QUALIFIED BOND.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified bond’ means any obligation of a State or political subdivision thereof which was outstanding on August 28, 2005.

“(B) EXCEPTION FOR PRIVATE ACTIVITY BONDS.—Such term shall not include any private activity bond.

“(C) EXCEPTION FOR ADVANCE REFUNDINGS.—Such term shall not include any bond with respect to which there is any outstanding refunded or refunding bond during the period in which a Gulf tax credit bond is outstanding with respect to such bond.

“(D) USE OF PROCEEDS REQUIREMENT.—Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue was (or is to be) used to provide any property described in section 144(c)(6)(B).

“(6) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this subsection (determined without regard to paragraph (3)) and the amount so included shall be treated as interest income.

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

“(A) BOND.—The term ‘bond’ includes any obligation.

“(B) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

“(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under paragraph (1).

“(ii) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

“(C) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Gulf tax credit bond is held by a regulated investment company, the credit determined under paragraph (1) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

“(D) REPORTING.—Issuers of Gulf tax credit bonds shall submit reports similar to the reports required under section 149(e).

“(E) CREDIT TREATED AS NONREFUNDABLE BONDHOLDER CREDIT.—For purposes of this title, the credit allowed by this subsection shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.

“(m) APPLICATION OF NEW MARKETS TAX CREDIT TO INVESTMENTS IN COMMUNITY DEVELOPMENT ENTITIES SERVING GULF OPPORTUNITY ZONE.—For purposes of section 45D—

“(1) a qualified community development entity shall be eligible for an allocation under subsection (f)(2) thereof of the increase in the new markets tax credit limitation described in paragraph (2) only if a significant mission of such entity is the recovery and redevelopment of the Gulf Opportunity Zone,

“(2) the new markets tax credit limitation otherwise determined under subsection (f)(1) thereof shall be increased by an amount equal to—

Applicability.

Regulations.

Procedures.

“(A) \$300,000,000 for 2005 and 2006, to be allocated among qualified community development entities to make qualified low-income community investments within the Gulf Opportunity Zone, and

“(B) \$400,000,000 for 2007, to be so allocated, and

“(3) subsection (f)(3) thereof shall be applied separately with respect to the amount of the increase under paragraph (2).

“(n) TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RESIDENTIAL RENTAL PROJECT REQUIREMENTS.—For purposes of determining if any residential rental project meets the requirements of section 142(d)(1) and if any certification with respect to such project meets the requirements under section 142(d)(7), the operator of the project may rely on the representations of any individual applying for tenancy in such project that such individual’s income will not exceed the applicable income limits of section 142(d)(1) upon commencement of the individual’s tenancy if such tenancy begins during the 6-month period beginning on and after the date such individual was displaced by reason of Hurricane Katrina.

“(o) TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.—

“(1) IN GENERAL.—Upon the election of the taxpayer, in the case of any eligible public utility property loss—

“(A) section 165(i) shall be applied by substituting ‘the fifth taxable year immediately preceding’ for ‘the taxable year immediately preceding’,

“(B) an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the application of subparagraph (A) may be made under section 6411, and

“(C) section 6611 shall not apply to any overpayment attributable to such loss.

“(2) ELIGIBLE PUBLIC UTILITY PROPERTY LOSS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘eligible public utility property loss’ means any loss with respect to public utility property located in the Gulf Opportunity Zone and attributable to Hurricane Katrina.

“(B) PUBLIC UTILITY PROPERTY.—The term ‘public utility property’ has the meaning given such term by section 168(i)(10) without regard to the matter following subparagraph (D) thereof.

“(3) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this section by the operation of any law or rule of law (including *res judicata*), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

“(p) TAX BENEFITS NOT AVAILABLE WITH RESPECT TO CERTAIN PROPERTY.—

“(1) QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.—For purposes of subsections (d), (e), and (k)(2)(B)(iv), the term ‘qualified Gulf Opportunity Zone property’ shall not include any property described in paragraph (3).

“(2) QUALIFIED GULF OPPORTUNITY ZONE CASUALTY LOSSES.—For purposes of subsection (k)(2)(B)(i), the term ‘qualified Gulf Opportunity Zone casualty loss’ shall not include any loss with respect to any property described in paragraph (3).

“(3) PROPERTY DESCRIBED.—

“(A) IN GENERAL.—For purposes of this subsection, property is described in this paragraph if such property is—

“(i) any property used in connection with any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, or

“(ii) any gambling or animal racing property.

“(B) GAMBLING OR ANIMAL RACING PROPERTY.—For purposes of subparagraph (A)(ii)—

“(i) IN GENERAL.—The term ‘gambling or animal racing property’ means—

“(I) any equipment, furniture, software, or other property used directly in connection with gambling, the racing of animals, or the on-site viewing of such racing, and

“(II) the portion of any real property (determined by square footage) which is dedicated to gambling, the racing of animals, or the on-site viewing of such racing.

“(ii) DE MINIMIS PORTION.—Clause (i)(II) shall not apply to any real property if the portion so dedicated is less than 100 square feet.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 54(c) is amended by inserting “, section 1400N(1),” after “subpart C”. 26 USC 54.

(2) Subparagraph (A) of section 6049(d)(8) is amended—
(A) by inserting “or 1400N(1)(6)” after “section 54(g)”,
and

(B) by inserting “or 1400N(1)(2)(D), as the case may be” after “section 54(b)(4)”.

(3) So much of subchapter Y of chapter 1 as precedes section 1400L is amended to read as follows:

“Subchapter Y—Short-Term Regional Benefits

“PART I—TAX BENEFITS FOR NEW YORK LIBERTY ZONE

“PART II—TAX BENEFITS FOR GO ZONES

“PART I—TAX BENEFITS FOR NEW YORK LIBERTY ZONE

“Sec. 1400L. Tax benefits for New York Liberty Zone.”.

(4) The item relating to subchapter Y in the table of subchapters for chapter 1 is amended to read as follows:

“SUBCHAPTER Y—SHORT-TERM REGIONAL BENEFITS”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after August 28, 2005.

26 USC 1400N
note.

(2) CARRYBACKS.—Subsections (i)(2), (j), and (k) of section 1400N of the Internal Revenue Code of 1986 (as added by this section) shall apply to losses arising in such taxable years.

SEC. 102. EXPANSION OF HOPE SCHOLARSHIP AND LIFETIME LEARNING CREDIT FOR STUDENTS IN THE GULF OPPORTUNITY ZONE.

(a) IN GENERAL.—Part II of subchapter Y of chapter 1 (as added by this Act) is amended by adding at the end the following new section:

“SEC. 1400O. EDUCATION TAX BENEFITS.

“In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2)) located in the Gulf Opportunity Zone for any taxable year beginning during 2005 or 2006—

“(1) in applying section 25A, the term ‘qualified tuition and related expenses’ shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3)),

“(2) each of the dollar amounts in effect under of subparagraphs (A) and (B) of section 25A(b)(1) shall be twice the amount otherwise in effect before the application of this subsection, and

“(3) section 25A(c)(1) shall be applied by substituting ‘40 percent’ for ‘20 percent.’”.

(b) CONFORMING AMENDMENT.—The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new item:

“Sec. 1400O. Education tax benefits.”.

SEC. 103. HOUSING RELIEF FOR INDIVIDUALS AFFECTED BY HURRICANE KATRINA.

(a) IN GENERAL.—Part II of subchapter Y of chapter 1 (as added by this Act) is amended by adding at the end the following new section:

“SEC. 1400P. HOUSING TAX BENEFITS .

“(a) EXCLUSION OF EMPLOYER PROVIDED HOUSING FOR INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—

“(1) IN GENERAL.—Gross income of a qualified employee shall not include the value of any lodging furnished in-kind to such employee (and such employee’s spouse or any of such employee’s dependents) by or on behalf of a qualified employer for any month during the taxable year.

“(2) LIMITATION.—The amount which may be excluded under paragraph (1) for any month for which lodging is furnished during the taxable year shall not exceed \$600.

“(3) TREATMENT OF EXCLUSION.—The exclusion under paragraph (1) shall be treated as an exclusion under section 119 (other than for purposes of sections 3121(a)(19) and 3306(b)(14)).

“(b) EMPLOYER CREDIT FOR HOUSING EMPLOYEES AFFECTED BY HURRICANE KATRINA.—For purposes of section 38, in the case of a qualified employer, the Hurricane Katrina housing credit for any month during the taxable year is an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a) and not otherwise excludable under section 119.

“(c) **QUALIFIED EMPLOYEE.**—For purposes of this section, the term ‘qualified employee’ means, with respect to any month, an individual—

- “(1) who had a principal residence (as defined in section 121) in the Gulf Opportunity Zone on August 28, 2005, and
- “(2) who performs substantially all employment services—
 - “(A) in the Gulf Opportunity Zone, and
 - “(B) for the qualified employer which furnishes lodging to such individual.

“(d) **QUALIFIED EMPLOYER.**—For purposes of this section, the term ‘qualified employer’ means any employer with a trade or business located in the Gulf Opportunity Zone.

“(e) **CERTAIN RULES TO APPLY.**—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(f) **APPLICATION OF SECTION.**—This section shall apply to lodging furnished during the period—

- “(1) beginning on the first day of the first month beginning after the date of the enactment of this section, and
- “(2) ending on the date which is 6 months after the first day described in paragraph (1).”.

(b) **CONFORMING AMENDMENTS.**—

(1) Subsection (b) of section 38 is amended by striking “and” at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting “, and”, and by adding at the end the following new paragraph: 26 USC 38.

“(27) the Hurricane Katrina housing credit determined under section 1400P(b).”.

(2) Section 280C(a) is amended by striking “and 1396(a)” and inserting “1396(a), and 1400P(b)”.

(3) The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new item:

“Sec. 1400P. Housing tax benefits.”.

SEC. 104. EXTENSION OF SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

Section 404(d) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking “December 31, 2007” and inserting “December 31, 2010”. *Ante*, p. 2027.

SEC. 105. SPECIAL EXTENSION OF BONUS DEPRECIATION PLACED IN SERVICE DATE FOR TAXPAYERS AFFECTED BY HURRICANES KATRINA, RITA, AND WILMA.

In applying the rule under section 168(k)(2)(A)(iv) of the Internal Revenue Code of 1986 to any property described in subparagraph (B) or (C) of section 168(k)(2) of such Code—

- (1) the placement in service of which—
 - (A) is to be located in the GO Zone (as defined in section 1400M(1) of such Code), the Rita GO Zone (as defined in section 1400M(3) of such Code), or the Wilma GO Zone (as defined in section 1400M(5) of such Code), and
 - (B) is to be made by any taxpayer affected by Hurricane Katrina, Rita, or Wilma, or
- (2) which is manufactured in such Zone by any person affected by Hurricane Katrina, Rita, or Wilma,

the Secretary of the Treasury may, on a taxpayer by taxpayer basis, extend the required date of the placement in service of such property under such section by such period of time as is determined necessary by the Secretary but not to exceed 1 year. For purposes of the preceding sentence, the determination shall be made by only taking into account the effect of one or more hurricanes on the date of such placement by the taxpayer.

TITLE II—TAX BENEFITS RELATED TO HURRICANES RITA AND WILMA

SEC. 201. EXTENSION OF CERTAIN EMERGENCY TAX RELIEF FOR HURRICANE KATRINA TO HURRICANES RITA AND WILMA.

(a) **IN GENERAL.**—Part II of subchapter Y of chapter 1 (as added by this Act) is amended by adding at the end the following new sections:

“SEC. 1400Q. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

“(a) **TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS.**—

“(1) **IN GENERAL.**—Section 72(t) shall not apply to any qualified hurricane distribution.

“(2) **AGGREGATE DOLLAR LIMITATION.**—

“(A) **IN GENERAL.**—For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

“(i) \$100,000, over

“(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

“(B) **TREATMENT OF PLAN DISTRIBUTIONS.**—If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

“(C) **CONTROLLED GROUP.**—For purposes of subparagraph (B), the term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

“(3) **AMOUNT DISTRIBUTED MAY BE REPAID.**—

“(A) **IN GENERAL.**—Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

“(B) TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(C) TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.—For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) QUALIFIED HURRICANE DISTRIBUTION.—Except as provided in paragraph (2), the term ‘qualified hurricane distribution’ means—

“(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina,

“(ii) any distribution (which is not described in clause (i)) from an eligible retirement plan made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita, and

“(iii) any distribution (which is not described in clause (i) or (ii)) from an eligible retirement plan made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

“(B) ELIGIBLE RETIREMENT PLAN.—The term ‘eligible retirement plan’ shall have the meaning given such term by section 402(c)(8)(B).

“(5) INCOME INCLUSION SPREAD OVER 3-YEAR PERIOD.—

“(A) IN GENERAL.—In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

Applicability.

“(B) SPECIAL RULE.—For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.

“(6) SPECIAL RULES.—

“(A) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405, qualified hurricane distributions shall not be treated as eligible rollover distributions.

“(B) QUALIFIED HURRICANE DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes this title, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).

“(b) RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES.—

“(1) RECONTRIBUTIONS.—

“(A) IN GENERAL.—Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

“(B) TREATMENT OF REPAYMENTS.—Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.

“(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified distribution’ means any qualified Katrina distribution, any qualified Rita distribution, and any qualified Wilma distribution.

“(B) QUALIFIED KATRINA DISTRIBUTION.—The term ‘qualified Katrina distribution’ means any distribution—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before August 29, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

“(C) QUALIFIED RITA DISTRIBUTION.—The term ‘qualified Rita distribution’ means any distribution (other than a qualified Katrina distribution)—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before September 24, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Rita disaster

area, but which was not so purchased or constructed on account of Hurricane Rita.

“(D) QUALIFIED WILMA DISTRIBUTION.—The term ‘qualified Wilma distribution’ means any distribution (other than a qualified Katrina distribution or a qualified Rita distribution)—

“(i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

“(ii) received after February 28, 2005, and before October 24, 2005, and

“(iii) which was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but which was not so purchased or constructed on account of Hurricane Wilma.

“(3) APPLICABLE PERIOD.—For purposes of this subsection, the term ‘applicable period’ means—

“(A) with respect to any qualified Katrina distribution, the period beginning on August 25, 2005, and ending on February 28, 2006,

“(B) with respect to any qualified Rita distribution, the period beginning on September 23, 2005, and ending on February 28, 2006, and

“(C) with respect to any qualified Wilma distribution, the period beginning on October 23, 2005, and ending on February 28, 2006.

“(c) LOANS FROM QUALIFIED PLANS.—

“(1) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4)) to a qualified individual made during the applicable period—

“(A) clause (i) of section 72(p)(2)(A) shall be applied by substituting ‘\$100,000’ for ‘\$50,000’, and

“(B) clause (ii) of such section shall be applied by substituting ‘the present value of the nonforfeitable accrued benefit of the employee under the plan’ for ‘one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan’.

“(2) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4))—

“(A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2006, such due date shall be delayed for 1 year,

“(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

“(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2), the period described in subparagraph (A) shall be disregarded.

Applicability.

“(3) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified individual’ means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

“(B) QUALIFIED HURRICANE KATRINA INDIVIDUAL.—The term ‘qualified Hurricane Katrina individual’ means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

“(C) QUALIFIED HURRICANE RITA INDIVIDUAL.—The term ‘qualified Hurricane Rita individual’ means an individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita.

“(D) QUALIFIED HURRICANE WILMA INDIVIDUAL.—The term ‘qualified Hurricane Wilma individual’ means an individual (other than a qualified Hurricane Katrina individual or a qualified Hurricane Rita individual) whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

“(4) APPLICABLE PERIOD; QUALIFIED BEGINNING DATE.—For purposes of this subsection—

“(A) HURRICANE KATRINA.—In the case of any qualified Hurricane Katrina individual—

“(i) the applicable period is the period beginning on September 24, 2005, and ending on December 31, 2006, and

“(ii) the qualified beginning date is August 25, 2005.

“(B) HURRICANE RITA.—In the case of any qualified Hurricane Rita individual—

“(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

“(ii) the qualified beginning date is September 23, 2005.

“(C) HURRICANE WILMA.—In the case of any qualified Hurricane Wilma individual—

“(i) the applicable period is the period beginning on the date of the enactment of this subparagraph and ending on December 31, 2006, and

“(ii) the qualified beginning date is October 23, 2005.

“(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

“(1) IN GENERAL.—If this subsection applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i).

“(2) AMENDMENTS TO WHICH SUBSECTION APPLIES.—

“(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

“(i) pursuant to any provision of this section, or pursuant to any regulation issued by the Secretary or the Secretary of Labor under any provision of this section, and

“(ii) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary may prescribe.

In the case of a governmental plan (as defined in section 414(d)), clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under clause (ii).

“(B) CONDITIONS.—This subsection shall not apply to any amendment unless—

“(i) during the period—

“(I) beginning on the date that this section or the regulation described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by this section or such regulation, the effective date specified by the plan), and

“(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

“(ii) such plan or contract amendment applies retroactively for such period.

“SEC. 1400R. EMPLOYMENT RELIEF.

“(a) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE KATRINA.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Katrina employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means any employer—

“(i) which conducted an active trade or business on August 28, 2005, in the GO Zone, and

“(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

“(B) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the GO Zone.

“(C) QUALIFIED WAGES.—The term ‘qualified wages’ means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

“(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

“(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

“(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 with respect to such employee for such period.

“(b) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE RITA.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Rita employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means any employer—

“(i) which conducted an active trade or business on September 23, 2005, in the Rita GO Zone, and

“(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Rita.

“(B) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means with respect to an eligible employer an employee whose principal place of employment on September 23, 2005, with such eligible employer was in the Rita GO Zone.

“(C) QUALIFIED WAGES.—The term ‘qualified wages’ means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on

any day after September 23, 2005, and before January 1, 2006, which occurs during the period—

“(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Rita, and

“(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

“(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

“(c) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY HURRICANE WILMA.—

“(1) IN GENERAL.—For purposes of section 38, in the case of an eligible employer, the Hurricane Wilma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) ELIGIBLE EMPLOYER.—The term ‘eligible employer’ means any employer—

“(i) which conducted an active trade or business on October 23, 2005, in the Wilma GO Zone, and

“(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Wilma.

“(B) ELIGIBLE EMPLOYEE.—The term ‘eligible employee’ means with respect to an eligible employer an employee whose principal place of employment on October 23, 2005, with such eligible employer was in the Wilma GO Zone.

“(C) QUALIFIED WAGES.—The term ‘qualified wages’ means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 23, 2005, and before January 1, 2006, which occurs during the period—

“(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of

the employee immediately before Hurricane Wilma, and

“(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

“(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

“(4) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or (b) or section 51 with respect to such employee for such period.

“SEC. 1400S. ADDITIONAL TAX RELIEF PROVISIONS.

“(a) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

“(1) IN GENERAL.—Except as otherwise provided in paragraph (2), section 170(b) shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 to other contributions.

“(2) TREATMENT OF EXCESS CONTRIBUTIONS.—For purposes of section 170—

“(A) INDIVIDUALS.—In the case of an individual—

“(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s contribution base (as defined in subparagraph (F) of section 170(b)(1)) over the amount of all other charitable contributions allowed under section 170(b)(1).

“(ii) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1)) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

“(B) CORPORATIONS.—In the case of a corporation—

“(i) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s taxable income (as determined under paragraph (2) of section 170(b)) over the amount of all other charitable contributions allowed under such paragraph.

“(ii) CARRYOVER.—Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

“(3) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—So much of any deduction allowed under section 170 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68.

“(4) QUALIFIED CONTRIBUTIONS.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified contribution’ means any charitable contribution (as defined in section 170(c)) if—

“(i) such contribution is paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) (other than an organization described in section 509(a)(3)),

“(ii) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and

“(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

“(B) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor’s status as a donor.

“(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

“(b) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Paragraphs (1) and (2)(A) of section 165(h) shall not apply to losses described in section 165(c)(3)—

“(1) which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina,

“(2) which arise in the Hurricane Rita disaster area on or after September 23, 2005, and which are attributable to Hurricane Rita, or

“(3) which arise in the Hurricane Wilma disaster area on or after October 23, 2005, and which are attributable to Hurricane Wilma.

In the case of any other losses, section 165(h)(2)(A) shall be applied without regard to the losses referred to in the preceding sentence.

“(c) REQUIRED EXERCISE OF AUTHORITY UNDER SECTION 7508A.—In the case of any taxpayer determined by the Secretary to be affected by the Presidentially declared disaster relating to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, any relief provided by the Secretary under section 7508A shall be for a period ending not earlier than February 28, 2006.

Termination
date.

“(d) SPECIAL RULE FOR DETERMINING EARNED INCOME.—

“(1) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes the applicable date is less than the earned income of the taxpayer for the preceding taxable year, the

credits allowed under sections 24(d) and 32 may, at the election of the taxpayer, be determined by substituting—

“(A) such earned income for the preceding taxable year, for

“(B) such earned income for the taxable year which includes the applicable date.

“(2) QUALIFIED INDIVIDUAL.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified individual’ means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

“(B) QUALIFIED HURRICANE KATRINA INDIVIDUAL.—The term ‘qualified Hurricane Katrina individual’ means any individual whose principal place of abode on August 25, 2005, was located—

“(i) in the GO Zone, or

“(ii) in the Hurricane Katrina disaster area (but outside the GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

“(C) QUALIFIED HURRICANE RITA INDIVIDUAL.—The term ‘qualified Hurricane Rita individual’ means any individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, was located—

“(i) in the Rita GO Zone, or

“(ii) in the Hurricane Rita disaster area (but outside the Rita GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Rita.

“(D) QUALIFIED HURRICANE WILMA INDIVIDUAL.—The term ‘qualified Hurricane Wilma individual’ means any individual whose principal place of abode on October 23, 2005, was located—

“(i) in the Wilma GO Zone, or

“(ii) in the Hurricane Wilma disaster area (but outside the Wilma GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Wilma.

“(3) APPLICABLE DATE.—For purposes of this subsection, the term ‘applicable date’ means—

“(A) in the case of a qualified Hurricane Katrina individual, August 25, 2005,

“(B) in the case of a qualified Hurricane Rita individual, September 23, 2005, and

“(C) in the case of a qualified Hurricane Wilma individual, October 23, 2005.

“(4) EARNED INCOME.—For purposes of this subsection, the term ‘earned income’ has the meaning given such term under section 32(c).

“(5) SPECIAL RULES.—

“(A) APPLICATION TO JOINT RETURNS.—For purposes of paragraph (1), in the case of a joint return for a taxable year which includes the applicable date—

“(i) such paragraph shall apply if either spouse is a qualified individual, and

“(ii) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

“(B) UNIFORM APPLICATION OF ELECTION.—Any election made under paragraph (1) shall apply with respect to both sections 24(d) and section 32.

“(C) ERRORS TREATED AS MATHEMATICAL ERROR.—For purposes of section 6213, an incorrect use on a return of earned income pursuant to paragraph (1) shall be treated as a mathematical or clerical error.

“(D) NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.—Except as otherwise provided in this subsection, this title shall be applied without regard to any substitution under paragraph (1).

“(e) SECRETARIAL AUTHORITY TO MAKE ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.—With respect to taxable years beginning in 2005 or 2006, the Secretary may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina, Hurricane Rita, or Hurricane Wilma. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

“SEC. 1400T. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.

“(a) IN GENERAL.—In the case of financing provided with respect to owner-occupied residences in the GO Zone, the Rita GO Zone, or the Wilma GO Zone, section 143 shall be applied—

Applicability.

“(1) by treating any such residence in the Rita GO Zone or the Wilma GO Zone as a targeted area residence,

“(2) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and

“(3) by substituting ‘\$150,000’ for ‘\$15,000’ in subsection (k)(4) thereof.

“(b) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2010.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 38, as amended by this Act, is amended by striking “and” at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting a comma, and by adding at the end the following new paragraphs:

26 USC 38.

“(28) the Hurricane Katrina employee retention credit determined under section 1400R(a),

“(29) the Hurricane Rita employee retention credit determined under section 1400R(b), and

“(30) the Hurricane Wilma employee retention credit determined under section 1400R(c).”.

(2) Section 280C(a), as amended by this Act, is amended by striking “and 1400P(b)” and inserting “1400P(b), and 1400R”.

(3) The table of sections for part II of subchapter Y of chapter 1 is amended by adding at the end the following new items:

“Sec. 1400Q. Special rules for use of retirement funds.

“Sec. 1400R. Employment relief.

“Sec. 1400S. Additional tax relief provisions.”.

Repeal.

(4) The following provisions of the Katrina Emergency Tax Relief Act of 2005 are hereby repealed:

Ante, p. 2017.

Ante, pp. 2021, 2022, 2027–2029.

(A) Title I.

(B) Sections 202, 301, 402, 403(b), 406, and 407.

TITLE III—OTHER PROVISIONS

SEC. 301. GULF COAST RECOVERY BONDS.

It is the sense of the Congress that the Secretary of the Treasury, or the Secretary's delegate, should designate one or more series of bonds or certificates (or any portion thereof) issued under section 3105 of title 31, United States Code, as "Gulf Coast Recovery Bonds" in response to Hurricanes Katrina, Rita, and Wilma.

SEC. 302. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Subclause (II) of section 32(c)(2)(B)(vi) is amended by striking "January 1, 2006" and inserting "January 1, 2007".

26 USC 32 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 303. MODIFICATION OF EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.

(a) EFFECTIVE DATE MODIFICATION.—

26 USC 6404 note.

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

"(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

"(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

"(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

"(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

"(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, as of January 23, 2006—

"(I) the taxpayer is participating in a settlement initiative described in Internal Revenue Service Announcement 2005–80 with respect to such transaction, or

"(II) the taxpayer has entered into a settlement agreement pursuant to such an initiative. Subclause (I) shall not apply to any taxpayer if, after January 23, 2006, the taxpayer withdraws from, or terminates, participation in the initiative or the Secretary of the Treasury or the Secretary's delegate determines that a settlement agreement will not be reached pursuant to the initiative within a reasonable period of time.

“(iii) TAXPAYERS ACTING IN GOOD FAITH.—The Secretary of the Treasury may except from the application of clause (i) any transaction in which the taxpayer has acted reasonably and in good faith.

“(iv) CLOSED TRANSACTIONS.—Clause (i) shall not apply to a transaction if, as of December 14, 2005—

“(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

“(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the transaction.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates. 26 USC 6404 note.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) (relating to suspension) is amended by adding at the end the following new sentence: “If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed.”. 26 USC 6404.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after the date of the enactment of this Act. 26 USC 6404 note.

SEC. 304. AUTHORITY FOR UNDERCOVER OPERATIONS.

Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking “January 1, 2006” both places it appears and inserting “January 1, 2007”.

SEC. 305. DISCLOSURES OF CERTAIN TAX RETURN INFORMATION.

(a) DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.—

(1) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to disclosures after December 31, 2005. 26 USC 6103 note.

(b) DISCLOSURES RELATING TO TERRORIST ACTIVITIES.—

(1) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are each amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to disclosures after December 31, 2005. 26 USC 6103 note.

(c) DISCLOSURES RELATING TO STUDENT LOANS.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking “December 31, 2005” and inserting “December 31, 2006”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to requests made after December 31, 2005. 26 USC 6103 note.

TITLE IV—TECHNICALS**Subtitle A—Tax Technicals**

Tax Technical
Corrections Act
of 2005.
26 USC 1 note.

SEC. 401. SHORT TITLE.

This subtitle may be cited as the “Tax Technical Corrections Act of 2005”.

SEC. 402. AMENDMENTS RELATED TO ENERGY POLICY ACT OF 2005.**(a) AMENDMENTS RELATED TO SECTION 1263.—**

(1) Part VI of subchapter O of chapter 1 is repealed.

(2) Section 1223 is amended by striking paragraph (3) and by redesignating paragraphs (4) through (16) as paragraphs (3) through (15), respectively.

(3) Section 121(g) is amended by striking “1223(7)” and inserting “1223(6)”.

(4) Section 246(c)(3)(B) is amended by striking “paragraph (4) of section 1223” and inserting “paragraph (3) of section 1223”.

(5) Section 247(b)(2)(D) is amended by inserting “as in effect before its repeal” after “part VI of subchapter O”.

(6)(A) Section 1245(b) is amended by striking paragraph (5) and redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively.

(B) Section 1245(b)(3) is amended by striking “paragraph (7)” and inserting “paragraph (6)”.

(7)(A) Section 1250(d) is amended by striking paragraph (5) and redesignating paragraphs (6) through (8) as paragraphs (5) through (7), respectively.

(B) Section 1250(e)(2) is amended by striking “(3), or (5)” and inserting “or (3)”.

(b) AMENDMENT RELATED TO SECTION 1301.—Clause (ii) of section 45(c)(3)(A) is amended by striking “nonhazardous lignin waste material” and inserting “lignin material”.

(c) AMENDMENTS RELATED TO SECTION 1303.—

(1) Subsection (l) of section 54 is amended by striking paragraph (5), and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Subsection (e) of section 1303 of the Energy Policy Act of 2005 is amended to read as follows:

“(e) **EFFECTIVE DATES.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to bonds issued after December 31, 2005.

“(2) **SUBSECTION (C).**—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2005.”

(d) AMENDMENTS RELATED TO SECTION 1306.—

(1) Paragraph (2) of section 45J(c) is amended to read as follows:

“(2) **PHASEOUT OF CREDIT.**—

“(A) **IN GENERAL.**—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

Repeal.
26 USC
1081-1083.

Ante, p. 991.

“(i) the amount by which the reference price (as defined in section 45(e)(2)(C)) for the calendar year in which the sale occurs exceeds 8 cents, bears to
“(ii) 3 cents.

“(B) PHASEOUT ADJUSTMENT BASED ON INFLATION.—

The 8 cent amount in subparagraph (A) shall be adjusted by multiplying such amount by the inflation adjustment factor (as defined in section 45(e)(2)(B)) for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.”.

(2) Subsection (e) of section 45J is amended by striking “(2),”.

(e) AMENDMENT RELATED TO SECTION 1309.—Subparagraph (B) of section 169(d)(5) is amended by adding at beginning thereof “in the case of facility placed in service in connection with a plant or other property placed in operation after December 31, 1975,”.

(f) AMENDMENTS RELATED TO SECTION 1311.—

(1) Clause (i) of section 172(b)(1)(I) is amended to read as follows:

“(i) IN GENERAL.—At the election of the taxpayer for any taxable year ending after December 31, 2005, and before January 1, 2009, in the case of a net operating loss for a taxable year ending after December 31, 2002, and before January 1, 2006, there shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss to the extent that such loss does not exceed 20 percent of the sum of the electric transmission property capital expenditures and the pollution control facility capital expenditures of the taxpayer for the taxable year preceding the taxable year for which such election is made.”.

(2) Clause (ii) of section 172(b)(1)(I) is amended by striking “in a taxable year” and inserting “for a taxable year”.

(3) Subparagraph (I) of section 172(b)(1) is amended by striking clause (iv) and (v), by redesignating clause (vi) as clause (v), and by inserting after clause (iii) the following:

“(iv) SPECIAL RULES RELATING TO CREDIT OR REFUND.—In the case of the portion of the loss which is carried back 5 years by reason of clause (i)—

“(I) an application under section 6411(a) with respect to such portion shall not fail to be treated as timely filed if filed within 24 months after the due date specified under such section, and

“(II) references in sections 6501(h), 6511(d)(2)(A), and 6611(f)(1) to the taxable year in which such net operating loss arises or results in a net operating loss carryback shall be treated as references to the taxable year for which such election is made.”.

(g) AMENDMENT RELATED TO SECTION 1322.—Subsection (a) of section 45K is amended by striking “if the taxpayer elects to have this section apply,”.

(h) AMENDMENT RELATED TO SECTION 1331.—Paragraph (3) of section 1250(b) is amended by striking “or by section 179D”.

26 USC 25D.

(i) AMENDMENTS RELATED TO SECTION 1335.—

(1) Paragraph (1) of section 25D(b) is amended by inserting “(determined without regard to subsection (c))” after “subsection (a)”.

(2) Subparagraphs (A) and (B) of section 25D(e)(4) are amended to read as follows:

“(A) MAXIMUM EXPENDITURES.—The maximum amount of expenditures which may be taken into account under subsection (a) by all such individuals with respect to such dwelling unit during such calendar year shall be—

“(i) \$6,667 in the case of any qualified photovoltaic property expenditures,

“(ii) \$6,667 in the case of any qualified solar water heating property expenditures, and

“(iii) \$1,667 in the case of each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(c)(1)) for which qualified fuel cell property expenditures are made.

“(B) ALLOCATION OF EXPENDITURES.—The expenditures allocated to any individual for the taxable year in which such calendar year ends shall be an amount equal to the lesser of—

“(i) the amount of expenditures made by such individual with respect to such dwelling during such calendar year, or

“(ii) the maximum amount of such expenditures set forth in subparagraph (A) multiplied by a fraction—

“(I) the numerator of which is the amount of such expenditures with respect to such dwelling made by such individual during such calendar year, and

“(II) the denominator of which is the total expenditures made by all such individuals with respect to such dwelling during such calendar year.”.

(3)(A)(i) The matter preceding subparagraph (A) of section 23(b)(4) is amended by striking “The credit” and inserting “In the case of a taxable year to which section 26(a)(2) does not apply, the credit”.

(ii) Subsection (c) of section 23 is amended to read as follows:

“(c) CARRYFORWARDS OF UNUSED CREDIT.—

“(1) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 25D and 1400C), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

“(2) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by subsection (b)(4) for such taxable year, such excess shall be carried to the succeeding taxable

year and added to the credit allowable under subsection (a) for such taxable year.

“(3) LIMITATION.—No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.”.

(B)(i) The matter preceding subparagraph (A) of section 24(b)(3) is amended by striking “The credit” and inserting “In the case of a taxable year to which section 26(a)(2) does not apply, the credit”.

26 USC 24.

(ii) Paragraph (1) of section 24(d) is amended to read as follows:

“(1) IN GENERAL.—The aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

“(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 26(a)(2) or subsection (b)(3), as the case may be, or

“(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 26(a)(2) or subsection (b)(3), as the case may be, were increased by the excess (if any) of—

“(i) 15 percent of so much of the taxpayer’s earned income (within the meaning of section 32) which is taken into account in computing taxable income for the taxable year as exceeds \$10,000, or

“(ii) in the case of a taxpayer with 3 or more qualifying children, the excess (if any) of—

“(I) the taxpayer’s social security taxes for the taxable year, over

“(II) the credit allowed under section for the taxable year.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of credit otherwise allowable under subsection (a) without regard to section 26(a)(2) or subsection (b)(3), as the case may be. For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.”.

(C) Subparagraph (C) of section 25(e)(1) is amended to read as follows:

“(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term ‘applicable tax limit’ means—

“(i) in the case of a taxable year to which section 26(a)(2) applies, the limitation imposed by section 26(a)(2) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 25D, and 1400C), and

“(ii) in the case of a taxable year to which section 26(a)(2) does not apply, the limitation imposed by section 26(a)(1) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 24, 25B, 25D, and 1400C).”.

26 USC 25B.

(D) The matter preceding paragraph (1) of section 25B(g) is amended by striking “The credit” and inserting “In the case of a taxable year to which section 26(a)(2) does not apply, the credit”.

(E) Subsection (c) of section 25D is amended to read as follows:

“(c) CARRYFORWARD OF UNUSED CREDIT.—

“(1) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) 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.

“(2) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(1) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 24, and 25B), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(F) Subsection (d) of section 1400C is amended to read as follows:

“(d) CARRYFORWARD OF UNUSED CREDIT.—

“(1) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

“(2) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(1) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and sections 23, 24, 25B, and 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.”.

(G) Subsection (i) of section 904 is amended to read as follows:

“(i) COORDINATION WITH NONREFUNDABLE PERSONAL CREDITS.—In the case of any taxable year of an individual to which section 26(a)(2) does not apply, 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 (other than sections 23, 24, and 25B).”.

(H) APPLICATION OF EGTRRA SUNSET.—The amendments made by this paragraph (and each part thereof) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendment (or part thereof) relates. 26 USC 23 note.

(4) Subsection (b) of section 1335 of the Energy Policy Act of 2005 is amended by striking paragraphs (1), (2), and (3). The Internal Revenue Code of 1986 shall be applied and administered as if the amendments made such paragraphs had never been enacted. *Ante*, p. 1033. Applicability.

(j) AMENDMENT RELATED TO SECTION 1341.—Paragraph (6) of section 30B(h) is amended by adding at the end the following sentence: “For purposes of subsection (g), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.”. 26 USC 30B.

(k) AMENDMENT RELATED TO SECTION 1342.—Paragraph (2) of section 30C(e) is amended by adding at the end the following sentence: “For purposes of subsection (d), property to which this paragraph applies shall be treated as of a character subject to an allowance for depreciation.”.

(l) AMENDMENTS RELATED TO SECTION 1351.—

(1) Paragraph (6) of section 41(f) (relating to special rules) is amended by adding at the end the following:

“(C) FOREIGN RESEARCH.—For purposes of subsection (a)(3), amounts paid or incurred for any energy research conducted outside the United States, the Commonwealth of Puerto Rico, or any possession of the United States shall not be taken into account.

“(D) DENIAL OF DOUBLE BENEFIT.—Any amount taken into account under subsection (a)(3) shall not be taken into account under paragraph (1) or (2) of subsection (a).”.

(2) Clause (ii) of section 41(b)(3)(C) is amended by striking “(other than an energy research consortium)”.

(m) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect as if included in the provisions of the Energy Policy Act of 2005 to which they relate. 26 USC 23 note.

(2) REPEAL OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—The amendments made by subsection (a) shall not apply with respect to any transaction ordered in compliance with the Public Utility Holding Company Act of 1935 before its repeal.

(3) COORDINATION OF PERSONAL CREDITS.—The amendments made by subsection (i)(3) shall apply to taxable years beginning after December 31, 2005.

SEC. 403. AMENDMENTS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.

(a) AMENDMENTS RELATED TO SECTION 102 OF THE ACT.—

(1) Paragraph (1) of section 199(b) is amended by striking “the employer” and inserting “the taxpayer”.

(2) Paragraph (2) of section 199(b) is amended to read as follows:

“(2) W-2 WAGES.—For purposes of this section, the term ‘W-2 wages’ means, with respect to any person for any taxable year of such person, the sum of the amounts described in

paragraphs (3) and (8) of section 6051(a) paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year. Such term shall not include any amount which is not properly included in a return filed with the Social Security Administration on or before the 60th day after the due date (including extensions) for such return.”.

26 USC 199.

(3) Subparagraph (B) of section 199(c)(1) is amended by inserting “and” at the end of clause (i), by striking clauses (ii) and (iii), and by inserting after clause (i) the following:

“(ii) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such receipts.”.

(4) Paragraph (2) of section 199(c) is amended to read as follows:

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“(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items described in paragraph (1) for purposes of determining qualified production activities income. Such rules shall provide for the proper allocation of items whether or not such items are directly allocable to domestic production gross receipts.”.

(5) Subparagraph (A) of section 199(c)(4) is amended by striking clauses (ii) and (iii) and inserting the following new clauses:

“(ii) in the case of a taxpayer engaged in the active conduct of a construction trade or business, construction of real property performed in the United States by the taxpayer in the ordinary course of such trade or business, or

“(iii) in the case of a taxpayer engaged in the active conduct of an engineering or architectural services trade or business, engineering or architectural services performed in the United States by the taxpayer in the ordinary course of such trade or business with respect to the construction of real property in the United States.”.

(6) Subparagraph (B) of section 199(c)(4) is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, or”, and by adding at the end the following:

“(iii) the lease, rental, license, sale, exchange, or other disposition of land.”.

(7) Paragraph (4) of section 199(c) is amended by adding at the end the following new subparagraphs:

“(C) SPECIAL RULE FOR CERTAIN GOVERNMENT CONTRACTS.—Gross receipts derived from the manufacture or production of any property described in subparagraph (A)(i)(I) shall be treated as meeting the requirements of subparagraph (A)(i) if—

“(i) such property is manufactured or produced by the taxpayer pursuant to a contract with the Federal Government, and

“(ii) the Federal Acquisition Regulation requires that title or risk of loss with respect to such property be transferred to the Federal Government before the manufacture or production of such property is complete.

“(D) PARTNERSHIPS OWNED BY EXPANDED AFFILIATED GROUPS.—For purposes of this paragraph, if all of the interests in the capital and profits of a partnership are owned by members of a single expanded affiliated group at all times during the taxable year of such partnership, the partnership and all members of such group shall be treated as a single taxpayer during such period.”

(8) Paragraph (1) of section 199(d) is amended to read as follows: 26 USC 199.

“(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—

“(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

“(i) this section shall be applied at the partner or shareholder level,

“(ii) each partner or shareholder shall take into account such person’s allocable share of each item described in subparagraph (A) or (B) of subsection (c)(1) (determined without regard to whether the items described in such subparagraph (A) exceed the items described in such subparagraph (B)), and

“(iii) each partner or shareholder shall be treated for purposes of subsection (b) as having W-2 wages for the taxable year in an amount equal to the lesser of—

“(I) such person’s allocable share of the W-2 wages of the partnership or S corporation for the taxable year (as determined under regulations prescribed by the Secretary), or

“(II) 2 times 9 percent of so much of such person’s qualified production activities income as is attributable to items allocated under clause (ii) for the taxable year.

“(B) TRUSTS AND ESTATES.—In the case of a trust or estate—

“(i) the items referred to in subparagraph (A)(ii) (as determined therein) and the W-2 wages of the trust or estate for the taxable year, shall be apportioned between the beneficiaries and the fiduciary (and among the beneficiaries) under regulations prescribed by the Secretary, and

“(ii) for purposes of paragraph (2), adjusted gross income of the trust or estate shall be determined as provided in section 67(e) with the adjustments described in such paragraph.

“(C) REGULATIONS.—The Secretary may prescribe rules requiring or restricting the allocation of items and wages under this paragraph and may prescribe such reporting requirements as the Secretary determines appropriate.”.

(9) Paragraph (3) of section 199(d) is amended to read as follows:

“(3) AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

“(A) DEDUCTION ALLOWED TO PATRONS.—Any person who receives a qualified payment from a specified agricultural or horticultural cooperative shall be allowed for the taxable year in which such payment is received a deduction under subsection (a) equal to the portion of the deduction

allowed under subsection (a) to such cooperative which is—

“(i) allowed with respect to the portion of the qualified production activities income to which such payment is attributable, and

“(ii) identified by such cooperative in a written notice mailed to such person during the payment period described in section 1382(d).

“(B) COOPERATIVE DENIED DEDUCTION FOR PORTION OF QUALIFIED PAYMENTS.—The taxable income of a specified agricultural or horticultural cooperative shall not be reduced under section 1382 by reason of that portion of any qualified payment as does not exceed the deduction allowable under subparagraph (A) with respect to such payment.

“(C) TAXABLE INCOME OF COOPERATIVES DETERMINED WITHOUT REGARD TO CERTAIN DEDUCTIONS.—For purposes of this section, the taxable income of a specified agricultural or horticultural cooperative shall be computed without regard to any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

“(D) SPECIAL RULE FOR MARKETING COOPERATIVES.—For purposes of this section, a specified agricultural or horticultural cooperative described in subparagraph (F)(ii) shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

“(E) QUALIFIED PAYMENT.—For purposes of this paragraph, the term ‘qualified payment’ means, with respect to any person, any amount which—

“(i) is described in paragraph (1) or (3) of section 1385(a),

“(ii) is received by such person from a specified agricultural or horticultural cooperative, and

“(iii) is attributable to qualified production activities income with respect to which a deduction is allowed to such cooperative under subsection (a).

“(F) SPECIFIED AGRICULTURAL OR HORTICULTURAL COOPERATIVE.—For purposes of this paragraph, the term ‘specified agricultural or horticultural cooperative’ means an organization to which part I of subchapter T applies which is engaged—

“(i) in the manufacturing, production, growth, or extraction in whole or significant part of any agricultural or horticultural product, or

“(ii) in the marketing of agricultural or horticultural products.”

26 USC 199.

(10) Clause (i) of section 199(d)(4)(B) is amended—

(A) by striking “50 percent” and inserting “more than 50 percent”, and

(B) by striking “80 percent” and inserting “at least 80 percent”.

(11)(A) Paragraph (6) of section 199(d) is amended to read as follows:

“(6) COORDINATION WITH MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55—

“(A) qualified production activities income shall be determined without regard to any adjustments under sections 56 through 59, and

“(B) in the case of a corporation, subsection (a)(1)(B) shall be applied by substituting ‘alternative minimum taxable income’ for ‘taxable income’.”

(B) Paragraph (2) of section 199(a) is amended by striking “subsections (d)(1) and (d)(6)” and inserting “subsection (d)(1)”. 26 USC 199.

(12) Subsection (d) of section 199 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) UNRELATED BUSINESS TAXABLE INCOME.—For purposes of determining the tax imposed by section 511, subsection (a)(1)(B) shall be applied by substituting ‘unrelated business taxable income’ for ‘taxable income’.” Applicability.

(13) Paragraph (8) of section 199(d), as redesignated by paragraph (12), is amended by inserting “, including regulations which prevent more than 1 taxpayer from being allowed a deduction under this section with respect to any activity described in subsection (c)(4)(A)(i)” before the period at the end.

(14) Clauses (i)(II) and (ii)(II) of section 56(d)(1)(A) are each amended by striking “such deduction” and inserting “such deduction and the deduction under section 199”.

(15) Clause (i) of section 163(j)(6)(A) is amended by striking “and” at the end of subclause (II), by redesignating subclause (III) as subclause (IV), and by inserting after subclause (II) the following new subclause:

“(III) any deduction allowable under section 199, and”.

(16) Paragraph (2) of section 170(b) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(C) section 199,”.

(17) Subsection (d) of section 172 is amended by adding at the end the following new paragraph:

“(7) MANUFACTURING DEDUCTION.—The deduction under section 199 shall not be allowed.”

(18) Paragraph (1) of section 613A(d) is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) any deduction allowable under section 199,”.

(19) Subsection (e) of section 102 of the American Jobs Creation Act of 2004 is amended to read as follows:

“(e) EFFECTIVE DATE.—

“(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

“(2) APPLICATION TO PASS-THRU ENTITIES, ETC.—In determining the deduction under section 199 of the Internal Revenue Code of 1986 (as added by this section), items arising from

a taxable year of a partnership, S corporation, estate, or trust beginning before January 1, 2005, shall not be taken into account for purposes of subsection (d)(1) of such section.”

26 USC 1361. (b) AMENDMENT RELATED TO SECTION 231 OF THE ACT.—Paragraph (1) of section 1361(c) is amended to read as follows:

“(1) MEMBERS OF A FAMILY TREATED AS 1 SHAREHOLDER.—

“(A) IN GENERAL.—For purposes of subsection (b)(1)(A), there shall be treated as one shareholder—

“(i) a husband and wife (and their estates), and

“(ii) all members of a family (and their estates).

“(B) MEMBERS OF A FAMILY.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘members of a family’ means a common ancestor, any lineal descendant of such common ancestor, and any spouse or former spouse of such common ancestor or any such lineal descendant.

“(ii) COMMON ANCESTOR.—An individual shall not be considered to be a common ancestor if, on the applicable date, the individual is more than 6 generations removed from the youngest generation of shareholders who would (but for this subparagraph) be members of the family. For purposes of the preceding sentence, a spouse (or former spouse) shall be treated as being of the same generation as the individual to whom such spouse is (or was) married.

“(iii) APPLICABLE DATE.—The term ‘applicable date’ means the latest of—

“(I) the date the election under section 1362(a) is made,

“(II) the earliest date that an individual described in clause (i) holds stock in the S corporation, or

“(III) October 22, 2004.

“(C) EFFECT OF ADOPTION, ETC.—Any legally adopted child of an individual, any child who is lawfully placed with an individual for legal adoption by the individual, and any eligible foster child of an individual (within the meaning of section 152(f)(1)(C)), shall be treated as a child of such individual by blood.”

26 USC 1366 note. (c) AMENDMENT RELATED TO SECTION 235 OF THE ACT.—Subsection (b) of section 235 of the American Jobs Creation Act of 2004 is amended by striking “taxable years beginning” and inserting “transfers”.

(d) AMENDMENTS RELATED TO SECTION 243 OF THE ACT.—

(1) Paragraph (7) of section 856(c) is amended to read as follows:

“(7) RULES OF APPLICATION FOR FAILURE TO SATISFY PARAGRAPH (4).—

“(A) IN GENERAL.—A corporation, trust, or association that fails to meet the requirements of paragraph (4) (other than a failure to meet the requirements of paragraph (4)(B)(iii) which is described in subparagraph (B)(i) of this paragraph) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

“(i) following the corporation, trust, or association’s identification of the failure to satisfy the requirements of such paragraph for a particular quarter, a description of each asset that causes the corporation, trust, or association to fail to satisfy the requirements of such paragraph at the close of such quarter of any taxable year is set forth in a schedule for such quarter filed in accordance with regulations prescribed by the Secretary,

“(ii) the failure to meet the requirements of such paragraph for a particular quarter is due to reasonable cause and not due to willful neglect, and

“(iii)(I) the corporation, trust, or association disposes of the assets set forth on the schedule specified in clause (i) within 6 months after the last day of the quarter in which the corporation, trust or association’s identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

“(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

“(B) RULE FOR CERTAIN DE MINIMIS FAILURES.—A corporation, trust, or association that fails to meet the requirements of paragraph (4)(B)(iii) for a particular quarter shall nevertheless be considered to have satisfied the requirements of such paragraph for such quarter if—

“(i) such failure is due to the ownership of assets the total value of which does not exceed the lesser of—

“(I) 1 percent of the total value of the trust’s assets at the end of the quarter for which such measurement is done, and

“(II) \$10,000,000, and

“(ii)(I) the corporation, trust, or association, following the identification of such failure, disposes of assets in order to meet the requirements of such paragraph within 6 months after the last day of the quarter in which the corporation, trust or association’s identification of the failure to satisfy the requirements of such paragraph occurred or such other time period prescribed by the Secretary and in the manner prescribed by the Secretary, or

“(II) the requirements of such paragraph are otherwise met within the time period specified in subclause (I).

“(C) TAX.—

“(i) TAX IMPOSED.—If subparagraph (A) applies to a corporation, trust, or association for any taxable year, there is hereby imposed on such corporation, trust, or association a tax in an amount equal to the greater of—

“(I) \$50,000, or

“(II) the amount determined (pursuant to regulations promulgated by the Secretary) by multiplying the net income generated by the assets

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described in the schedule specified in subparagraph (A)(i) for the period specified in clause (ii) by the highest rate of tax specified in section 11.

“(ii) PERIOD.—For purposes of clause (i)(II), the period described in this clause is the period beginning on the first date that the failure to satisfy the requirements of such paragraph (4) occurs as a result of the ownership of such assets and ending on the earlier of the date on which the trust disposes of such assets or the end of the first quarter when there is no longer a failure to satisfy such paragraph (4).

“(iii) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subparagraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.”.

26 USC 856.

(2) Subsection (m) of section 856 is amended by adding at the end the following new paragraph:

“(6) TRANSITION RULE.—

“(A) IN GENERAL.—Notwithstanding paragraph (2)(C), securities held by a trust shall not be considered securities held by the trust for purposes of subsection (c)(4)(B)(iii)(III) during any period beginning on or before October 22, 2004, if such securities—

“(i) are held by such trust continuously during such period, and

“(ii) would not be taken into account for purposes of such subsection by reason of paragraph (7)(C) of subsection (c) (as in effect on October 22, 2004) if the amendments made by section 243 of the American Jobs Creation Act of 2004 had never been enacted.

“(B) RULE NOT TO APPLY TO SECURITIES HELD AFTER MATURITY DATE.—Subparagraph (A) shall not apply with respect to any security after the later of October 22, 2004, or the latest maturity date under the contract (as in effect on October 22, 2004) taking into account any renewal or extension permitted under the contract if such renewal or extension does not significantly modify any other terms of the contract.

“(C) SUCCESSORS.—If the successor of a trust to which this paragraph applies acquires securities in a transaction to which section 381 applies, such trusts shall be treated as a single entity for purposes of determining the holding period of such securities under subparagraph (A).”.

(3) Subparagraph (E) of section 857(b)(2) is amended by striking “section 856(c)(7)(B)(iii), and section 856(g)(1).” and inserting “section 856(c)(7)(C), and section 856(g)(5)”.

26 USC 856 note.

(4) Subsection (g) of section 243 of the American Jobs Creation Act of 2004 is amended to read as follows:

“(g) EFFECTIVE DATES.—

“(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 2000.

“(2) SUBSECTIONS (c) AND (e).—The amendments made by subsections (c) and (e) shall apply to taxable years beginning after the date of the enactment of this Act.

“(3) SUBSECTION (d).—The amendment made by subsection (d) shall apply to transactions entered into after December 31, 2004.

“(4) SUBSECTION (f).—

“(A) The amendment made by paragraph (1) of subsection (f) shall apply to failures with respect to which the requirements of subparagraph (A) or (B) of section 856(c)(7) of the Internal Revenue Code of 1986 (as added by such paragraph) are satisfied after the date of the enactment of this Act.

“(B) The amendment made by paragraph (2) of subsection (f) shall apply to failures with respect to which the requirements of paragraph (6) of section 856(c) of the Internal Revenue Code of 1986 (as amended by such paragraph) are satisfied after the date of the enactment of this Act.

“(C) The amendments made by paragraph (3) of subsection (f) shall apply to failures with respect to which the requirements of paragraph (5) of section 856(g) of the Internal Revenue Code of 1986 (as added by such paragraph) are satisfied after the date of the enactment of this Act.

“(D) The amendment made by paragraph (4) of subsection (f) shall apply to taxable years ending after the date of the enactment of this Act.

“(E) The amendments made by paragraph (5) of subsection (f) shall apply to statements filed after the date of the enactment of this Act.”.

(e) AMENDMENTS RELATED TO SECTION 244 OF THE ACT.—

(1) Paragraph (2) of section 181(d) is amended by striking the last sentence in subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

26 USC 181.

“(B) SPECIAL RULES FOR TELEVISION SERIES.—In the case of a television series—

“(i) each episode of such series shall be treated as a separate production, and

“(ii) only the first 44 episodes of such series shall be taken into account.”.

(2) Subparagraph (C) of section 1245(a)(2) is amended by inserting “181,” after “179B,”.

(f) AMENDMENTS RELATED TO SECTION 245 OF THE ACT.—

(1) Subsection (b) of section 45G is amended to read as follows:

“(b) LIMITATION.—

“(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the product of—

“(A) \$3,500, multiplied by

“(B) the sum of—

“(i) the number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year, and

“(ii) the number of miles of railroad track assigned for purposes of this subsection to the eligible taxpayer by a Class II or Class III railroad which owns or leases such railroad track as of the close of the taxable year.

“(2) ASSIGNMENTS.—With respect to any assignment of a mile of railroad track under paragraph (1)(B)(ii)—

“(A) such assignment may be made only once per taxable year of the Class II or Class III railroad and shall be treated as made as of the close of such taxable year,

“(B) such mile may not be taken into account under this section by such railroad for such taxable year, and

“(C) such assignment shall be taken into account for the taxable year of the assignee which includes the date that such assignment is treated as effective.”.

26 USC 45G.

(2) Paragraph (2) of section 45G(c) is amended to read as follows:

“(2) any person who transports property using the rail facilities of a Class II or Class III railroad or who furnishes railroad-related property or services to a Class II or Class III railroad, but only with respect to miles of railroad track assigned to such person by such Class II or Class III railroad for purposes of subsection (b).”.

(g) AMENDMENTS RELATED TO SECTION 248 OF THE ACT.—

(1)(A) Subsection (d) of section 1353 is amended by striking “ownership and charter interests” and inserting “ownership, charter, and operating agreement interests”.

(B) Subsection (a) of section 1355 is amended by striking paragraph (8).

(C) Paragraph (1) of section 1355(b) is amended to read as follows:

“(1) IN GENERAL.—Except as provided in paragraph (2), a person is treated as operating any vessel during any period if—

“(A)(i) such vessel is owned by, or chartered (including a time charter) to, the person, or

“(ii) the person provides services for such vessel pursuant to an operating agreement, and

“(B) such vessel is in use as a qualifying vessel during such period.”.

(D) Paragraph (3) of section 1355(d) is amended to read as follows:

“(3) the extent of a partner’s ownership, charter, or operating agreement interest in any vessel operated by the partnership shall be determined on the basis of the partner’s interest in the partnership.”.

(2) Paragraph (3) of section 1355(c) is amended by striking “determined—” and all that follows and inserting “determined by treating all members of such group as 1 person.”.

(3) Subsection (c) of section 1356 is amended—

(A) by striking paragraph (3), and

(B) by adding at the end of paragraph (2) the following new flush sentence:

“Such term shall not include any core qualifying activities.”.

(4) The last sentence of section 1354(b) is amended by inserting “on or” after “only if made”.

(h) AMENDMENT RELATED TO SECTION 314 OF THE ACT.—Paragraph (2) of section 55(c) is amended by striking “regular tax” and inserting “regular tax liability”.

(i) AMENDMENTS RELATED TO SECTION 322 OF THE ACT.—

(1)(A) Subparagraph (B) of section 194(b)(1) is amended to read as follows:

“(B) DOLLAR LIMITATION.—The aggregate amount of reforestation expenditures which may be taken into account under subparagraph (A) with respect to each qualified timber property for any taxable year shall not exceed—

- “(i) except as provided in clause (ii) or (iii), \$10,000,
- “(ii) in the case of a separate return by a married individual (as defined in section 7703), \$5,000, and
- “(iii) in the case of a trust, zero.”

(B) Paragraph (4) of section 194(c) is amended to read as follows: 26 USC 194.

“(4) TREATMENT OF TRUSTS AND ESTATES.—The aggregate amount of reforestation expenditures incurred by any trust or estate shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account as expenditures incurred by such beneficiary in applying this section to such beneficiary.”

(2) Subparagraph (C) of section 1245(a)(2) is amended by striking “or 193” and inserting “193, or 194”.

(j) AMENDMENTS RELATED TO SECTION 336 OF THE ACT.—

(1) Clause (iv) of section 168(k)(2)(A) is amended by striking “subparagraphs (B) and (C)” and inserting “subparagraph (B) or (C)”.

(2) Clause (iii) of section 168(k)(4)(B) is amended by striking “and paragraph (2)(C)” and inserting “or paragraph (2)(C) (as so modified)”.

(k) AMENDMENT RELATED TO SECTION 402 OF THE ACT.—Paragraph (2) of section 904(g) is amended to read as follows:

“(2) OVERALL DOMESTIC LOSS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘overall domestic loss’ means—

“(i) with respect to any qualified taxable year, the domestic loss for such taxable year to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding qualified taxable year by reason of a carryback, and

“(ii) with respect to any other taxable year, the domestic loss for such taxable year to the extent such loss offsets taxable income from sources without the United States for any preceding qualified taxable year by reason of a carryback.

“(B) DOMESTIC LOSS.—For purposes of subparagraph (A), the term ‘domestic loss’ means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

“(C) QUALIFIED TAXABLE YEAR.—For purposes of subparagraph (A), the term ‘qualified taxable year’ means any taxable year for which the taxpayer chose the benefits of this subpart.”

(l) AMENDMENT RELATED TO SECTION 403 OF THE ACT.—Section 403 of the American Jobs Creation Act of 2004 is amended by adding at the end the following new subsection: 26 USC 864 note.

Applicability.

“(d) TRANSITION RULE.—If the taxpayer elects (at such time and in such form and manner as the Secretary of the Treasury may prescribe) to have the rules of this subsection apply—

“(1) the amendments made by this section shall not apply to taxable years beginning after December 31, 2002, and before January 1, 2005, and

“(2) in the case of taxable years beginning after December 31, 2004, clause (iv) of section 904(d)(4)(C) of the Internal Revenue Code of 1986 (as amended by this section) shall be applied by substituting ‘January 1, 2005’ for ‘January 1, 2003’ both places it appears.”.

26 USC 954.

(m) AMENDMENT RELATED TO SECTION 412 OF THE ACT.—Subparagraph (B) of section 954(c)(4) is amended by adding at the end the following: “If a controlled foreign corporation is treated as owning a capital or profits interest in a partnership under constructive ownership rules similar to the rules of section 958(b), the controlled foreign corporation shall be treated as owning such interest directly for purposes of this subparagraph.”.

(n) AMENDMENTS RELATED TO SECTION 413 OF THE ACT.—

(1) Subsection (b) of section 532 is amended by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Subsection (b) of section 535 is amended by adding at the end the following new paragraph:

“(10) CONTROLLED FOREIGN CORPORATIONS.—There shall be allowed as a deduction the amount of the corporation’s income for the taxable year which is included in the gross income of a United States shareholder under section 951(a). In the case of any corporation the accumulated taxable income of which would (but for this sentence) be determined without allowance of any deductions, the deduction under this paragraph shall be allowed and shall be appropriately adjusted to take into account any deductions which reduced such inclusion.”.

(3)(A) Section 6683 is repealed.

(B) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6683.

(o) AMENDMENT RELATED TO SECTION 415 OF THE ACT.—Subparagraph (D) of section 904(d)(2) is amended by inserting “as in effect before its repeal” after “section 954(f)”.

(p) AMENDMENTS RELATED TO SECTION 418 OF THE ACT.—

(1) The second sentence of section 897(h)(1) is amended—

(A) by striking “any distribution” and all that follows through “any class of stock” and inserting “any distribution by a real estate investment trust with respect to any class of stock”, and

(B) by striking “the taxable year” and inserting “the 1-year period ending on the date of the distribution”.

(2) Subsection (c) of section 418 of the American Jobs Creation Act of 2004 is amended to read as follows:

26 USC 857 note.

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

“(1) any distribution by a real estate investment trust which is treated as a deduction for a taxable year of such trust beginning after the date of the enactment of this Act, and

“(2) any distribution by a real estate investment trust made after such date which is treated as a deduction under section 860 for a taxable year of such trust beginning on or before such date.”

(q) AMENDMENTS RELATED TO SECTION 422 OF THE ACT.—

(1) Subparagraph (B) of section 965(a)(2) is amended by inserting “from another controlled foreign corporation in such chain of ownership” before “, but only to the extent”. 26 USC 965.

(2) Subparagraph (A) of section 965(b)(2) is amended by inserting “cash” before “dividends”.

(3) Paragraph (3) of section 965(b) is amended by adding at the end the following: “The Secretary may prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this paragraph, including regulations which provide that cash dividends shall not be taken into account under subsection (a) to the extent such dividends are attributable to the direct or indirect transfer (including through the use of intervening entities or capital contributions) of cash or other property from a related person (as so defined) to a controlled foreign corporation.”

(4) Paragraph (1) of section 965(c) is amended to read as follows:

“(1) APPLICABLE FINANCIAL STATEMENT.—The term ‘applicable financial statement’ means—

“(A) with respect to a United States shareholder which is required to file a financial statement with the Securities and Exchange Commission (or which is included in such a statement so filed by another person), the most recent audited annual financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

“(i) which was so filed on or before June 30, 2003, and

“(ii) which was certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

“(B) with respect to any other United States shareholder, the most recent audited financial statement (including the notes which form an integral part of such statement) of such shareholder (or which includes such shareholder)—

“(i) which was certified on or before June 30, 2003, as being prepared in accordance with generally accepted accounting principles, and

“(ii) which is used for the purposes of a statement or report—

“(I) to creditors,

“(II) to shareholders, or

“(III) for any other substantial nontax purpose.”

(5) Paragraph (2) of section 965(d) is amended by striking “properly allocated and apportioned” and inserting “directly allocable”.

(6) Subsection (d) of section 965 is amended by adding at the end the following new paragraph:

“(4) COORDINATION WITH SECTION 78.—Section 78 shall not apply to any tax which is not allowable as a credit under section 901 by reason of this subsection.”.

26 USC 965.

(7) The last sentence of section 965(e)(1) is amended by inserting “which are imposed by foreign countries and possessions of the United States and are” after “taxes”.

(8) Subsection (f) of section 965 is amended by inserting “on or” before “before the due date”.

(r) AMENDMENTS RELATED TO SECTION 501 OF THE ACT.—

(1) Subparagraph (A) of section 164(b)(5) is amended to read as follows:

Applicability.

“(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

“(i) without regard to the reference to State and local income taxes, and

“(ii) as if State and local general sales taxes were referred to in a paragraph thereof.”.

(2) Clause (ii) of section 56(b)(1)(A) is amended by inserting “or clause (ii) of section 164(b)(5)(A)” before the period at the end.

26 USC 460 note.

(s) AMENDMENTS RELATED TO SECTION 708 OF THE ACT.—Section 708 of the American Jobs Creation Act of 2004 is amended—

(1) in subsection (a), by striking “contract commencement date” and inserting “construction commencement date”, and

(2) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

“(d) CERTAIN ADJUSTMENTS NOT TO APPLY.—Section 481 of the Internal Revenue Code of 1986 shall not apply with respect to any change in the method of accounting which is required by this section.”.

(t) AMENDMENT RELATED TO SECTION 710 OF THE ACT.—Clause (i) of section 45(c)(7)(A) is amended by striking “synthetic”.

(u) AMENDMENT RELATED TO SECTION 801 OF THE ACT.—Paragraph (3) of section 7874(a) is amended to read as follows:

“(3) COORDINATION WITH SUBSECTION (b).—A corporation which is treated as a domestic corporation under subsection (b) shall not be treated as a surrogate foreign corporation for purposes of paragraph (2)(A).”.

(v) AMENDMENTS RELATED TO SECTION 804 OF THE ACT.—

(1) Subparagraph (C) of section 877(g)(2) is amended by striking “section 7701(b)(3)(D)(ii)” and inserting “section 7701(b)(3)(D)”.

(2) Subsection (n) of section 7701 is amended to read as follows:

“(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—For purposes of this chapter—

“(1) UNITED STATES CITIZENS.—An individual who would (but for this paragraph) cease to be treated as a citizen of the United States shall continue to be treated as a citizen of the United States until such individual—

“(A) gives notice of an expatriating act (with the requisite intent to relinquish citizenship) to the Secretary of State, and

“(B) provides a statement in accordance with section 6039G (if such a statement is otherwise required).

“(2) LONG-TERM RESIDENTS.—A long-term resident (as defined in section 877(e)(2)) who would (but for this paragraph) be described in section 877(e)(1) shall be treated as a lawful permanent resident of the United States and as not described in section 877(e)(1) until such individual—

“(A) gives notice of termination of residency (with the requisite intent to terminate residency) to the Secretary of Homeland Security, and

“(B) provides a statement in accordance with section 6039G (if such a statement is otherwise required).”

(w) AMENDMENT RELATED TO SECTION 811 OF THE ACT.—Subsection (c) of section 811 of the American Jobs Creation Act of 2004 is amended by inserting “and which were not filed before such date” before the period at the end.

26 USC 6707A
note.

(x) AMENDMENTS RELATED TO SECTION 812 OF THE ACT.—

(1) Subsection (b) of section 6662 is amended by adding at the end the following new sentence: “Except as provided in paragraph (1) or (2)(B) of section 6662A(e), this section shall not apply to the portion of any underpayment which is attributable to a reportable transaction understatement on which a penalty is imposed under section 6662A.”

26 USC 6662.

(2) Paragraph (2) of section 6662A(e) is amended to read as follows:

“(2) COORDINATION WITH OTHER PENALTIES.—

“(A) COORDINATION WITH FRAUD PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

“(B) COORDINATION WITH GROSS VALUATION MISSTATEMENT PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662 if the rate of the penalty is determined under section 6662(h).”

(3) Subsection (f) of section 812 of the American Jobs Creation Act of 2004 is amended to read as follows:

26 USC 6662
note.

“(f) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

“(2) DISQUALIFIED OPINIONS.—Section 6664(d)(3)(B) of the Internal Revenue Code of 1986 (as added by subsection (c)) shall not apply to the opinion of a tax advisor if—

“(A) the opinion was provided to the taxpayer before the date of the enactment of this Act,

“(B) the opinion relates to one or more transactions all of which were entered into before such date, and

“(C) the tax treatment of items relating to each such transaction was included on a return or statement filed by the taxpayer before such date.”

(y) AMENDMENT RELATED TO SECTION 814 OF THE ACT.—Subparagraph (B) of section 6501(c)(10) is amended by striking “(as defined in section 6111)”

(z) AMENDMENT RELATED TO SECTION 815 OF THE ACT.—Paragraph (1) of section 6112(b) is amended by inserting “(or was required to maintain a list under subsection (a) as in effect before

the enactment of the American Jobs Creation Act of 2004)” after “a list under subsection (a)”.

26 USC 853.

(aa) AMENDMENTS RELATED TO SECTION 832 OF THE ACT.—

(1) Subsection (e) of section 853 is amended to read as follows:

“(e) TREATMENT OF CERTAIN TAXES NOT ALLOWED AS A CREDIT UNDER SECTION 901.—This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of subsection (k) or (l) of such section.”.

(2) Clause (i) of section 901(1)(2)(C) is amended by striking “if such security were stock”.

(bb) AMENDMENTS RELATED TO SECTION 833 OF THE ACT.—

(1) Subsection (a) of section 734 is amended by inserting “with respect to such distribution” before the period at the end.

(2) So much of subsection (b) of section 734 as precedes paragraph (1) is amended to read as follows:

“(b) METHOD OF ADJUSTMENT.—In the case of a distribution of property to a partner by a partnership with respect to which the election provided in section 754 is in effect or with respect to which there is a substantial basis reduction, the partnership shall—”.

(cc) AMENDMENT RELATED TO SECTION 835 OF THE ACT.—Paragraph (3) of section 860G(a) is amended—

(1) in subparagraph (A)(iii)(I), by striking “the obligation” and inserting “a reverse mortgage loan or other obligation”, and

(2) by striking all that follows subparagraph (C) and inserting the following:

“For purposes of subparagraph (A), any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property. For purposes of subparagraph (A), any obligation originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) shall be treated as principally secured by an interest in real property if more than 50 percent of such obligations which are transferred to, or purchased by, the REMIC are principally secured by an interest in real property (determined without regard to this sentence).”.

(dd) AMENDMENTS RELATED TO SECTION 836 OF THE ACT.—

(1) Paragraph (1) of section 334(b) is amended by striking “except that” and all that follows and inserting “except that, in the hands of such distributee—

“(A) the basis of such property shall be the fair market value of the property at the time of the distribution in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, and

“(B) the basis of any property described in section 362(e)(1)(B) shall be the fair market value of the property at the time of the distribution in any case in which such distributee’s aggregate adjusted basis of such property would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.”.

(2) Clause (ii) of section 362(e)(2)(C) is amended to read as follows: 26 USC 362.

“(ii) ELECTION.—Any election under clause (i) shall be made at such time and in such form and manner as the Secretary may prescribe, and, once made, shall be irrevocable.”.

(ee) AMENDMENT RELATED TO SECTION 840 OF THE ACT.—Subsection (d) of section 121 is amended—

(1) by redesignating the paragraph (10) relating to property acquired from a decedent as paragraph (11) and by moving such paragraph to the end of such subsection, and

(2) by amending the paragraph (10) relating to property acquired in like-kind exchange to read as follows:

“(10) PROPERTY ACQUIRED IN LIKE-KIND EXCHANGE.—If a taxpayer acquires property in an exchange with respect to which gain is not recognized (in whole or in part) to the taxpayer under subsection (a) or (b) of section 1031, subsection (a) shall not apply to the sale or exchange of such property by such taxpayer (or by any person whose basis in such property is determined, in whole or in part, by reference to the basis in the hands of such taxpayer) during the 5-year period beginning with the date of such acquisition.”.

(ff) AMENDMENT RELATED TO SECTION 849 OF THE ACT.—Subsection (a) of section 849 of the American Jobs Creation Act of 2004 is amended by inserting “, and in the case of property treated as tax-exempt use property other than by reason of a lease, to property acquired after March 12, 2004” before the period at the end.

26 USC 470 note.

(gg) AMENDMENT RELATED TO SECTION 884 OF THE ACT.—Subparagraph (B) of section 170(f)(12) is amended by adding at the end the following new clauses:

“(v) Whether the donee organization provided any goods or services in consideration, in whole or in part, for the qualified vehicle.

“(vi) A description and good faith estimate of the value of any goods or services referred to in clause (v) or, if such goods or services consist solely of intangible religious benefits (as defined in paragraph (8)(B)), a statement to that effect.”.

(hh) AMENDMENTS RELATED TO SECTION 885 OF THE ACT.—

(1) Paragraph (2) of section 26(b) is amended by striking “and” at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting “, and”, and by adding at the end the following new subparagraph:

“(T) subsections (a)(1)(B)(i) and (b)(4)(A) of section 409A (relating to interest and additional tax with respect to certain deferred compensation).”.

(2) Clause (ii) of section 409A(a)(4)(C) is amended by striking “first”.

(3)(A) Notwithstanding section 885(d)(1) of the American Jobs Creation Act of 2004, subsection (b) of section 409A of the Internal Revenue Code of 1986 shall take effect on January 1, 2005.

Effective date.
26 USC 409A
note.

(B) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance under which a nonqualified deferred compensation plan which is in violation of the requirements of section 409A(b) of such

Deadline.
Guidance.

Code shall be treated as not having violated such requirements if such plan comes into conformance with such requirements during such limited period as the Secretary may specify in such guidance.

26 USC 409A
note.

(4) Subsection (f) of section 885 of the American Jobs Creation Act of 2004 is amended by striking “December 31, 2004” the first place it appears and inserting “January 1, 2005”.

26 USC 1092.

(ii) AMENDMENT RELATED TO SECTION 888 OF THE ACT.—Paragraph (2) of section 1092(a) is amended by striking the last sentence and adding at the end the following new subparagraph:

“(C) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph. Such regulations or other guidance may specify the proper methods for clearly identifying a straddle as an identified straddle (and for identifying the positions comprising such straddle), the rules for the application of this section to a taxpayer which fails to comply with those identification requirements, and the ordering rules in cases where a taxpayer disposes (or otherwise ceases to be the holder) of any part of any position which is part of an identified straddle.”.

(jj) AMENDMENTS RELATED TO SECTION 898 OF THE ACT.—

(1) Paragraph (3) of section 361(b) is amended by inserting “(reduced by the amount of the liabilities assumed (within the meaning of section 357(c)))” before the period at the end.

(2) Paragraph (1) of section 357(d) is amended by inserting “section 361(b)(3),” after “section 358(h),”.

(kk) AMENDMENT RELATED TO SECTION 899 OF THE ACT.—Subparagraph (A) of section 351(g)(3) is amended by adding at the end the following: “If there is not a real and meaningful likelihood that dividends beyond any limitation or preference will actually be paid, the possibility of such payments will be disregarded in determining whether stock is limited and preferred as to dividends.”.

(ll) AMENDMENT RELATED TO SECTION 902 OF THE ACT.—Paragraph (1) of section 709(b) is amended by striking “taxpayer” both places it appears and inserting “partnership”.

(mm) AMENDMENTS RELATED TO SECTION 907 OF THE ACT.—Clause (ii) of section 274(e)(2)(B) is amended—

(1) in subclause (I), by inserting “or a related party to the taxpayer” after “the taxpayer”,

(2) in subclause (II), by inserting “(or such related party)” after “the taxpayer”, and

(3) by adding at the end the following new flush sentence: “For purposes of this clause, a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b).”.

26 USC 26 note.

(nn) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

SEC. 404. AMENDMENTS RELATED TO THE WORKING FAMILIES TAX RELIEF ACT OF 2004.

(a) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Subsection (e) of section 152 is amended to read as follows:

“(e) SPECIAL RULE FOR DIVORCED PARENTS, ETC.—

“(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

“(A) a child receives over one-half of the child’s support during the calendar year from the child’s 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 1 or both of the child’s parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) or (3) are met.

“(2) EXCEPTION WHERE CUSTODIAL PARENT RELEASES CLAIM TO EXEMPTION FOR THE YEAR.—For purposes of paragraph (1), the requirements described in this paragraph are met with respect to any calendar year 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.

“(3) EXCEPTION FOR CERTAIN PRE-1985 INSTRUMENTS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the requirements described in this paragraph are met with respect to any calendar year 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.

“(4) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

Regulations.

“(A) CUSTODIAL PARENT.—The term ‘custodial parent’ means the parent having custody for the greater portion of the calendar year.

“(B) NONCUSTODIAL PARENT.—The term ‘noncustodial parent’ means the parent who is not the custodial parent.

“(5) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENT.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

“(6) 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.”.

26 USC 21.

(b) AMENDMENT RELATED TO SECTION 203 OF THE ACT.—Subparagraph (B) of section 21(b)(1) is amended by inserting “(as defined in section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B))” after “dependent of the taxpayer”.

(c) AMENDMENT RELATED TO SECTION 207 OF THE ACT.—Subparagraph (A) of section 223(d)(2) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

26 USC 21 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Working Families Tax Relief Act of 2004 to which they relate.

SEC. 405. AMENDMENTS RELATED TO THE JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE ACT.—

(1) Clause (ii) of section 168(k)(4)(B) is amended to read as follows:

“(ii) which is—

“(I) acquired by the taxpayer after May 5, 2003, and before January 1, 2005, but only if no written binding contract for the acquisition was in effect before May 6, 2003, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after May 5, 2003, and before January 1, 2005, and”.

(2) Subparagraph (D) of section 1400L(b)(2) is amended by striking “September 11, 2004” and inserting “January 1, 2005”.

26 USC 168 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 201 of the Jobs and Growth Tax Relief and Reconciliation Act of 2003.

SEC. 406. AMENDMENT RELATED TO THE VICTIMS OF TERRORISM TAX RELIEF ACT OF 2001.

(a) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Paragraph (17) of section 6103(l) is amended by striking “subsection (f), (i)(7), or (p)” and inserting “subsection (f), (i)(8), or (p)”.

26 USC 6103 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

SEC. 407. AMENDMENTS RELATED TO THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.**(a) AMENDMENTS RELATED TO SECTION 617 OF THE ACT.—**

(1) Clause (ii) of section 402(g)(7)(A) is amended to read 26 USC 402. as follows:

“(ii) \$15,000 reduced by the sum of—

“(I) the amounts not included in gross income for prior taxable years by reason of this paragraph, plus

“(II) the aggregate amount of designated Roth contributions (as defined in section 402A(c)) for prior taxable years, or”.

(2) Subparagraph (A) of section 402(g)(1) is amended by inserting “to” after “shall not apply”.

(b) AMENDMENT RELATED TO SECTION 632 OF THE ACT.—

Subparagraph (C) of section 415(c)(7) is amended by striking “the greater of \$3,000” and all that follows and inserting “\$3,000. This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to community property laws) exceeds \$17,000.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate. 26 USC 402 note.

SEC. 408. AMENDMENTS RELATED TO THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.**(a) AMENDMENTS RELATED TO SECTION 3415 OF THE ACT.—**

(1) Paragraph (2) of section 7609(c) is amended by inserting “or” at the end of subparagraph (D), by striking “; or” at the end of subparagraph (E) and inserting a period, and by striking subparagraph (F).

(2) Subsection (c) of section 7609 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) **JOHN DOE AND CERTAIN OTHER SUMMONSES.**—Subsection (a) shall not apply to any summons described in subsection (f) or (g).”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in section 3415 of the Internal Revenue Service Restructuring and Reform Act of 1998. 26 USC 7609 note.

SEC. 409. AMENDMENTS RELATED TO THE TAXPAYER RELIEF ACT OF 1997.**(a) AMENDMENTS RELATED TO SECTION 1055 OF THE ACT.—**

(1) The last sentence of section 6411(a) is amended by striking “6611(f)(3)(B)” and inserting “6611(f)(4)(B)”.

(2) Paragraph (4) of section 6601(d) is amended by striking “6611(f)(3)(A)” and inserting “6611(f)(4)(A)”.

(b) **AMENDMENT RELATED TO SECTION 1112 OF THE ACT.**—Subsection (c) of section 961 is amended to read as follows:

“(c) **BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATIONS.**—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning stock in a controlled foreign corporation which is owned by another controlled foreign corporation, then adjustments similar to the Regulations.

adjustments provided by subsections (a) and (b) shall be made to—

“(1) the basis of such stock, and

“(2) the basis of stock in any other controlled foreign corporation by reason of which the United States shareholder is considered under section 958(a)(2) as owning the stock described in paragraph (1),

but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations). The preceding sentence shall not apply with respect to any stock to which a basis adjustment applies under subsection (a) or (b).”.

26 USC 6038B. (c) AMENDMENT RELATED TO SECTION 1144 OF THE ACT.—Subparagraph (B) of section 6038B(a)(1) is amended by inserting “or” at the end.

26 USC 961 note. (d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

SEC. 410. AMENDMENT RELATED TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 11813 OF THE ACT.—Subclause (I) of section 168(e)(3)(B)(vi) is amended by striking “if ‘solar and wind’ were substituted for ‘solar’ in clause (i) thereof” and inserting “if ‘solar or wind energy’ were substituted for ‘solar energy’ in clause (i) thereof”.

26 USC 168 note. (b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 11813 of the Omnibus Budget Reconciliation Act of 1990.

SEC. 411. AMENDMENT RELATED TO THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) AMENDMENT RELATED TO SECTION 10227 OF THE ACT.—Section 1363(d) is amended by adding at the end the following new paragraph:

“(5) SPECIAL RULE.—Sections 1367(a)(2)(D) and 1371(c)(1) shall not apply with respect to any increase in the tax imposed by reason of this subsection.”.

26 USC 1363 note. (b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 10227 of the Omnibus Budget Reconciliation Act of 1987.

SEC. 412. CLERICAL CORRECTIONS.

(a) Subparagraph (C) of section 2(b)(2) is amended by striking “subparagraph (C)” and inserting “subparagraph (B)”.

(b) Paragraph (2) of section 25C(b) is amended by striking “subsection (c)(3)(B)” and inserting “subsection (c)(2)(B)”.

(c) Subparagraph (E) of section 26(b)(2) is amended by striking “section 530(d)(3)” and inserting “section 530(d)(4)”.

(d) Subparagraph (A) of section 30B(g)(2) and subparagraph (A) of section 30C(d)(2) are each amended by striking “regular tax” and inserting “regular tax liability (as defined in section 26(b))”.

(e) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 30C and inserting the following new item:

“Sec. 30C. Alternative fuel vehicle refueling property credit.”

(f)(1) Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking “or the New York Liberty Zone business employee credit or the specified credits” and inserting “, the New York Liberty Zone business employee credit, and the specified credits”. 26 USC 38.

(2) Subclause (II) of section 38(c)(3)(A)(ii) is amended by striking “or the specified credits” and inserting “and the specified credits”.

(3) Subparagraph (B) of section 38(c)(4) is amended—

(A) by striking “includes” and inserting “means”, and

(B) by inserting “and” at the end of clause (i).

(g)(1) Subparagraph (A) of section 39(a)(1) is amended by striking “each of the 1 taxable years” and inserting “the taxable year”.

(2) Subparagraph (B) of section 39(a)(3) is amended to read as follows:

“(B) paragraph (1) shall be applied by substituting ‘each of the 5 taxable years’ for ‘the taxable year’ in subparagraph (A) thereof, and”.

Applicability.

(h) Subparagraph (B) of section 40A(b)(5) is amended by striking “(determined without regard to the last sentence of subsection (d)(2))”.

(i) Paragraph (5) of section 43(c) is amended to read as follows:

“(5) ALASKA NATURAL GAS.—For purposes of paragraph

(1)(D)—

“(A) IN GENERAL.—The term ‘Alaska natural gas’ means natural gas entering the Alaska natural gas pipeline (as defined in section 168(i)(16) (determined without regard to subparagraph (B) thereof)) which is produced from a well—

“(i) located in the area of the State of Alaska lying north of 64 degrees North latitude, determined by excluding the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)), and

“(ii) pursuant to the applicable State and Federal pollution prevention, control, and permit requirements from such area (including the continental shelf thereof within the meaning of section 638(1)).

“(B) NATURAL GAS.—The term ‘natural gas’ has the meaning given such term by section 613A(e)(2).”.

(j) Subsection (d) of section 45 is amended—

(1) in paragraph (8) by striking “The term” and inserting “In the case of a facility that produces refined coal, the term”, and

(2) in paragraph (10) by striking “The term” and inserting “In the case of a facility that produces Indian coal, the term”.

(k) Paragraph (2) of section 45I(a) is amended by striking “qualified credit oil production” and inserting “qualified crude oil production”.

(l) Subsection (g) of section 45K, as redesignated by section 1322 of the Energy Policy Act of 2005, is amended—

(1) in the matter preceding paragraph (1), by striking “subsection (f)” and inserting “subsection (e)”, and

Ante, p. 1011.

(2) in paragraph (2)(C), by striking “subsection (g)” and inserting “subsection (f)”.

Ante, p. 1036.

(m) Paragraph (1) of section 48(a), as amended by section 1336 of the Energy Policy Act of 2005, is amended by striking “paragraph (1)(B) or (2)(B) of subsection (d)” and inserting “paragraphs (1)(B) and (2)(B) of subsection (c)”.

(n) Subparagraph (A) of section 48(a)(3) is amended—

(1) by redesignating clause (iii) (relating to qualified fuel cell property or qualified microturbine property), as added by section 1336 of the Energy Policy Act of 2005, as clause (iv) and by moving such clause to the end of such subparagraph, and

(2) by striking “or” at the end of clause (ii).

26 USC 50.

(o) Subparagraph (E) of section 50(a)(2) is amended by striking “section 48(a)(5)” and inserting “section 48(b)”.

(p)(1) Paragraph (3) of section 55(c) is amended by inserting “30B(g)(2), 30C(d)(2),” after “30(b)(3).”

Repeal.
Ante, p. 1038.

(2) Section 1341(b)(3) of the Energy Policy Act of 2005 is repealed.

Repeal.
Ante, p. 1049.

(3) Section 1342(b)(3) of the Energy Policy Act of 2005 is repealed.

(q)(1) Subsection (a) of section 62 is amended—

(A) by redesignating paragraph (19) (relating to costs involving discrimination suits, etc.), as added by section 703 of the American Jobs Creation Act of 2004, as paragraph (20), and

(B) by moving such paragraph after paragraph (19) (relating to health savings accounts).

(2) Subsection (e) of section 62 is amended by striking “subsection (a)(19)” and inserting “subsection (a)(20)”.

(r) Paragraph (3) of section 167(f) is amended by striking “section 197(e)(7)” and inserting “section 197(e)(6)”.

(s) Subparagraph (D) of section 168(i)(15) is amended by striking “This paragraph shall not apply to” and inserting “Such term shall not include”.

(t) Paragraph (2) of section 221(d) is amended by striking “this Act” and inserting “the Taxpayer Relief Act of 1997”.

(u) Paragraph (8) of section 318(b) is amended by striking “section 6038(d)(2)” and inserting “section 6038(e)(2)”.

(v) Subparagraph (B) of section 332(d)(1) is amended by striking “distribution to which section 301 applies” and inserting “distribution of property to which section 301 applies”.

(w) Subparagraph (B) of section 403(b)(9) is amended by inserting “or” before “a convention”.

(x)(1) Clause (i) of section 412(m)(4)(B) is amended by striking “subsection (c)” and inserting “subsection (d)”.

29 USC 1082.

(2) Clause (i) of section 302(e)(4)(B) of the Employee Retirement Income Security Act of 1974 is amended by striking “subsection (c)” and inserting “subsection (d)”.

(y) Paragraph (1) of section 415(l) is amended by striking “individual medical account” and inserting “individual medical benefit account”.

(z) The matter following clause (iv) of section 415(n)(3)(C) is amended by striking “clauses” and inserting “clause”.

(aa) Subparagraph (C) of section 461(i)(3) is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 6662(d)(2)(C)(ii)”.

- (bb) Paragraph (12) of section 501(c) is amended—
- (1) by striking “subparagraph (C)(iii)” in subparagraph (F) and inserting “subparagraph (C)(iv)”, and
 - (2) by striking “subparagraph (C)(iv)” in subparagraph (G) and inserting “subparagraph (C)(v)”.
- (cc) Clause (ii) of section 501(c)(22)(B) is amended by striking “clause (ii) of paragraph (21)(B)” and inserting “clause (ii) of paragraph (21)(D)”.
- (dd) Paragraph (1) of section 512(b) is amended by striking “section 512(a)(5)” and inserting “subsection (a)(5)”.
- (ee)(1) Subsection (b) of section 512 is amended—
- (A) by redesignating paragraph (18) (relating to the treatment of gain or loss on sale or exchange of certain brownfield sites), as added by section 702 of the American Jobs Creation Act of 2004, as paragraph (19), and
 - (B) by moving such paragraph to the end of such subsection.
- (2) Subparagraph (E) of section 514(b)(1) is amended by striking “section 512(b)(18)” and inserting “section 512(b)(19)”.
- (3) Paragraph (6) of section 529(c) is amended by striking “education individual retirement account” and inserting “Coverdell education savings account”.
- (ff)(1) Subsection (b) of section 530 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.
- (2) Clause (ii) of section 530(b)(2)(A) is amended by striking “paragraph (4)” and inserting “paragraph (3)”.
- (gg) Subparagraph (H) of section 613(c)(4) is amended by inserting “(including in situ retorting)” after “and retorting”.
- (hh) Subparagraph (A) of section 856(g)(5) is amended by striking “subsection (c)(6) or (c)(7) of section 856” and inserting “paragraph (2), (3), or (4) of subsection (c)”.
- (ii) Paragraph (6) of section 857(b) is amended—
- (1) in subparagraph (E), by striking “subparagraph (C)” and inserting “subparagraphs (C) and (D)”, and
 - (2) in subparagraph (F)—
- (A) by striking “subparagraph (C) of this paragraph” and inserting “subparagraph (C) or (D)”, and
 - (B) by striking “subparagraphs (C) and (D)” and inserting “subparagraphs (C), (D), and (E)”.
- (jj) Subparagraph (C) of section 881(e)(1) is amended by inserting “interest-related dividend received by a controlled foreign corporation” after “shall apply to any”.
- (kk) Clause (ii) of section 952(c)(1)(B) is amended—
- (1) by striking “clause (iii)(III) or (IV)” and inserting “subclause (II) or (III) of clause (iii)”, and
 - (2) by striking “clause (iii)(II)” and inserting “clause (iii)(I)”.
- (ll) Clause (i) of section 954(c)(1)(C) is amended by striking “paragraph (4)(A)” and inserting “paragraph (5)(A)”.
- (mm) Subparagraph (F) of section 954(c)(1) is amended by striking “Net income from notional principal contracts.” after “Income from notional principal contracts.—”.
- (nn) Paragraph (23) of section 1016(a) is amended by striking “1045(b)(4)” and inserting “1045(b)(3)”.
- (oo) Paragraph (1) of section 1256(f) is amended by striking “subsection (e)(2)(C)” and inserting “subsection (e)(2)”.

26 USC 501.

26 USC 1031.

(pp) The matter preceding clause (i) of section 1031(h)(2)(B) is amended by striking “subparagraph” and inserting “subparagraphs”.

(qq) Paragraphs (1) and (2) of section 1375(d) are each amended by striking “subchapter C” and inserting “accumulated”.

(rr) Each of the following provisions are amended by striking “General Accounting Office” each place it appears therein and inserting “Government Accountability Office”:

(1) Clause (ii) of section 1400E(c)(4)(A).

(2) Paragraph (1) of section 6050M(b).

(3) Subparagraphs (A), (B)(i), and (B)(ii) of section 6103(i)(8).

(4) Paragraphs (3)(C)(i), (4), (5), and (6)(B) of section 6103(p).

(5) Subsection (e) of section 8021.

(ss)(1) Clause (ii) of section 1400L(b)(2)(C) is amended by striking “section 168(k)(2)(C)(i)” and inserting “section 168(k)(2)(D)(i)”.

(2) Clause (iv) of section 1400L(b)(2)(C) is amended by striking “section 168(k)(2)(C)(iii)” and inserting “section 168(k)(2)(D)(iii)”.

(3) Subparagraph (D) of section 1400L(b)(2) is amended by striking “section 168(k)(2)(D)” and inserting “section 168(k)(2)(E)”.

(4) Subparagraph (E) of section 1400L(b)(2) is amended by striking “section 168(k)(2)(F)” and inserting “section 168(k)(2)(G)”.

(5) Paragraph (5) of section 1400L(c) is amended by striking “section 168(k)(2)(C)(iii)” and inserting “section 168(k)(2)(D)(iii)”.

(tt) Section 3401 is amended by redesignating subsection (h) as subsection (g).

(uu) Paragraph (2) of section 4161(a) is amended to read as follows:

“(2) 3 PERCENT RATE OF TAX FOR ELECTRIC OUTBOARD MOTORS.—In the case of an electric outboard motor, paragraph (1) shall be applied by substituting ‘3 percent’ for ‘10 percent’.”

Applicability.

(vv) Subparagraph (C) of section 4261(e)(4) is amended by striking “imposed subsection (b)” and inserting “imposed by subsection (b)”.

(ww) Subsection (a) of section 4980D is amended by striking “plans” and inserting “plan”.

(xx) The matter following clause (iii) of section 6045(e)(5)(A) is amended by striking “for ‘\$250,000.’” and all that follows through “to the Treasury.” and inserting “for ‘\$250,000’. The Secretary may by regulation increase the dollar amounts under this subparagraph if the Secretary determines that such an increase will not materially reduce revenues to the Treasury.”

(yy) Subsection (p) of section 6103 is amended—

(1) by striking so much of paragraph (4) as precedes subparagraph (A) and inserting the following:

“(4) SAFEGUARDS.—Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), (5), or (7), (j)(1), (2), or (5), (k)(8), (l)(1), (2), (3), (5), (10), (11), (13), (14), or (17) or (o)(1), the Government Accountability Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or 7(A)(ii), or (l)(6), (7), (8), (9), (12), (15), or (16) or any other person described in subsection (l)(16), (18), (19), or (20) shall, as a condition for receiving returns or return information—”

(2) by amending paragraph (4)(F)(i) to read as follows:

“(i) in the case of an agency, body, or commission described in subsection (d), (i)(3)(B)(i), or (1)(6), (7), (8), (9), or (16), or any other person described in subsection (1)(16), (18), (19), or (20) return to the Secretary such returns or return information (along with any copies made therefrom) or make such returns or return information undisclosable in any manner and furnish a written report to the Secretary describing such manner,” and

(3) by striking the first full sentence in the matter following subparagraph (F) of paragraph (4) and inserting the following: “If the Secretary determines that any such agency, body, or commission, including an agency or any other person described in subsection (1)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, has failed to, or does not, meet the requirements of this paragraph, he may, after any proceedings for review established under paragraph (7), take such actions as are necessary to ensure such requirements are met, including refusing to disclose returns or return information to such agency, body, or commission, including an agency or any other person described in subsection (1)(16), (18), (19), or (20), or the Government Accountability Office or the Congressional Budget Office, until he determines that such requirements have been or will be met.”.

(zz) Clause (ii) of section 6111(b)(1)(A) is amended by striking “advice or assistance” and inserting “aid, assistance, or advice”.

26 USC 6111.

(aaa) Paragraph (3) of section 6662(d) is amended by striking “the” before “1 or more”.

SEC. 413. OTHER CORRECTIONS RELATED TO THE AMERICAN JOBS CREATION ACT OF 2004.

(a) AMENDMENTS RELATED TO SECTION 233 OF THE ACT.—

(1) Clause (vi) of section 1361(c)(2)(A) is amended—

(A) by inserting “or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))” after “a bank (as defined in section 581)”, and

(B) by inserting “or company” after “such bank”.

(2) Paragraph (16) of section 4975(d) is amended—

(A) in subparagraph (A), by inserting “or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))” after “a bank (as defined in section 581)”, and

(B) in subparagraph (C), by inserting “or company” after “such bank”.

(b) AMENDMENT RELATED TO SECTION 237 OF THE ACT.—

Subparagraph (F) of section 1362(d)(3) is amended by striking “a bank holding company” and all that follows through “section 2(p) of such Act)” and inserting “a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)))”.

(c) AMENDMENTS RELATED TO SECTION 239 OF THE ACT.—Paragraph (3) of section 1361(b) is amended—

(1) in subparagraph (A), by striking “and in the case of information returns required under part III of subchapter A of chapter 61”, and

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

“(E) INFORMATION RETURNS.—Except to the extent provided by the Secretary, this paragraph shall not apply to part III of subchapter A of chapter 61 (relating to information returns).”.

26 USC 1361
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

Subtitle B—Trade Technicals

SEC. 421. TECHNICAL CORRECTIONS TO REGIONAL VALUE-CONTENT METHODS FOR RULES OF ORIGIN UNDER PUBLIC LAW 109–53.

Section 203(c) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4033(c)) is amended as follows:

(1) In paragraph (2)(A), by striking all that follows “the following build-down method:” and inserting the following:

$$\text{“RVC} = \frac{\text{AV-VNM}}{\text{AV}} \times 100\text{”}.$$

(2) In paragraph (3)(A), by striking all that follows “the following build-up method:” and inserting the following:

$$\text{“RVC} = \frac{\text{VOM}}{\text{AV}} \times 100\text{”}.$$

(3) In paragraph (4)(A), by striking all that follows “the following net cost method:” and inserting the following:

$$\text{“RVC} = \frac{\text{NC-VNM}}{\text{NC}} \times 100\text{”}.$$

TITLE V—EMERGENCY REQUIREMENT

SEC. 501. EMERGENCY REQUIREMENT.

Any provision of this Act causing an effect on receipts, budget authority, or outlays is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Approved December 21, 2005.

LEGISLATIVE HISTORY—H.R. 4440:

CONGRESSIONAL RECORD, Vol. 151 (2005):

Dec. 7, considered and passed House.

Dec. 16, considered and passed Senate, amended. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 41 (2005):

Dec. 21, Presidential remarks.

