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DEFICIT REDUCTION ACT OF 1984

**STATUTORY LANGUAGE OF PROVISIONS
APPROVED BY THE
COMMITTEE ON MARCH 21, 1984**

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

Volume II



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5 **SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE**
6 **OF CONTENTS.**

7 (a) **SHORT TITLE.**—This title and titles II, III, IV, V,
8 VI, VII, and VIII may be cited as the “Deficit Reduction
9 Tax Act of 1984”.

10 (b) **AMENDMENT OF 1954 CODE.**—Except as otherwise
11 expressly provided, whenever in this title and titles II, III,
12 IV, V, VI, VII, and VIII an amendment or repeal is ex-
13 pressed in terms of an amendment to, or repeal of, a section
14 or other provision, the reference shall be considered to be
15 made to a section or other provision of the Internal Revenue
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1 **Subtitle A—Deferral of Certain Tax**
2 **Reductions**

3 **SEC. 11. SHORT TITLE.**

4 This subtitle may be cited as the “Tax Freeze Act of
5 1984”.

6 **SEC. 12. AMOUNT OF USED PROPERTY ELIGIBLE FOR INVEST-**
7 **MENT TAX CREDIT.**

8 (a) **GENERAL RULE.**—Subparagraph (A) of section
9 48(c)(2) (relating to dollar limitation on amount of used sec-
10 tion 38 property) is amended—

11 (1) by striking out “\$150,000 (\$125,000 for tax-
12 able years beginning in 1981, 1982, 1983, or 1984)”
13 and inserting in lieu thereof “\$125,000 (\$150,000 for
14 taxable years beginning after 1987)”, and

15 (2) by striking out “\$150,000 (or \$125,000” each
16 place it appears and inserting in lieu thereof
17 “\$125,000 (or \$150,000”.

18 (b) **TECHNICAL AMENDMENT.**—Subparagraph (B) of
19 section 48(c)(2) is amended by striking out “\$75,000
20 (\$62,500 for taxable years beginning in 1981, 1982, 1983, or
21 1984)” and inserting in lieu thereof “\$62,500 (\$75,000 for
22 taxable years beginning after 1987)”.

23 **SEC. 13. FINANCE LEASE PROVISIONS.**

24 (a) **FOUR-YEAR DEFERRAL OF FINANCE LEASE PRO-**
25 **VISIONS.**—

1 (1) IN GENERAL.—Subparagraph (A) of section
2 209(d)(1) of the Tax Equity and Fiscal Responsibility
3 Act of 1982 is amended by striking out “December 31,
4 1983” and inserting in lieu thereof “December 31,
5 1987”.

6 (2) FINANCE LEASE PROVISIONS CONTINUE TO
7 APPLY TO FARM PROPERTY.—Clause (i) of section
8 209(d)(1)(B) of such Act is amended by striking out
9 “January 1, 1984” and inserting in lieu thereof “Jan-
10 uary 1, 1988”.

11 (3) TECHNICAL AMENDMENTS.—

12 (A) Subclause (I) of section 168(f)(8)(B)(ii)
13 (relating to requirement that only 40 percent of
14 less̄ee’s property may be treated as qualified), as
15 amended by section 209 of the Tax Equity and
16 Fiscal Responsibility Act of 1982, is amended by
17 striking out “1986” and inserting in lieu thereof
18 “1990”.

19 (B) Paragraph (4) of section 168(i) (relating
20 to limitations), as so amended, is amended by
21 striking out “1985” each place it appears and in-
22 serting in lieu thereof “1989”.

23 (b) TERMINATION OF SAFE HARBOR LEASING
24 RULES.—Paragraph (8) of section 168(f) of the Internal Rev-
25 enue Code of 1954 (relating to special rules for leasing), as in

1 effect after the amendments made by section 208 of the Tax
2 Equity and Fiscal Responsibility Act of 1982 but before the
3 amendments made by section 209 of such Act, shall not
4 apply to agreements entered into after December 31, 1983.
5 The preceding sentence shall not apply to property described
6 in paragraph (3)(G) or (5) of section 208(d) of such Act.

7 (c) TRANSITIONAL RULES.—

8 (1) IN GENERAL.—The amendments made by sub-
9 section (a) shall not apply with respect to any property
10 if—

11 (A) a binding contract to acquire or to con-
12 struct such property was entered into by the
13 lessee before March 7, 1984, or

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

17 (2) SPECIAL RULE FOR CERTAIN AUTOMOTIVE
18 PROPERTY.—

19 (A) IN GENERAL.—The amendments made
20 by subsection (a) shall not apply to property
21 which is placed in service before January 1,
22 1988—

23 (i) which is automotive manufacturing
24 property, and

1 (ii) with respect to which the lessee is a
2 qualified lessee (within the meaning of sec-
3 tion 208(d)(6) of the Tax Equity and Fiscal
4 Responsibility Act of 1982).

5 (B) \$150,000,000 LIMITATION.—The provi-
6 sions of subparagraph (A) shall not apply to any
7 agreement if the sum of—

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

10 (ii) the cost basis of any property sub-
11 ject to an agreement to which subparagraph
12 (A) previously applied and with respect to
13 which the lessee was the lessee under the
14 agreement described in clause (i) (or any re-
15 lated person within the meaning of section
16 168(e)(4)(D) of the Internal Revenue Code
17 of 1954),

18 exceeds \$150,000,000.

19 (C) AUTOMOTIVE MANUFACTURING PROP-
20 erty.—For purposes of this paragraph, the term
21 “automotive manufacturing property” means—

22 (i) property used principally by the tax-
23 payer directly in connection with the trade or
24 business of the taxpayer of the manufactur-
25 ing of automobiles or trucks (other than

1 truck tractors) with a gross vehicle weight of
2 13,000 pounds or less,

3 (ii) machinery, equipment, and special
4 tools of the type included in former depreci-
5 ation range guideline classes 37.11 and
6 37.12, and

7 (iii) any special tools owned by the tax-
8 payer which are used by a vendor solely for
9 the production of component parts for sale to
10 the taxpayer.

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

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

18 (B) for which an application for a construc-
19 tion permit was filed with a State environmental
20 protection agency on February 20, 1984, and

21 (C) which is placed in service before January
22 1, 1988.

1 **SEC. 14. ELECTION TO EXPENSE CERTAIN DEPRECIABLE**
 2 **BUSINESS ASSETS.**

3 Paragraph (1) of section 179(b) (relating to dollar limita-
 4 tion) is amended by striking out the table contained therein
 5 and inserting in lieu thereof the following:

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

6 **SEC. 15. EMPLOYEE STOCK OWNERSHIP CREDIT.**

7 Subparagraph (B) of section 44G(a)(2) (relating to em-
 8 ployee stock ownership credit), as in effect before the amend-
 9 ments made by subtitle G of title VIII of this Act, is amend-
 10 ed by striking out the table contained therein and inserting in
 11 lieu thereof the following:

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

12 **SEC. 16. EXCISE TAX ON COMMUNICATIONS SERVICES.**

13 Paragraph (2) of section 4251(b) (relating to rate of tax
 14 on communications services) is amended by striking out the
 15 table contained therein and inserting in lieu thereof the fol-
 16 lowing:

“With respect to amounts paid pursuant to bills first rendered:	The applicable percentage is:
During 1983, 1984, 1985, 1986, or 1987	3
During 1988 or thereafter	0.”

1 **SEC. 17. POSTPONEMENT OF NET INTEREST EXCLUSION.**

2 Paragraph (1) of section 302(d) of the Economic Recov-
 3 ery Tax Act of 1981 (relating to the effective date of the
 4 partial exclusion of interest) is amended by striking out
 5 “1984” and inserting in lieu thereof “1987”.

6 **SEC. 18. FOREIGN EARNED INCOME OF INDIVIDUALS.**

7 Subparagraph (A) of section 911(b)(2) (relating to limita-
 8 tion on foreign earned income) is amended by striking out the
 9 table contained therein and inserting in lieu thereof the fol-
 10 lowing:

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

11 **SEC. 19. EFFECTIVE DATE.**

12 The amendments made by this part shall apply to tax-
 13 able years ending after December 31, 1983.

14 **SUBTITLE B—TAX-EXEMPT ENTITY LEASING; SERVICE**
 15 **CONTRACTS**

16 **SEC. 21. SHORT TITLE.**

17 This part may be cited as the “Governmental Lease Fi-
 18 nancing Reform Act of 1983”.

1 **SEC. 22. DENIAL OF TAX INCENTIVES FOR PROPERTY USED**
 2 **BY GOVERNMENTS AND OTHER TAX-EXEMPT**
 3 **ENTITIES.**

4 (a) **GENERAL RULE.**—Section 168 (relating to acceler-
 5 ated cost recovery system) is amended by redesignating sub-
 6 section (j) as subsection (l) and by inserting after subsection
 7 (i) the following new subsections:

8 **“(j) PROPERTY USED BY GOVERNMENTS AND OTHER**
 9 **TAX-EXEMPT ENTITIES.—**

10 **“(1) IN GENERAL.**—Notwithstanding any other
 11 provision of this chapter, the deduction allowed under
 12 subsection (a) (and any other deduction allowable for
 13 depreciation or amortization) for any taxable year with
 14 respect to tax-exempt use property shall be deter-
 15 mined—

16 **“(A)** by using the straight-line method (with-
 17 out regard to salvage value), and

18 **“(B)** by using a recovery period determined
 19 under the following table:

“In the case of:	The recovery period shall be:
(I) Property not described in sub- clause (II) or subclause (III).	The present class life.
(II) Personal property with no present class life.	12 years.
(III) 20-year real property	40 years.

20 **“(2) OPERATING RULES.—**

21 **“(A) RECOVERY PERIOD MUST AT LEAST**
 22 **EQUAL 125 PERCENT OF LEASE TERM.**—In the
 23 case of any tax-exempt use property used by the

1 tax-exempt entity pursuant to a lease, the recov-
2 ery period used for purposes of paragraph (1) shall
3 not be less than 125 percent of the lease term.

4 “(B) CONVENTIONS.—

5 “(i) PROPERTY OTHER THAN 20-YEAR
6 REAL PROPERTY.—In the case of property
7 other than 20-year real property, the half-
8 year convention shall apply for purposes of
9 paragraph (1).

10 “(ii) 20-YEAR REAL PROPERTY.—In
11 the case of 20-year real property, the
12 amount determined under paragraph (1) shall
13 be determined on the basis of the number of
14 months in the year in which the property is
15 in service.

16 “(C) EXCEPTION WHERE LONGER RECOV-
17 ERY PERIOD APPLIES.—Paragraph (1) shall not
18 apply to any recovery property if the recovery
19 period applicable to such property by reason of an
20 election under subsection (b)(3) exceeds the recov-
21 ery period for such property determined under this
22 subsection.

23 “(D) DETERMINATION OF CLASS FOR PROP-
24 ERTY WHICH IS NOT RECOVERY PROPERTY.—In
25 the case of any property which is not recovery

1 property, for purposes of this subsection, the de-
2 termination of whether such property is 20-year
3 real property shall be made as if such property
4 were recovery property.

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

9 “(F) SPECIAL RULE FOR PROPERTY USED
10 BY FOREIGN PERSON OR ENTITY.—

11 “(i) IN GENERAL.—In the case of tax-
12 exempt use property which is used by a for-
13 eign person or entity pursuant to a lease, the
14 deduction under paragraph (1) shall be deter-
15 mined—

16 “(I) without regard to subpara-
17 graph (A) of this paragraph, and

18 “(II) by using the 150 percent de-
19 clining balance method, switching to the
20 straight-line method at a time to maxi-
21 mize the deduction.

22 “(ii) SPECIAL RULE FOR 1984.—In the
23 case of property placed in service during
24 1984 which is used during 1984 by a foreign
25 person or entity pursuant to a lease entered

1 into before 1985, clause (i) shall be ap-
2 plied—

3 “(I) without regard to subclause (I)
4 thereof, and

5 “(II) by substituting ‘175 percent’
6 for ‘150 percent’.

7 “(iii) DEDUCTION CANNOT EXCEED
8 AMOUNT UNDER METHOD OTHERWISE
9 AVAILABLE.—In the case of property de-
10 scribed in clause (i), the deduction allowable
11 under subsection (a) (and any other deduction
12 allowable for depreciation or amortization)
13 shall not exceed the amount of such deduc-
14 tion determined without regard to this sub-
15 section.

16 “(G) 20-YEAR REAL PROPERTY TO INCLUDE
17 15-YEAR REAL PROPERTY.—For purposes of this
18 subsection, the term ‘20-year real property’ in-
19 cludes 15-year real property.

20 “(3) TAX-EXEMPT USE PROPERTY.—For pur-
21 poses of this subsection—

22 “(A) PROPERTY OTHER THAN 20-YEAR
23 REAL PROPERTY.—Except as otherwise provided
24 in this subsection, the term ‘tax-exempt use prop-

1 erty' means any tangible property used by a tax-
2 exempt entity.

3 "(B) 20-YEAR REAL PROPERTY.—

4 "(i) IN GENERAL.—In the case of 20-
5 year real property, the term 'tax-exempt use
6 property' means—

7 "(I) property owned by a tax-
8 exempt entity, and

9 "(II) that portion of any property
10 used by a tax-exempt entity in a dis-
11 qualified use.

12 "(ii) DISQUALIFIED USE.—For pur-
13 poses of this subparagraph, the term 'dis-
14 qualified use' means any use of the property
15 by a tax-exempt entity, but only —

16 "(I) part or all of the property was
17 financed (directly or indirectly) by an
18 obligation the interest on which is
19 exempt from tax under section 103 and
20 such entity (or a related entity) partici-
21 pated in such financing,

22 "(II) such use is pursuant to a
23 lease under which there is a fixed or de-
24 terminable price purchase or sale option
25 which involved such entity (or a related

1 entity) or there is the equivalent of such
2 an option,

3 “(III) such use is pursuant to a
4 lease which has a lease term in excess
5 of 20 years, or

6 “(IV) such use occurs after a sale
7 (or other transfer) of the property by, or
8 lease of the property from, such entity
9 (or a related entity).

10 “(iii) **THRESHOLD TESTS.**—Subclause
11 (II) of clause (i) shall apply to any property
12 only if—

13 “(I) the aggregate portion of such
14 property used by all tax-exempt entities
15 in disqualified uses is more than 50 per-
16 cent of the property, or

17 “(II) the portion of such property
18 used by 1 tax-exempt entity (and any
19 related tax-exempt entities) in disquali-
20 fied uses is more than 35 percent of the
21 property.

22 “(iv) **TREATMENT OF IMPROVE-**
23 **MENTS.**—For purposes of subclauses (I) and
24 (IV) of clause (ii), improvements to a proper-

1 ty (other than land) shall not be treated as a
2 separate property.

3 “(v) CERTAIN SALE-LEASEBACKS NOT
4 TAKEN INTO ACCOUNT.—Subparagraph (IV)
5 of clause (ii) shall not apply to any property
6 which is leased within 3 months after such
7 property is placed in service by the tax-
8 exempt entity (or any related entity).

9 “(C) EXCEPTION FOR SHORT-TERM
10 LEASES.—

11 “(i) IN GENERAL.—Property shall not
12 be treated as used by a tax-exempt entity
13 merely by reason of use pursuant to a short-
14 term lease.

15 “(ii) PROPERTY OTHER THAN 20-YEAR
16 PROPERTY.—For purposes of this subpara-
17 graph, except as provided in clause (iii), the
18 term ‘short-term lease’ means any lease
19 which has a lease term not in excess of the
20 greater of—

21 “(I) 1 year, or

22 “(II) 30 percent of the property’s
23 present class life (to the extent such
24 present class life does not exceed 10
25 years).

1 “(iii) 20-YEAR REAL PROPERTY.—For
2 purposes of this subparagraph, in the case of
3 20-year real property, the term ‘short-term
4 lease’ means any lease which has a lease
5 term of 3 years or less.

6 “(D) EXCEPTION WHERE PROPERTY USED
7 IN UNRELATED TRADE OR BUSINESS.—The term
8 ‘tax-exempt use property’ shall not include any
9 portion of a property predominantly used by the
10 tax-exempt entity in an unrelated trade or busi-
11 ness the income of which is subject to tax under
12 section 511.

13 “(E) SPECIAL RULES FOR CERTAIN INTER-
14 NATIONAL ORGANIZATIONS.—If any domestic
15 corporation which is not a tax-exempt entity is a
16 member of the International Telecommunications
17 Satellite Organization, the International Maritime
18 Satellite Organization, or any successor organiza-
19 tion of either such organization, the term ‘tax-
20 exempt use property’ shall not include such do-
21 mestic corporation’s proportionate share (deter-
22 mined after the application to tax-exempt entities
23 of rules which are based on the principles of para-
24 graph (9)) of property owned by or leased to such
25 organization or successor organization.

1 “(4) TAX-EXEMPT ENTITY.—

2 “(A) IN GENERAL.—For purposes of this
3 subsection, the term ‘tax-exempt entity’ means—

4 “(i) the United States, any State or po-
5 litical subdivision thereof, any possession of
6 the United States, or any agency or instru-
7 mentality of any of the foregoing,

8 “(ii) an organization (other than a coop-
9 erative described in section 521) which is
10 exempt from tax imposed by this chapter,
11 and

12 “(iii) any foreign person or entity.

13 “(B) EXCEPTIONS FOR CERTAIN PROPERTY
14 USED BY FOREIGN PERSON OR ENTITY.—

15 “(i) INCOME FROM PROPERTY SUBJECT
16 TO UNITED STATES TAX.—Clause (iii) of
17 subparagraph (A) shall not apply with re-
18 spect to any property if more than 20 per-
19 cent of the gross income for the taxable year
20 derived by the foreign person or entity from
21 the use of such property is—

22 “(I) subject to tax under this chap-
23 ter, or

24 “(II) is included under section 951
25 in the gross income of a United States

1 shareholder for the taxable year with or
2 within which ends the taxable year of
3 the controlled foreign corporation in
4 which such income was derived.

5 For purposes of the preceding sentence, any
6 exclusion or exemption shall not apply for
7 purposes of determining the amount of the
8 gross income so derived, but shall apply for
9 purposes of determining the portion of such
10 gross income subject to tax under this chap-
11 ter.

12 “(ii) MOVIES AND SOUND RECORD-
13 INGS.—Clause (iii) of subparagraph (A) shall
14 not apply with respect to any qualified film
15 (as defined in section 48(k)(1)(B)) or any
16 sound recording (as defined in section 48(r)).

17 “(C) FOREIGN PERSON OR ENTITY.—For
18 purposes of subparagraph (A), the term ‘foreign
19 person or entity’ means—

20 “(i) any foreign government, any inter-
21 national organization, or any agency or in-
22 strumentality of any of the foregoing, and

23 “(ii) any person who is not a United
24 States person.

1 “(D) TREATMENT OF CERTAIN TAXABLE
2 INSTRUMENTALITIES.—For purposes of this sub-
3 section and paragraph (5) of section 48(a), a cor-
4 poration shall not be treated as an instrumentality
5 of the United States or of any State or political
6 subdivision thereof if all of the activities of such
7 corporation are subject to tax under this chapter.

8 “(5) SPECIAL RULES FOR TAX-EXEMPT ORGANI-
9 ZATIONS.—For purposes of this subsection and para-
10 graph (4) of section 48(a)—

11 “(A) CERTAIN PREVIOUSLY TAX-EXEMPT
12 ORGANIZATIONS.—An organization shall be treat-
13 ed as an organization described in subparagraph
14 (A)(ii) of paragraph (4) with respect to any prop-
15 erty of which such organization is the lessee if
16 such organization (or a predecessor organization
17 which was engaged in substantially similar activi-
18 ties) was an organization (other than a coopera-
19 tive described in section 521) exempt from tax im-
20 posed by this chapter at any time during the 5-
21 year period ending on the date such organization
22 first used such property.

23 “(B) ORGANIZATION MAY AVOID APPLICA-
24 TION OF THIS PARAGRAPH IF IT ELECTS TO BE
25 TAXED.—

1 “(i) IN GENERAL.—If subparagraph (A)
2 applies to an organization formerly described
3 in section 501(c)(12), such organization shall
4 not be treated as an organization described
5 in subparagraph (A)(ii) of paragraph (4) with
6 respect to any property of which such orga-
7 nization is the lessee if such organization
8 elects, in such manner and at such time as
9 the Secretary may prescribe, not to be
10 exempt from tax imposed by this chapter
11 during the tax-exempt use period.

12 “(ii) TAX-EXEMPT USE PERIOD.—For
13 purposes of clause (i), the term ‘tax-exempt
14 use period’ means the period—

15 “(I) beginning with the taxable
16 year in which the property described in
17 clause (i) is placed in service, and

18 “(II) ending with the close of the
19 15th taxable year following the last tax-
20 able year of the recovery period with
21 respect to such property.

22 “(iii) ELECTION TO APPLY TO SUCCES-
23 SOR ORGANIZATIONS.—Any election under
24 clause (i) shall apply to any successor organi-

1 zation which is engaged in substantially simi-
2 lar activities.

3 “(iv) ELECTION IRREVOCABLE.—Any
4 election under clause (i), once made, is irrev-
5 ocable.

6 “(6) SPECIAL RULES FOR SHORT-LIVED PROPER-
7 TY.—For purposes of this subsection—

8 “(A) IN GENERAL.—The term ‘tax-exempt
9 use property’ shall not include property with a
10 present class life of 6 years or less.

11 “(B) PARAGRAPH NOT TO APPLY IF LEASE
12 TERM EXCEEDS CERTAIN PERIOD.—Subpara-
13 graph (A) shall not apply to any property which is
14 used by a tax-exempt entity pursuant to a lease if
15 the term of the lease exceeds—

16 “(i) except as provided in clause (ii), 75
17 percent of the present class life of the prop-
18 erty, or

19 “(ii) in the case of property with a
20 present class life of 6 years, 5 years.

21 “(C) SPECIAL RULE FOR HIGH TECHNOL-
22 OGY MEDICAL EQUIPMENT.—

23 “(i) IN GENERAL.—For purposes of
24 subparagraph (A), high technology medical

1 equipment shall be treated as property with
2 a present class life of 6 years.

3 “(ii) EXCEPTION WHERE SECRETARY
4 DETERMINES PROPERTY NOT SHORT-
5 LIVED.—Clause (i) shall not apply to any
6 property placed in service after the date on
7 which the Secretary publishes in the Federal
8 Register final regulations under which such
9 property is determined to have a present
10 class life greater than 6 years.

11 “(iii) HIGH TECHNOLOGY MEDICAL
12 EQUIPMENT.—For purposes of this subpara-
13 graph, the term ‘high technology medical
14 equipment’ means any electronic, electrome-
15 chanical, or computer-based high technology
16 equipment used in the screening, monitoring,
17 observation, diagnosis, or treatment of pa-
18 tients in a laboratory, medical, or hospital
19 environment.

20 “(7) SPECIAL RULES RELATING TO LEASE
21 TERMS.—

22 “(A) LEASE TERM.—In determining a lease
23 term for purposes of this subsection—

24 “(i) there shall be taken into account
25 options to renew, and

1 “(ii) 2 or more successive leases which
2 are entered into—

3 “(I) as part of the same transac-
4 tion, and

5 “(II) with respect to the same or
6 substantially similar property,
7 shall be treated as 1 lease.

8 “(B) SPECIAL RULE FOR FAIR RENTAL OP-
9 TIONS.—For purposes of clause (i) of subpara-
10 graph (A), in the case of 15-year real property,
11 there shall not be taken into account any option
12 to renew at fair rental value, determined at the
13 time of the renewal.

14 “(8) RELATED ENTITIES.—For purposes of this
15 subsection—

16 “(A)(i) Each governmental unit and each
17 agency or instrumentality of a governmental unit
18 is related to each other such unit, agency, or in-
19 strumentality which directly or indirectly derives
20 its powers, rights, and duties from the same sov-
21 ereign authority.

22 “(ii) For purposes of clause (i), the United
23 States, each State, and each possession of the
24 United States shall be treated as a separate sov-
25 ereign authority.

1 “(B) Any entity not described in subpara-
2 graph (A)(i) is related to any other entity if the 2
3 entities have—

4 “(i) significant common purposes and
5 substantial common membership; or

6 “(ii) directly or indirectly substantial
7 common direction or control.

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

12 “(ii) For purposes of clause (i), entities treat-
13 ed as related under subparagraph (A) or (B) shall
14 be treated as 1 entity.

15 “(D) An entity is related to another entity
16 with respect to a transaction if such transaction is
17 part of an attempt by such entities to avoid the
18 application of this subsection, section 46(f), para-
19 graph (4) or (5) of section 48(a), or clause (vi) of
20 section 48(g)(2)(B).

21 “(9) TREATMENT OF PARTNERSHIPS, ETC.—

22 “(A) IN GENERAL.—If—

23 “(i) any property which (but for this
24 subparagraph) is not tax-exempt use property
25 is held by a partnership which has both a

1 tax-exempt entity and a person who is not a
2 tax-exempt entity as partners, and

3 “(ii) any allocation to the tax-exempt
4 entity of partnership items is not a qualified
5 allocation,

6 such tax-exempt entity’s proportionate share of
7 such property shall be treated as tax-exempt use
8 property of the partnership.

9 “(B) QUALIFIED ALLOCATION.—For pur-
10 poses of subparagraph (A), the term ‘qualified al-
11 location’ means any allocation to a tax-exempt
12 entity which—

13 “(i) is consistent with such entity’s
14 being allocated the same percentage share of
15 each item of income, gain, loss, deduction,
16 credit, and basis of the partnership during
17 the entire period the entity is a partner in
18 the partnership, and

19 “(ii) meets the requirements of section
20 704(b)(2).

21 For purposes of clause (i), items allocated under
22 section 704(c) shall not be taken into account.

23 “(C) DETERMINATION OF PROPORTIONATE
24 SHARE.—

1 “(i) IN GENERAL.—For purposes of
2 subparagraph (A), a tax-exempt entity’s pro-
3 portionate share of any property held by a
4 partnership shall be determined on the basis
5 of such entity’s share of partnership distribu-
6 tions or partnership items of income or gain
7 (excluding gain allocated under section
8 704(c)), whichever results in the largest pro-
9 portionate share.

10 “(ii) DETERMINATION WHERE ALLOCA-
11 TIONS VARY.—For purposes of clause (i), if a
12 tax-exempt entity’s share of partnership dis-
13 tributions or partnership items of income or
14 gain (excluding gain allocated under section
15 704(c)), may vary during the period such
16 entity is a partner in the partnership, such
17 share shall be the highest share such entity
18 may receive.

19 “(D) OTHER PASS-THRU ENTITIES.—Rules
20 similar to the rules of subparagraphs (A), (B), and
21 (C) shall also apply in the case of any trust or
22 other pass-thru entity.

23 “(k) TREATMENT OF CERTAIN CONTRACTS FOR PRO-
24 VIDING SERVICES.—For purposes of this chapter—

1 “(1) IN GENERAL.—A contract which purports to
2 be a service contract shall not be treated as a service
3 contract if such contract is more properly treated as a
4 lease of property, taking into account all relevant fac-
5 tors including whether or not—

6 “(A) the service recipient is in physical pos-
7 session of the property,

8 “(B) the service recipient controls the prop-
9 erty,

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

12 “(D) the service provider does not bear any
13 risk of substantially diminished receipts or sub-
14 stantially increased expenditures if there is non-
15 performance under the contract,

16 “(E) the service provider does not use the
17 property concurrently to provide significant serv-
18 ices to entities unrelated to the tax-exempt entity,
19 and

20 “(F) the total contract price does not sub-
21 stantially exceed the rental value of the property
22 for the contract period.

23 “(2) OTHER ARRANGEMENTS.—An arrangement
24 (including a partnership or other pass-through entity)
25 which is not a service contract and which purports not

1 to be a lease shall be treated as a lease if such ar-
2 rangement is more properly treated as a lease, taking
3 into account all relevant factors including factors simi-
4 lar to those set forth in paragraph (1).

5 “(3) SPECIAL RULES FOR CONTRACTS OR AR-
6 RANGEMENTS INVOLVING SOLID WASTE DISPOSAL,
7 ENERGY, AND CLEAN WATER FACILITIES.—Notwith-
8 standing paragraph (1) or (2), and except as provided
9 in paragraph (4), any contract or arrangement between
10 a service provider and a service recipient—

11 “(A) with respect to—

12 “(i) the operation of a qualified solid
13 waste disposal facility,

14 “(ii) the sale to the service recipient of
15 electrical or thermal energy produced at a
16 cogeneration or alternative energy facility,

17 “(iii) the providing of energy conserva-
18 tion or energy management services, or

19 “(iv) the operation of a water treatment
20 works facility, and

21 “(B) which purports to be a service contract,
22 shall be treated as a service contract.

23 “(4) PARAGRAPH (3) NOT TO APPLY IN CERTAIN
24 CASES.—

1 “(A) IN GENERAL.—Paragraph (3) shall not
2 apply to any facility or property used under a
3 contract or arrangement described in such para-
4 graph if—

5 “(i) the service recipient (or a related
6 entity) operates such facility or property,

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

12 “(iii) the service recipient (or a related
13 entity) receives any significant financial
14 benefit if the operating costs of such facility
15 or property are less than the standards of
16 performance or operation under the contract
17 or arrangement, or

18 “(iv) the service recipient (or a related
19 entity) has an option to purchase, or may be
20 required to purchase, all or a part of such fa-
21 cility or such property at a fixed and deter-
22 minable price (other than for fair market
23 value).

24 “(B) SPECIAL RULES FOR APPLICATION OF
25 SUBPARAGRAPH (A) WITH RESPECT TO CERTAIN

1 RIGHTS AND ALLOCATIONS UNDER THE CON-
2 TRACT.—For purposes of subparagraph (A), there
3 shall not be taken into account—

4 “(i) any right of a service recipient to
5 inspect any facility or property, to exercise
6 any sovereign power the service recipient
7 may possess, or to act in the event of a
8 breach of contract by the service provider, or

9 “(ii) any allocation of any financial
10 burden or benefits in the event of any change
11 in any law.

12 “(C) SPECIAL RULES FOR APPLICATION OF
13 SUBPARAGRAPH (a) IN THE CASE OF CERTAIN
14 EVENTS.—

15 “(i) TEMPORARY SHUT-DOWNS, ETC.—
16 For purposes of clause (ii) of subparagraph
17 (A), there shall not be taken into account
18 any temporary shut-down of the facility or
19 property for repairs, maintenance, or capital
20 improvements, or any financial burden
21 caused by the bankruptcy or other financial
22 difficulty of the service provider.

23 “(ii) REDUCED COSTS.—For purposes
24 of clause (iii) of subparagraph (A), there shall
25 not be taken into account any significant fi-

1 nancial benefit merely because payments by
2 the service recipient under the contract or
3 arrangement are decreased by reason of in-
4 creased production or efficiency or the recov-
5 ery of energy or other products,

6 “(5) DEFINITIONS.—For purposes of paragraph
7 (3)—

8 “(A) QUALIFIED SOLID WASTE DISPOSAL
9 FACILITY.—The term ‘qualified solid waste dis-
10 posal facility’ means any facility if such facility
11 provides solid waste disposal services for residents
12 of part or all of 1 or more governmental units and
13 substantially all of the solid waste processed at
14 such facility is collected from the general public.

15 “(B) COGENERATION FACILITY.—The term
16 ‘cogeneration facility’ means a facility which uses
17 the same energy source for the sequential genera-
18 tion of electrical or mechanical power in combina-
19 tion with steam, heat, or other forms of useful
20 energy.

21 “(C) ALTERNATIVE ENERGY FACILITY.—
22 The term ‘alternative energy facility’ means a fa-
23 cility for producing electrical or thermal energy if
24 the primary energy source for the facility is not
25 oil, natural gas, coal, or nuclear power.

1 “(D) WATER TREATMENT WORKS’ FACIL-
2 ITY.—The term ‘water treatment works facility’
3 means any treatment works within the meaning of
4 section 212(2) of the Federal Water Pollution
5 Control Act.

6 “(6) REGULATIONS.—The Secretary may pre-
7 scribe such regulations as may be necessary to carry
8 out the provisions of this subsection.”.

9 (b) DENIAL OF INVESTMENT TAX CREDIT FOR PROP-
10 PERTY USED BY FOREIGN GOVERNMENTS AND OTHER FOR-
11 EIGN PERSONS.—

12 (1) Paragraph (5) of section 48(a) (relating to
13 property used by governmental units) is amended by
14 striking out the first and second sentences and insert-
15 ing in lieu thereof the following:

16 “Property used—

17 “(A) by the United States, any State or po-
18 litical subdivision thereof, any possession of the
19 United States, or any agency or instrumentality of
20 any of the foregoing, or

21 “(B) by any foreign person or entity (as de-
22 fined in section 168(j)(4)(C)), but only with respect
23 to property to which section 168(j)(4)(A)(iii) ap-
24 plies (determined after the application of section
25 168(j)(4)(B)),

1 shall not be treated as section 38 property other than
2 for purposes of the rehabilitation investment credit.
3 The preceding sentence shall not apply to any property
4 to the extent such property is treated as not being tax-
5 exempt use property under section 168(j)(3)(E) (relat-
6 ing to special rule for certain international organiza-
7 tions).”.

8 (2) The heading of paragraph (5) of section 48(a)
9 is amended by striking out “GOVERNMENTAL UNITS”
10 and inserting in lieu thereof “GOVERNMENTAL UNITS
11 AND CERTAIN FOREIGN PERSONS”.

12 (c) REHABILITATION CREDIT NOT TO APPLY TO TAX-
13 EXEMPT USE PROPERTY.—

14 (1) IN GENERAL.—Subparagraph (B) of section
15 48(g)(2) (relating to certain expenditures not treated as
16 qualified rehabilitation expenditures) is amended by
17 adding at the end thereof the following new clause:

18 “(vi) TAX-EXEMPT USE PROPERTY.—

19 “(I) IN GENERAL.—Any expenditure in
20 connection with the rehabilitation of a build-
21 ing which is allocable to that portion of such
22 building which is (or may reasonably be ex-
23 pected to be) tax-exempt use property
24 (within the meaning of section 168(j)(3)).

1 “(II) **CLAUSE NOT TO APPLY FOR PUR-**
2 **POSES OF PARAGRAPH (1)(C).**—This clause
3 shall not apply for purposes of determining
4 under paragraph (1)(C) whether a building
5 has been substantially rehabilitated.”.

6 (2) **TECHNICAL AMENDMENT.**—Clause (i) of sec-
7 tion 48(g)(2)(B) is amended by adding at the end there-
8 of the following new sentence: “The preceding sen-
9 tence shall not apply to any expenditure to the extent
10 subsection (f)(12) or (j) of section 168 applies to such
11 expenditure.”.

12 (d) **SHORT-TERM USE RULES FOR PURPOSES OF IN-**
13 **VESTMENT TAX CREDIT.**—Section 48(a) (defining section
14 38 property) is amended by adding at the end thereof the
15 following new paragraph:

16 “(11) **SPECIAL SHORT-TERM USE RULES FOR**
17 **PURPOSES OF PARAGRAPHS (4) AND (5).**—

18 “(A) **IN GENERAL.**—Paragraphs (4) and (5)
19 shall not apply to any property for any taxable
20 year if such property is used by a tax-exempt or-
21 ganization described in either such paragraph (or
22 any related tax-exempt entity) for less than 6
23 months during such taxable year (determined after
24 application of section 168(j)(7)) under a lease or

1 other arrangement the term of which is less than
2 6 months.

3 “(B) EXCEPTION FOR CERTAIN OIL DRILL-
4 ING PROPERTY AND CERTAIN CONTAINERS.—In
5 the case of—

6 “(i) property which is used in offshore
7 drilling for oil and gas, including drilling ves-
8 sels, barges, platforms, and drilling equip-
9 ment and support vessels, and

10 “(ii) any container described in section
11 48(a)(2)(B)(v) (without regard to whether
12 such container is used outside the United
13 States) or any container chassis or container
14 trailer with a present class life of not more
15 than 6 years,

16 rules similar to the rules of section 168(j)(3)(C)
17 shall apply for purposes of paragraphs (4) and
18 (5).”.

19 (e) INVESTMENT TAX CREDIT ALLOWABLE WITH RE-
20 SPECT TO CERTAIN FACILITIES.—Paragraph (5) of section
21 48(a) (relating to property used by governmental units), is
22 amended by adding at the end thereof the following new sen-
23 tence: “This paragraph shall not apply to any facility or
24 property subject to a contract or agreement to which section
25 168(k)(3) applies.”.

1 (f) INVESTMENT TAX CREDIT FOR PROPERTY LEASED
2 BY CERTAIN PERSONS NOT TO EXCEED CREDIT ALLOWED
3 IF SUCH PERSONS OWNED PROPERTY.—Section 46(e) (re-
4 lating to limitations with respect to certain persons) is
5 amended by adding at the end thereof the following new
6 paragraph:

7 “(4) SPECIAL RULES WHERE SECTION 593 OR-
8 GANIZATION IS LESSEE.—

9 “(A) IN GENERAL.—For purposes of para-
10 graph (1)(A), if an organization described in sec-
11 tion 593 is the lessee of any section 38 property,
12 the lessor of such property shall be treated as an
13 organization described in section 593.

14 “(B) EXCEPTION FOR SHORT-TERM
15 LEASES.—This paragraph shall not apply to any
16 property for any taxable year if such property is
17 used by the organization described in section 593
18 for less than 6 months during such taxable year
19 (determined after application of section 168(j)(7))
20 under a lease or other arrangement the term of
21 which is less than 6 months.”.

22 (g) EFFECTIVE DATES.—

23 (1) IN GENERAL.—Except as otherwise provided
24 in this subsection, the amendments made by this sec-
25 tion shall apply—

1 (A) to property placed in service by the tax-
2 payer after May 23, 1983, in taxable years ending
3 after such date, and

4 (B) to property placed in service by the tax-
5 payer on or before May 23, 1983, if the use by
6 the tax-exempt entity is pursuant to a lease en-
7 tered into after May 23, 1983.

8 (2) LEASES ENTERED INTO ON OR BEFORE MAY
9 23, 1983.—The amendments made by this section
10 shall not apply with respect to any property used by a
11 tax-exempt entity if such use is pursuant to—

12 (A) a lease entered into on or before May 23,
13 1983 (or a sublease under such a lease), or

14 (B) any renewal or extension of a lease en-
15 tered into on or before May 23, 1983, if such re-
16 newal or extension is pursuant to an option exer-
17 cisable by the tax-exempt entity which was con-
18 tained in such lease on May 23, 1983.

19 (3) BINDING CONTRACTS, ETC.—The amendments
20 made by this section shall not apply with respect to
21 any property used by a tax-exempt entity if such use is
22 pursuant to 1 or more written binding contracts which,
23 on May 23, 1983, and at all times thereafter, re-
24 quired—

1 (A) the taxpayer (or his predecessor in inter-
2 est under the contract) to acquire, construct, re-
3 construct, or rehabilitate such property, and

4 (B) the tax-exempt entity (or a tax-exempt
5 predecessor thereof) to use such property.

6 (4) PROPERTY USED BY THE POSTAL SERVICE.—

7 In the case of property used by the United States
8 Postal Service, paragraphs (1) and (2) shall be applied
9 by substituting “October 31” for “May 23”.

10 (5) MASS COMMUTING VEHICLES.—The amend-
11 ments made by this section shall not apply to any
12 qualified mass commuting vehicle (as defined in section
13 103(b)(9) of the Internal Revenue Code of 1954) which
14 is financed in whole or in part by obligations the inter-
15 est on which is excludable from gross income under
16 section 103(a) of such Code if—

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

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

21 (i) pursuant to a binding contract or
22 commitment entered into before April 1,
23 1983, and

24 (ii) solely because of conditions which,
25 as determined by the Secretary of the Treas-

1 ury or his delegate, are not within the con-
2 trol of the lessor or lessee.

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

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

18 (8) EXCEPTION FOR CERTAIN PROJECTS WHERE
19 QUALIFYING ACTIONS TAKEN.—

20 (A) IN GENERAL.—The amendments made
21 by this section shall not apply with respect to
22 property placed in service in connection with proj-
23 ects described in the following table:

Project	Location	Qualifying Action	Date of Action
Paramount Theater	Portland, Oregon	Appropriation of funds	January 14, 1981

Project	Location	Qualifying Action	Date of Action
Ordway Music Theater	St. Paul, Minnesota	Resolution authorizing sale-lease-back	January 12, 1983
Westside Convention Center	New York, New York	Legislation authorizing construction	April 3, 1979
Sabine Laboratory	Denver, Colorado	Purchased building	July, 1982
Share-HMO	Minneapolis-St. Paul, Minnesota	Bonds issued	September 17, 1982
Kleinhans Music Hall and Shea's Buffalo Theater	Buffalo, New York	Federal legislation enacted	March 24, 1983
Presbyterian Hospital, Harrison-Walnu Neighborhood project	Oklahoma City, Oklahoma	Inducement resolution adopted	April 25, 1983 April 28, 1983
St. Paul Civic Center	St. Paul, Minnesota	UDAG application	Inducement resolution adopted
Saratoga Springs City Convention Center	Saratoga Springs, New York	State law creating authority	April 21, 1983 July 27, 1983
Atlantic City Convention Hall	Atlantic City, New Jersey	Bond resolution adopted	December 8, 1982
Old Main Building	Fayetteville, Arkansas	Authorized by State law	October 31, 1983
Snug Harbor Children's Museum	New York, New York	Construction begun	Before May 23, 1983
Roger L. Stevens Center	Winston-Salem, North Carolina	Congressional approval of enabling legislation	Before May 23, 1983
44 Beaver St.	New York, New York	\$3,700,000 budgeted for 1983	1983
San Antonio Convention Center	San Antonio, Texas	Approved feasibility study and design	Before May 23, 1983
Penn Station	Newark, New Jersey	Purchase negotiations begun	Before October 31, 1983
Los Angeles Public Library	Los Angeles, California	\$250,000 spent on design	Before May 23, 1983

Project	Location	Qualifying Action	Date of Action
Philadelphia Convention Center	Philadelphia, Pennsylvania	Feasibility study, as approved by inducement resolution of Philadelphia Authority for Industrial Development on December 20, 1983	June 10, 1982
Oakland Convention Center	Oakland, California	Project completed	Before May 23, 1983
San Francisco Ferry Building	San Francisco, California	Feasibility study approved and negotiations begun	Before May 23, 1983
San Francisco Stadium	San Francisco, California	City spent \$300,000 for consultant study, which is completed	June, 1983
Sacramento Municipal Utility District Convention Center Project	Sacramento, California Industry Hills, California	Agreements signed Studies completed negotiations begun	Before May 23, 1983 Before May 23, 1983
Ventura Parking Facility	Ventura, California	Negotiations completed	Before May 23, 1983
City Hall/Public Auditorium	Riverside, California	Study begun, \$375,000 spent	Before May 23, 1983
UCLA Royce Hall Renovation	Los Angeles, California	Planning and design complete, construction begun	Before May 23, 1983
UCSD Campus Clinical Center	San Diego, California	University financed study begun	Before May 23, 1983
San Diego California Health Services Complex	San Diego, California	Request for proposal issued negotiations begun	Before May 23, 1983
Office of Power Building	Chattanooga, Tennessee	Construction contract signed	November 19, 1980
St. Ignatius College Prep	Chicago, Illinois	Illinois State Board of Conservation approval	March 23, 1983

Project	Location	Qualifying Action	Date of Action
Anchorage Waste-Energy Project	Anchorage Borough, Alaska	Negotiations begun	April, 1983
Buluga Station	Anchorage Borough, Alaska	Negotiations begun	Before October, 1983
Bernice Lake Station	Kenai Peninsula, Alaska	Negotiations begun	Before October, 1983
City of Bethel Housing Project	Bethel, Alaska	Under construction	March 14, 1983
Mt. Vernon Mills State Museum	Columbia, South Carolina	Appropriation of funds for feasibility	June 21, 1983
Mills-Babcock Complex	Columbia, South Carolina	Approval by Governor and Budget and Control	Before November 30, 1983
Lexington County Hospital Medical Office Building	West Columbia, South Carolina	Inducement Resolution adopted	January 11, 1983
Harden Street Medical Office Building	Columbia, South Carolina	Inducement Resolution adopted	April 19, 1983
Sebring Utilities Commission Building	Sebring, Florida	Sought revenue ruling	Before July 21, 1983
Salt Lake City Office Building	Salt Lake City, Utah	Significant governmental action	Before May 23, 1983
Battle Creek City Hall and Police Department Buildings and the attendant parking lots	Battle Creek, Michigan	Authorizing resolution	May 17, 1983
Downtown Convention Hotel Centre	Tampa, Florida	Request for proposals	July 29, 1983
Pinellas Sports Authority Stadium	St. Petersburg, Florida	Official government action	Before May 23, 1983
Lexington Market Arcade	Baltimore, Maryland	Official approval and significant expenditures	Before May 23, 1983
Baltimore City Zoo Hospital	Baltimore, Maryland	Official approval and significant expenditures	Before May 23, 1983
Culinary Arts Institute	Baltimore, Maryland	Official approval and significant expenditures	Before May 23, 1983

Project	Location	Qualifying Action	Date of Action
Wilmington Woods Project	Dayton, Ohio	Substantial expenditures	Before September 30, 1983
Clemson University Institute of Government and Public Affairs	Clemson, South Carolina	Substantial sums expended	Before May 23, 1983
Rushmore Plaza Civic Center	Rapid City, South Dakota	Inducement resolution	May 31, 1983
Masonic Temple Building	Denver Colorado	Binding contract to sell and lease back	June 24, 1983
St. Stephen's Gilmour Academy	Gates Mills, Ohio	Executive committee approval	February 28, 1983
Metropolitan Center for High Technology	Detroit, Michigan	UDAG Application Expenditure of funds by State of Michigan	Before May 23, 1983
The Madison Center	Detroit, Michigan	Approval of UDAG Application	April 2, 1983
Teachers Federal Credit Union	Farmingville, New York	Construction Completed	Before May 23, 1983
Wittner Center Parking Structure	St. Petersburg, Florida	Total city funds of over \$600,000 expended on project	Before May 23, 1983
Pier Park Recreation Complex	St. Petersburg, Florida	Resolution approving development services contract	April 6, 1983
Salve Regina College	Newport, Rhode Island	Formal proposal presented	Before December 31, 1983
Old Wayne County Building	Detroit, Michigan	Feasibility study and design approved	June 23, 1983
St. Francis Community Hospital Medical Office Building	Greenville, South Carolina	Inducement resolution adopted	October 4, 1983
Providence Hospital Medical Office Building II	Columbia, South Carolina	Inducement resolution adopted	September 6, 1983

Project	Location	Qualifying Action	Date of Action
Milwaukee Arts District Project	Milwaukee, Wisconsin	Authorization and Commitment of funds	Before December 31, 1983
Morrison Hotel	Seattle, Washington	Approval by city council	October, 1982
Doctors Medical Plaza	Oklahoma City, Oklahoma	Inducement resolution adopted	August 4, 1983
Montgomery Fair Building	Montgomery, Alabama	Negotiations begun	June, 1982
Providence Hebrew Day School	Providence, Rhode Island	Board of Directors approval	December, 1982
West Building Project	Providence, Rhode Island	Inducement resolution adopted	February 28, 1983
Garbose Building	Gardner, Massachusetts	Construction scheduled	Before July, 1983
Memorial Hall Library	Andover, Massachusetts	City Authorization of sale leaseback	April, 1983
Capital Mall Development Project	Nashville, Tennessee	Substantial sums expended	Before October 25, 1983
Tulane Central Building	New Orleans, Louisiana	Financial analysis completed	May, 1983
GE VA Theatre	Rochester, New York	City ordinance authorizing purchase option	December, 1982

1 (B) LIMITATION.—Subparagraph (A) shall
2 only apply to the extent such property (including
3 existing property) was substantially included or
4 contemplated in such project at the time of the
5 qualifying action.

6 (9) EXISTING APPROPRIATIONS.—The amend-
7 ments made by this section shall not apply to personal
8 property leased to or used by the United States if—

1 (A) an express appropriation has been made
2 for rentals under such lease for the fiscal year
3 1983 before May 23, 1983, and

4 (B) the United States or an agency or instru-
5 mentality thereof has not provided an indemnifica-
6 tion against the loss of all or a portion of the tax
7 benefits claimed under the lease or service con-
8 tract.

9 (10) SPECIAL RULES RELATING TO FOREIGN
10 PERSONS OR ENTITIES.—

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

15 (i) is placed in service before January 1,
16 1984, and

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

20 (B) SPECIAL RULE FOR SUBLEASES.— If
21 tax-exempt use property is being used by a for-
22 eign person or entity pursuant to a sublease under
23 a lease described in subparagraph (A)(ii), subpara-
24 graph (A) shall apply to such property only if
25 such property was used before January 1, 1984,

1 by any foreign person or entity pursuant to such
2 lease.

3 (C) 50 PERCENT OF INVESTMENT CREDIT
4 ALLOWED FOR PROPERTY PLACED IN SERVICE
5 DURING 1984.—Notwithstanding the amendment
6 made by subsection (b), in the case of property
7 which—

8 (i) is placed in service during 1984, and

9 (ii) is used during 1984 by a foreign
10 person or entity pursuant to a lease entered
11 into before 1985,

12 there shall be allowed with respect to such prop-
13 erty 50 percent of the amount of the credit other-
14 wise allowable under section 38 of the Internal
15 Revenue Code of 1954 (determined without
16 regard to the amendment made by subsection (b)).

17 (11) SPECIAL RULE FOR CERTAIN PARTNER-
18 SHIPS.—

19 (A) IN GENERAL.—Paragraph (9) of section
20 168(j) of the Internal Revenue Code of 1954 (as
21 added by this section) shall not apply to any prop-
22 erty acquired, directly or indirectly, before Janu-

1 ary 1, 1985, by any partnership described in sub-
2 paragraph (B) or (C).

3 (B) PARTNERSHIP ORGANIZED BEFORE OC-
4 TOBER 21, 1983.—A partnership is described in
5 this subparagraph if—

6 (i) before October 21, 1983, the part-
7 nership was organized and publicly an-
8 nounced the maximum amount of interests
9 which would be sold in the partnership, and

10 (ii) the marketing of partnership inter-
11 ests in such partnership was completed not
12 later than the 90th day after the date of the
13 enactment of this Act and the aggregate
14 amount of interest in such partnership sold
15 does not exceed the maximum amount de-
16 scribed in clause (ii).

17 (C) APPLICATION FILED BEFORE OCTOBER
18 21, 1983.—A partnership is described in this sub-
19 paragraph if—

20 (i) before October 21, 1983, the part-
21 nership was organized, a request for exemp-
22 tion with respect to such partnership was
23 filed with the Department of Labor, and a
24 private placement memorandum stating the
25 maximum amount of interests in the partner-

1 ship that would be offered had been circulat-
2 ed,

3 (ii) the interest in the property to be ac-
4 quired, directly or indirectly (including
5 through acquiring an interest in another
6 partnership) by such partnership was de-
7 scribed in such private placement memoran-
8 dum, and

9 (iii) the marketing of partnership inter-
10 ests in such partnership is completed not
11 later than the 90th day after the latter of the
12 date of enactment of this Act or the date of
13 publication in the Federal Register of such
14 exemption by the Department of Labor and
15 the aggregate amount of interests in such
16 partnership sold does not exceed the amount
17 described in clause (i).

18 (12) SPECIAL RULE FOR SERVICE CONTRACTS
19 NOT INVOLVING TAX-EXEMPT ENTITIES.—In the case
20 of a service contract or other arrangement described in
21 section 168(k) of the Internal Revenue Code of 1954
22 (as added by this section) with respect to which no
23 party is a tax-exempt entity, such section 168(k) shall
24 not apply to—

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

4 (B) any renewal or other extension of such
5 contract arrangement pursuant to an option con-
6 tained in such contract or other arrangement on
7 November 5, 1983.

8 (13) DEFINITIONS.—For purposes of this subsec-
9 tion—

10 (A) TAX-EXEMPT ENTITY DEFINED.—The
11 term “tax-exempt entity” has the same meaning
12 as when used in section 168(j) of the Internal
13 Revenue Code of 1954 (as added by this section),
14 except that such term shall include any related
15 entity (within the meaning of such section).

16 (B) FOREIGN PERSON OR ENTITY DE-
17 FINED.—The term “foreign person or entity” has
18 the meaning given to such term by section
19 168(j)(4)(C) of such Code (as added by this sec-
20 tion).

21 **SEC. 23. MOTOR VEHICLE OPERATING LEASES.**

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

25 “(13) MOTOR VEHICLE OPERATING LEASES.—

1 “(A) IN GENERAL.—For purposes of this
2 title, the fact that a motor vehicle operating
3 agreement contains a terminal rental adjustment
4 clause shall not be taken into account in deter-
5 mining whether such agreement is a lease.

6 “(B) DEFINITIONS.—For purposes of this
7 paragraph—

8 “(i) MOTOR VEHICLE OPERATING
9 AGREEMENT.—The term ‘motor vehicle op-
10 erating agreement’ means any agreement
11 with respect to a motor vehicle (including a
12 trailer) under which the lessor—

13 “(I) is personally liable for the re-
14 payment of, or

15 “(II) has pledged property (but
16 only to the extent of the net fair market
17 value of the lessor’s interest in such
18 property), other than property subject to
19 the agreement or property directly or
20 indirectly financed by indebtedness se-
21 cured by property subject to the agree-
22 ment, as security for,

23 all amounts borrowed to finance the acquisi-
24 tion of property subject to the agreement.

1 “(ii) **TERMINAL RENTAL ADJUSTMENT**
2 **CLAUSE.**—The term ‘terminal rental adjust-
3 ment clause’ means a provision of an agree-
4 ment which permits or requires the rental
5 price to be adjusted upward or downward by
6 reference to the amount realized by the
7 lessor under the agreement upon sale or
8 other disposition of such property.”.

9 **(b) EXCEPTION WHERE LESSEE TOOK POSITION ON**
10 **RETURN THAT HE WAS OWNER.**—Section 210 of the Tax
11 Equity and Fiscal Responsibility Act of 1982 is amended by
12 adding at the end thereof the following new subsection:

13 “(c) **EXCEPTION WHERE LESSEE TOOK POSITION ON**
14 **RETURN.**—Subsection (a) shall not apply to deny a deduction
15 for interest paid or accrued claimed by a lessee with respect
16 to a qualified motor vehicle agreement on a return of tax
17 imposed by chapter 1 of the Internal Revenue Code of 1954
18 which was filed before the date of the enactment of this Act
19 or to deny a credit for investment in depreciable property
20 claimed by the lessee on such a return pursuant to an agree-
21 ment with the lessor that the lessor would not claim the
22 credit.”.

23 **(c) EFFECTIVE DATE.**—

24 **(1) IN GENERAL.**—The amendment made by sub-
25 section (a) shall apply to agreements described in sec-

1 tion 168(f)(13) of the Internal Revenue Code of 1954
 2 (as added by subsection (a)) whether entered into
 3 before, on, or after the date of the enactment of this
 4 Act.

5 (2) POSITION ON RETURN.—The amendment
 6 made by subsection (b) shall take effect as if included
 7 in the amendments made by the Tax Equity and Fiscal
 8 Responsibility Act of 1982.

9 **Subtitle C—Treatment of Bonds and** 10 **Other Debt Instruments**

11 **SEC. 25. TREATMENT OF BONDS AND OTHER DEBT INSTRU-** 12 **MENTS.**

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

16 **“PART V—SPECIAL RULES FOR BONDS AND OTHER** 17 **DEBT INSTRUMENTS**

“Subpart A. Original issue discount.

“Subpart B. Market discount.

“Subpart C. Discount on short-term obligations.

“Subpart D. Miscellaneous provisions.

18 **“Subpart A—Original Issue Discount**

“Sec. 1271. Treatment of amounts received on retirement or sale or
 exchange of debt instruments.

“Sec. 1272. Current inclusion in income of original issue discount.

“Sec. 1273. Determination of amount of original issue discount.

“Sec. 1274. Determination of issue price in the case of certain debt
 instruments issued for property.

“Sec. 1275. Other definitions and special rules.

1 "SEC. 1271. TREATMENT OF AMOUNTS RECEIVED ON RETIRE-
2 MENT OR SALE OR EXCHANGE OF DEBT IN-
3 STRUMENTS.

4 "(a) GENERAL RULE.—For purposes of this subtitle, in
5 the case of debt instruments which are capital assets in the
6 hands of the taxpayer—

7 "(1) RETIREMENT.—Amounts received by the
8 holder on retirement of such debt instruments shall be
9 considered as amounts received in exchange therefor.

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

12 "(A) IN GENERAL.—If at the time of origi-
13 nal issue there was an intention to call any such
14 debt instrument before maturity, any gain realized
15 on the sale or exchange thereof which does not
16 exceed an amount equal to—

17 "(i) the original issue discount, reduced
18 by

19 "(ii) the portion of original issue dis-
20 count previously includible in the gross
21 income of any holder (without regard to sub-
22 section (a)(6) or (b)(4) of section 1272 (or the
23 corresponding provisions of prior law)),
24 shall be treated as ordinary income.

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

4 “(i) any tax-exempt obligation, or

5 “(ii) any holder who has purchased the
6 debt instrument at a premium.

7 “(3) CERTAIN SHORT-TERM GOVERNMENT OBLI-
8 GATIONS.—

9 “(A) IN GENERAL.—On the sale or ex-
10 change of any such debt instrument which is a
11 short-term Government obligation, any gain real-
12 ized which does not exceed an amount equal to
13 the ratable share of the acquisition discount shall
14 be treated as ordinary income.

15 “(B) SHORT-TERM GOVERNMENT OBLIGA-
16 TION.—For purposes of this paragraph, the term
17 ‘short-term Government obligation’ means any ob-
18 ligation of the United States or any of its posses-
19 sions, or of a State or any political subdivision
20 thereof, or of the District of Columbia which is—

21 “(i) issued on a discount basis, and

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

1 Such term does not include any tax-exempt obli-
2 gation.

3 “(C) ACQUISITION DISCOUNT.—For pur-
4 poses of this paragraph, the term ‘acquisition dis-
5 count’ means the excess of the stated redemption
6 price at maturity over the taxpayer’s basis for the
7 obligation.

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

12 “(i) the number of days which the tax-
13 payer held the obligation, bears to

14 “(ii) the number of days after the date
15 the taxpayer acquired the obligation and up
16 to (and including) the date of its maturity.

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

18 “(1) NATURAL PERSONS.—Any obligation issued
19 by a natural person.

20 “(2) OBLIGATIONS ISSUED BEFORE JULY 2,
21 1982, BY CERTAIN ISSUERS.—Any obligation issued
22 before July 2, 1982, by an issuer which—

23 “(A) is not a corporation, and

24 “(B) is not a government or political subdivi-
25 sion thereof.

1 “(c) TRANSITION RULES.—

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

8 “(2) SPECIAL RULE FOR CERTAIN OBLIGATIONS
9 WITH RESPECT TO WHICH ISSUE DISCOUNT NOT CUR-
10 RENTLY INCLUDIBLE.—

11 “(A) IN GENERAL.—On the sale or ex-
12 change of debt instruments issued by a govern-
13 ment or political subdivision thereof after Decem-
14 ber 31, 1954, and before July 2, 1982, or by a
15 corporation after December 31, 1954, and on or
16 before May 27, 1969, any gain realized which
17 does not exceed—

18 “(i) an amount equal to the original
19 issue discount, or

20 “(ii) if at the time of original issue there
21 was no intention to call the debt instrument
22 before maturity, an amount which bears the
23 same ratio to the original issue discount as
24 the number of complete months that the debt
25 instrument was held by the taxpayer bears to

1 the number of complete months from the
2 date of original issue to the date of maturity,
3 shall be treated as ordinary income.

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

8 “(C) CROSS REFERENCE.—

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

9 “(d) DOUBLE INCLUSION IN INCOME NOT RE-
10 QUIRED.—This section and sections 1272 and 1286 shall not
11 require the inclusion of any amount previously includible in
12 gross income.

13 “SEC. 1272. CURRENT INCLUSION IN INCOME OF ORIGINAL
14 ISSUE DISCOUNT.

15 “(a) ORIGINAL ISSUE DISCOUNT ON DEBT INSTRU-
16 MENTS ISSUED AFTER JULY 1, 1982, INCLUDED IN
17 INCOME ON BASIS OF CONSTANT INTEREST RATE.—

18 “(1) GENERAL RULE.—For purposes of this subti-
19 tle, there shall be included in the gross income of the
20 holder of any debt instrument having original issue dis-
21 count issued after July 1, 1982, an amount equal to
22 the sum of the daily portions of the original issue dis-
23 count for each day during the taxable year on which
24 such holder held such debt instrument.

1 “(2) EXCEPTIONS.—Paragraph (1) shall not apply

2 to—

3 “(A) TAX-EXEMPT OBLIGATIONS.—Any
4 tax-exempt obligation.

5 “(B) UNITED STATES SAVINGS BONDS.—
6 Any United States savings bond.

7 “(C) SHORT-TERM GOVERNMENT OBLIGA-
8 TIONS.—Any short-term government obligation
9 (within the meaning of section 1271(a)(3)(B)).

10 “(D) OBLIGATIONS ISSUED BY NATURAL
11 PERSONS BEFORE MARCH 2, 1984.—Any obliga-
12 tion issued by a natural person before March 2,
13 1984.

14 “(E) LOANS BETWEEN FAMILY MEM-
15 BERS.—

16 “(i) IN GENERAL.—Any amount loaned
17 by an individual to a member of such individ-
18 ual’s family (within the meaning of section
19 267(e)(4)), to the extent that the amount of
20 such loan (when increased by the outstanding
21 amount of prior loans by such individual to
22 such member) does not exceed \$10,000.

23 “(ii) CLAUSE (I) NOT TO APPLY WHERE
24 TAX AVOIDANCE A PRINCIPAL PURPOSE.—
25 Clause (i) shall not apply if the loan has as

1 one of its principal purposes the avoidance of
2 any Federal tax.

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

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

20 “(A) the product of—

21 “(i) the adjusted issue price of the debt
22 instrument at the beginning of such accrual
23 period, and

1 “(ii) the yield to maturity (determined
2 on the basis of compounding at the close of
3 each accrual period), over

4 “(B) the sum of the amounts payable as in-
5 terest on such debt instrument during such accru-
6 al period.

7 In applying subparagraph (A)(ii) to an accrual period of
8 less than 1 year, proper adjustments shall be made in
9 the yield to maturity.

10 “(4) ADJUSTED ISSUE PRICE.—For purposes of
11 this subsection, the adjusted issue price of any debt in-
12 strument at the beginning of any accrual period is the
13 sum of—

14 “(A) the issue price of such debt instrument,
15 plus

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

19 “(5) ACCRUAL PERIOD.—Except as otherwise
20 provided in regulations prescribed by the Secretary, the
21 term ‘accrual period’ means a 1-year period (or the
22 shorter period to maturity) beginning on the day in the
23 calendar year which corresponds to the date of original
24 issue of the debt instrument.

1 “(6) REDUCTION WHERE SUBSEQUENT HOLDER
2 PAYS ACQUISITION PREMIUM.—

3 “(A) REDUCTION.—For purposes of this sub-
4 section, in the case of any purchase after its origi-
5 nal issue of a debt instrument to which this sub-
6 section applies, the daily portion shall not include
7 its share of the acquisition premium.

8 “(B) SHARE OF ACQUISITION PREMIUM.—
9 For purposes of subparagraph (A), any day’s
10 share of acquisition premium is an amount (deter-
11 mined at the time of purchase) equal to—

12 “(i) the excess (if any) of—

13 “(I) the cost of such debt instru-
14 ment incurred by the purchaser, over

15 “(II) the issue price of such debt
16 instrument, increased by the sum of the
17 daily portions for such debt instrument
18 for all days on or before the date of the
19 purchase (computed without regard to
20 this paragraph),

21 “(ii) divided by the number of days be-
22 ginning on the day after the date of such
23 purchase and ending on the stated maturity
24 date.

1 “(b) RATABLE INCLUSION RETAINED FOR CORPO-
2 RATE DEBT INSTRUMENTS ISSUED BEFORE JULY 2,
3 1982.—

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

8 “(A) the ratable monthly portion of original
9 issue discount, multiplied by

10 “(B) the number of complete months (plus
11 any fractional part of a month determined under
12 paragraph (3)) such holder held such debt instru-
13 ment during the taxable year.

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

18 “(A) the original issue discount, divided by

19 “(B) the number of complete months from
20 the date of original issue to the stated maturity
21 date of the debt instrument.

22 “(3) MONTH DEFINED.—For purposes of this sub-
23 section—

24 “(A) COMPLETE MONTH.—A complete
25 month commences with the date of original issue

1 and the corresponding day of each succeeding cal-
2 endar month (or the last day of a calendar month
3 in which there is no corresponding day).

4 “(B) TRANSFERS DURING MONTH.—In any
5 case where a debt instrument is acquired on any
6 day other than a day determined under subpara-
7 graph (A), the ratable monthly portion of original
8 issue discount for the complete month (or partial
9 month) in which such acquisition occurs shall be
10 allocated between the transferor and the transfer-
11 ee in accordance with the number of days in such
12 complete (or partial) month each held the debt in-
13 strument.

14 “(4) REDUCTION WHERE SUBSEQUENT HOLDER
15 PAYS ACQUISITION PREMIUM.—

16 “(A) REDUCTION.—For purposes of this sub-
17 section, the ratable monthly portion of original
18 issue discount shall not include its share of the ac-
19 quisition premium.

20 “(B) SHARE OF ACQUISITION PREMIUM.—
21 For purposes of subparagraph (A), any month’s
22 share of the acquisition premium is an amount
23 (determined at the time of the purchase) equal
24 to—

25 “(i) the excess of—

1 “(I) the cost of such debt instru-
2 ment incurred by the holder, over

3 “(II) the issue price of such debt
4 instrument, increased by the portion of
5 original issue discount previously includ-
6 ible in the gross income of any holder
7 (computed without regard to this para-
8 graph),

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

13 “(c) EXCEPTIONS.—This section shall not apply to any
14 holder—

15 “(1) who has purchased the debt instrument at a
16 premium, or

17 “(2) which is a life insurance company to which
18 section 811(b) applies.

19 “(d) DEFINITION AND SPECIAL RULE.—

20 “(1) PURCHASE DEFINED.—For purposes of this
21 section, the term ‘purchase’ means—

22 “(A) any acquisition of a debt instrument,
23 where

24 “(B) the basis of the debt instrument is not
25 determined in whole or in part by reference to the

1 adjusted basis of such debt instrument in the
2 hands of the person from whom acquired or under
3 section 1014(a) (relating to property acquired
4 from a decedent).

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

9 **“SEC. 1273. DETERMINATION OF AMOUNT OF ORIGINAL ISSUE**
10 **DISCOUNT.**

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

12 “(1) IN GENERAL.—The term ‘original issue dis-
13 count’ means the excess (if any) of—

14 “(A) the stated redemption price at maturity,
15 over

16 “(B) the issue price.

17 “(2) STATED REDEMPTION PRICE AT MATURI-
18 TY.—The term ‘stated redemption price at maturity’
19 means the amount fixed by the last modification of the
20 purchase agreement and includes interest and other
21 amounts payable at that time (other than any interest
22 payable unconditionally at fixed periodic intervals of 1
23 year or less during the entire term of the debt instru-
24 ment).

1 “(3) $\frac{1}{4}$ OF 1 PERCENT DE MINIMIS RULE.—If
2 the original issue discount determined under paragraph
3 (1) is less than—

4 “(A) $\frac{1}{4}$ of 1 percent of the stated redemp-
5 tion price at maturity, multiplied by

6 “(B) the number of complete years to matu-
7 rity,

8 then the original issue discount shall be treated as
9 zero.

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

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

14 “(A) registered with the Securities and Ex-
15 change Commission, and

16 “(B) not issued for property,
17 the issue price is the initial offering price to the public
18 (excluding bond houses and brokers) at which price a
19 substantial amount of such debt instruments were sold.

20 “(2) PRIVATELY PLACED DEBT INSTRUMENTS
21 NOT ISSUED FOR PROPERTY.—In the case of any pri-
22 vately placed issue of debt instruments not issued for
23 property, the issue price of each such instrument is the
24 price paid by the first buyer of such debt instrument.

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

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

7 “(B) is issued for stock or securities which
8 are traded on an established securities market,
9 the issue price of such debt instrument shall be the fair
10 market value of such property.

11 “(4) OTHER CASES.—Except in any case—

12 “(A) to which paragraph (1), (2), or (3) of
13 this subsection applies, or

14 “(B) to which section 1274 applies,
15 the issue price of a debt instrument which is issued for
16 property shall be the stated redemption price at matu-
17 rity.

18 “(5) PROPERTY.—In applying this subsection, the
19 term ‘property’ includes services and the right to use
20 property, but such term does not include money.

21 “(c) SPECIAL RULES FOR APPLYING SUBSECTION
22 (b).—For purposes of subsection (b)—

23 “(1) INITIAL OFFERING PRICE; PRICE PAID BY
24 THE FIRST BUYER.—The terms ‘initial offering price’
25 and ‘price paid by the first buyer’ include the aggre-

1 gate payments made by the purchaser under the pur-
2 chase agreement, including modifications thereof.

3 “(2) TREATMENT OF INVESTMENT UNITS.—In
4 the case of any debt instrument and an option, secu-
5 rity, or other property issued together as an investment
6 unit—

7 “(A) the issue price for such unit shall be de-
8 termined in accordance with the rules of this sub-
9 section and subsection (b) as if it were a debt in-
10 strument,

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

16 “(C) the issue price of any debt instrument
17 included in such unit shall be the portion of the
18 issue price of the unit allocated to the debt instru-
19 ment under subparagraph (B).

20 “(3) SPECIAL RULE FOR EXCHANGE OF DEBT IN-
21 STRUMENTS IN REORGANIZATIONS.—

22 “(A) IN GENERAL.—If—

23 “(i) any debt instrument is issued pursu-
24 ant to a plan of reorganization (within the
25 meaning of section 368(a)(1)) for another

1 debt instrument (hereinafter in this para-
2 graph referred to as the 'old debt instru-
3 ment'), and

4 "(ii) the fair market value of the old
5 debt instrument is less than its adjusted issue
6 price,

7 then, for purposes of paragraph (3) of subsection
8 (b), the fair market value of the old debt instru-
9 ment shall be treated as equal to its adjusted issue
10 price.

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

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

16 "(ii) ADJUSTED ISSUE PRICE.—

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

1 “(II) SPECIAL RULE FOR APPLY-
2 ING SECTION 163(e).—For purposes of
3 section 163(e), the adjusted issue price
4 of the old debt instrument is its issue
5 price, increased by any original issue
6 discount previously allowed as a deduc-
7 tion.

8 “SEC. 1274. DETERMINATION OF ISSUE PRICE IN THE CASE OF
9 CERTAIN DEBT INSTRUMENTS ISSUED FOR
10 PROPERTY.

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

14 “(1) the stated principal amount, or

15 “(2) the imputed principal amount.

16 “(b) IMPUTED PRINCIPAL AMOUNT.—For purposes of
17 this section—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (3), the imputed principal amount of any debt in-
20 strument shall be equal to the sum of the present
21 values of all payments due under such debt instrument.

22 “(2) DETERMINATION OF PRESENT VALUE.—For
23 purposes of paragraph (1), the present value of a pay-
24 ment shall be determined in the manner provided by
25 regulations prescribed by the Secretary—

1 “(A) as of the date of the sale or exchange,
2 and

3 “(B) by using a discount rate equal to 120
4 percent of the applicable Federal rate, compound-
5 ed semiannually.

6 “(3) FAIR MARKET VALUE RULE IN POTENTIAL-
7 LY ABUSIVE SITUATIONS.—

8 “(A) IN GENERAL.—In the case of any po-
9 tentially abusive situation, the imputed principal
10 amount of any debt instrument received in ex-
11 change for property shall not exceed the fair
12 market value of such property.

13 “(B) POTENTIALLY ABUSIVE SITUATION
14 DEFINED.—For purposes of subparagraph (A), the
15 term ‘potentially abusive situation’ means—

16 “(i) a tax shelter (as defined in section
17 6661(b)(2)(C)(ii)), and

18 “(ii) any other situation which, by
19 reason of—

20 “(I) recent sales transactions,

21 “(II) nonrecourse financing,

22 “(III) financing with a term in
23 excess of the economic life of the prop-
24 erty, or

25 “(IV) other circumstances,

1 is of a type which the Secretary specifies by
2 regulations as having potential for tax avoid-
3 ance.

4 “(c) DEBT INSTRUMENTS TO WHICH SECTION AP-
5 PLIES.—

6 “(1) IN GENERAL.—Except as otherwise provided
7 in this subsection, this section shall apply to any debt
8 instrument given in consideration for the sale or ex-
9 change of property if—

10 “(A) the stated redemption price at maturity
11 for such instrument exceeds the imputed principal
12 amount of such debt instrument which would be
13 determined under subsection (b) if a discount rate
14 equal to 110 percent of the applicable Federal
15 rate were used, or

16 “(B) the stated redemption price at maturity
17 for such instrument exceeds the stated principal
18 amount.

19 “(2) EXCEPTIONS.—This section shall not apply
20 to—

21 “(A) SALES FOR LESS THAN \$1,000,000 OF
22 FARMS BY INDIVIDUALS OR SMALL BUSINESS-
23 ES.—

24 “(i) IN GENERAL.—Any debt instru-
25 ment received—

1 “(I) by an individual, estate, or
2 testamentary trust,

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

7 “(III) by a partnership which as of
8 the date of the sale or exchange meets
9 requirements similar to those of section
10 1244(c)(3),

11 as consideration for the sale or exchange of a
12 farm (within the meaning of section
13 6420(c)(2)) by such individual or entity.

14 “(ii) \$1,000,000 LIMITATION.—Clause
15 (i) shall apply only if it can be determined at
16 the time of the sale or exchange that the
17 sales price cannot exceed \$1,000,000. For
18 purposes of the preceding sentence, all sales
19 and exchanges which are part of the same
20 transaction (or a series of related transac-
21 tions) shall be treated as 1 sale or exchange.

22 “(B) SALES OF PRINCIPAL RESIDENCES.—
23 Any debt instrument received by an individual as
24 consideration for the sale or exchange of his prin-

1 cial residence (within the meaning of section
2 1034).

3 “(C) SALES INVOLVING TOTAL PAYMENTS
4 OF \$250,000 OR LESS.—

5 “(i) IN GENERAL.—Any debt instru-
6 ment received as consideration for the sale or
7 exchange of property if the sum of the fol-
8 lowing amounts does not exceed \$250,000:

9 “(I) the aggregate amount of the
10 payments due under such debt instru-
11 ment and all other debt instruments re-
12 ceived as consideration for the sale or
13 exchange, and

14 “(II) the aggregate amount of any
15 other consideration to be received for
16 the sale or exchange.

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

23 “(iii) AGGREGATION OF TRANSAC-
24 TIONS.—For purposes of this subparagraph,
25 all sales and exchanges which are part of the

1 same transaction (or a series of related trans-
2 actions) shall be treated as 1 sale or ex-
3 change.

4 “(D) DEBT INSTRUMENTS WHICH ARE PUB-
5 LICLY TRADED OR ISSUED FOR PUBLICLY
6 TRADED PROPERTY.—Any debt instrument to
7 which section 1273(b)(3) applies.

8 “(E) ANNUITIES.—Any amount the liability
9 for which depends in whole or in part on the life
10 expectancy of 1 or more individuals and which
11 constitutes an amount received as an annuity to
12 which section 72 applies.

13 “(F) CERTAIN SALES OF PATENTS.—In the
14 case of any transfer described in section 1235(a)
15 (relating to sale or exchange of patents), any
16 amount contingent on the productivity, use, or
17 disposition of the property transferred.

18 “(G) SALES OR EXCHANGES TO WHICH
19 SECTION 483(g) APPLIES.—Any debt instrument
20 to the extent section 483(g) (relating to certain
21 land transfers between related persons) applies to
22 such instrument.

23 “(d) DETERMINATION OF APPLICABLE FEDERAL
24 RATE.—For purposes of this section—

25 “(1) APPLICABLE FEDERAL RATE.—

1 “(A) IN GENERAL.—

“In the case of a debt instru-
ment with a term of:

Not over 3 years.....
Over 3 years but not over 9 years....
Over 9 years.....

The applicable Federal rate is:

The Federal short-term rate.
The Federal mid-term rate.
The Federal long-term rate.

2 “(B) DETERMINATION OF RATES.—Within
3 15 days after the close of—4 “(i) the 6-month period ending on Sep-
5 tember 30 of any calendar year, or6 “(ii) the 6-month period ending on
7 March 31 of any calendar year;8 the Secretary shall determine the Federal short-
9 term rate, mid-term rate, and long-term rate for
10 such 6-month period.11 “(C) EFFECTIVE DATE OF DETERMINA-
12 TION.—Any Federal rate determined under sub-
13 paragraph (A) shall—14 “(i) apply during the 6-month period be-
15 ginning on January 1 of the succeeding cal-
16 endar year in the case of a determination
17 made under subparagraph (B)(i), and18 “(ii) apply during the 6-month period
19 beginning on July 1 of the calendar year in
20 the case of a determination made under sub-
21 paragraph (B)(ii).22 “(D) FEDERAL RATE FOR ANY 6-MONTH
23 PERIOD.—For purposes of this paragraph—

1 “(i) FEDERAL SHORT-TERM RATE.—

2 The Federal short-term rate for any 6-month
3 period shall be the rate determined by the
4 Secretary to be equal to the average market
5 yield (during such 6-month period) on out-
6 standing marketable obligations of the United
7 States with remaining periods to maturity of
8 3 years or less.

9 “(ii) FEDERAL MID-TERM AND LONG-
10 TERM RATES.—The Federal mid-term rate
11 and long-term rate shall be determined in ac-
12 cordance with the principles of clause (i).

13 “(2) RATE APPLICABLE TO ANY SALE OR EX-
14 CHANGE.—In the case of any sale or exchange, the
15 determination of the applicable Federal rate shall be
16 made as of the first day on which there is a binding
17 contract in writing for the sale or exchange.

18 “(3) TERM OF DEBT INSTRUMENT.—In determin-
19 ing the term of a debt instrument for purposes of this
20 subsection, under regulations prescribed by the Secre-
21 tary, there shall be taken into account options to
22 renew or extend.

23 “SEC. 1275. OTHER DEFINITIONS AND SPECIAL RULES.

24 “(a) DEFINITIONS.—For purposes of this subpart—

1 “(1) DEBT INSTRUMENT.—The term ‘debt instru-
2 ment’ means a bond, debenture, note, or certificate or
3 other evidence of indebtedness. Except for purposes of
4 section 1271, such term also includes any other obliga-
5 tion.

6 “(2) ISSUE DATE.—

7 “(A) DEBT INSTRUMENTS REGISTERED
8 WITH THE SECURITIES AND EXCHANGE COMMIS-
9 SION.—In the case of any debt instrument regis-
10 tered with the Securities and Exchange Commis-
11 sion the term ‘date of original issue’ means the
12 date on which the issue was first issued to the
13 public.

14 “(B) PRIVATELY PLACED ISSUES.—In the
15 case of any debt instrument to which section
16 1273(b)(2) applies, the term ‘date of original issue’
17 means the date on which the debt instrument was
18 sold by the issuer.

19 “(C) OTHER DEBT INSTRUMENTS.—In the
20 case of any debt instrument not described in sub-
21 paragraph (A) or (B), the term ‘date of original
22 issue’ means the date on which the debt instru-
23 ment was issued in an exchange.

24 “(3) TAX-EXEMPT OBLIGATION.—The term ‘tax-
25 exempt obligation’ means any obligation if—

1 “(A) the interest on such obligation is not in-
2 cludible in gross income under section 103, or

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

6 “(b) INFORMATION REQUIREMENTS.—

7 “(1) INFORMATION REQUIRED TO BE SET FORTH
8 ON INSTRUMENT.—

9 “(A) IN GENERAL.—In the case of any debt
10 instrument having original issue discount, the Sec-
11 retary may by regulations require that—

12 “(i) the amount of the original issue dis-
13 count, and

14 “(ii) the issue date,
15 be set forth on such instrument.

16 “(B) SPECIAL RULE FOR PRIVATELY
17 PLACED INSTRUMENTS.—In the case of any pri-
18 vately placed issue of debt instruments, the regu-
19 lations prescribed under subparagraph (A) shall
20 not require the information to be set forth on the
21 debt instrument before any disposition of such in-
22 strument by the first buyer.

23 “(2) INFORMATION REQUIRED TO BE SUBMITTED
24 TO SECRETARY.—In the case of any issue of debt in-
25 struments having original issue discount and registered

1 with a Securities and Exchange Commission, the issuer
2 shall (at such time and in such manner as the Secre-
3 tary shall by regulation prescribe) furnish the Secretary
4 the following information:

5 “(A) The amount of the original issue dis-
6 count.

7 “(B) The issue date.

8 “(C) Such other information with respect to
9 the issue as the Secretary may by regulations re-
10 quire.

11 For purposes of the preceding sentence, any person
12 who makes a public offering of stripped bonds (or
13 stripped coupons) shall be treated as the issuer of a
14 debt instrument having original issue discount and reg-
15 istered with the Securities and Exchange Commission.

16 “(3) EXCEPTIONS.—This subsection shall not
17 apply to any obligation referred to in section 1272(a)(2)
18 (relating to exceptions from current inclusion of origi-
19 nal issue discount).

20 “(4) CROSS REFERENCE.—

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

21 “(c) TREATMENT OF BORROWER IN THE CASE OF
22 CERTAIN LOANS FOR PERSONAL USE.—

23 “(1) SECTIONS 11274 AND 483 NOT TO
24 APPLY.—In the case of the obligor under any debt in-

1 strument given in consideration for the sale or ex-
2 change of property, sections 1274 and 483 shall not
3 apply if such property is personal use property.

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

7 “(A) such instrument—

8 “(i) is incurred in connection with the
9 acquisition or carrying of personal use prop-
10 erty, and

11 “(ii) has original issue discount (deter-
12 mined after the application of paragraph (1)),
13 and

14 “(B) the obligor under such instrument uses
15 the cash receipts and disbursements method of ac-
16 counting,
17 notwithstanding section 163(e), the original issue dis-
18 count on such instrument shall be deductible only when
19 paid.

20 “(3) PERSONAL USE PROPERTY.—For purposes
21 of this subsection, the term ‘personal use property’
22 means any property substantially all of the use of
23 which by the taxpayer is not in connection with a
24 trade or business of the taxpayer or an activity de-
25 scribed in section 212. The determination of whether

1 property is described in the preceding sentence shall be
2 made as of the time of issuance of the debt instrument.

3 “(d) **REGULATION AUTHORITY.**—The Secretary may
4 prescribe regulations providing that where, by reason of
5 varying rates of interest, put or call options, indefinite matu-
6 rities, contingent payments, or other circumstances, the tax
7 treatment under this subpart (or section 163(e)) does not
8 carry out the purposes of this subpart (or section 163(e)),
9 such treatment shall be modified to the extent necessary to
10 carry out the purposes of this subpart (or section 163(e)).

11 “(e) **CROSS REFERENCE.**—

“For rules relating to annual interest amounts in the
case of certain deferred payments, see section 467.

12 **“Subpart B—Market Discount on Bonds**

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

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

“Sec. 1278. Definitions and special rules.

13 **“SEC. 1276. DISPOSITION GAIN REPRESENTING ACCRUED**
14 **MARKET DISCOUNT TREATED AS ORDINARY**
15 **INCOME.**

16 “(a) **ORDINARY INCOME.**—

17 “(1) **IN GENERAL.**—Except as otherwise provided
18 in this section, gain on the disposition of any market
19 discount shall be treated as ordinary income to the
20 extent it does not exceed the accrued market discount

1 on such bond. Such gain shall be recognized notwith-
2 standing any other provision of this subtitle.

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

9 “(3) GAIN TREATED AS INTEREST FOR CERTAIN
10 PURPOSES.—Except for purposes of sections 871(a),
11 881, 1441, 1442, and 6049 (and such other provisions
12 as may be specified in regulations), any amount treated
13 as ordinary income under paragraph (1) shall be treat-
14 ed as interest for purposes of this title.

15 “(b) ACCRUED MARKET DISCOUNT.—For purposes of
16 this section—

17 “(1) RATABLE ACCRUAL.—Except as otherwise
18 provided in this subsection or subsection (c), the ac-
19 crued market discount on any bond shall be an amount
20 which bears the same ratio to the market discount on
21 such bond as—

22 “(A) the number of days which the taxpayer
23 held the bond, bears to

1 “(B) the number of days after the date the
2 taxpayer acquired the bond and up to (and includ-
3 ing) the date of its maturity.

4 “(2) ELECTION OF ACCRUAL ON BASIS OF CON-
5 STANT INTEREST RATE (IN LIEU OF RATABLE AC-
6 CRUAL).—

7 “(A) IN GENERAL.—At the election of the
8 taxpayer with respect to any bond, the accrued
9 market discount on such bond shall be the aggre-
10 gate amount which would have been includible in
11 the gross income of the taxpayer under section
12 1272(a) with respect to such bond for all periods
13 during which the bond was held by the taxpayer if
14 such bond had been—

15 “(i) originally issued on the date on
16 which such bond was acquired by the tax-
17 payer,

18 “(ii) for an issue price equal to the ad-
19 justed basis of the taxpayer in such bond im-
20 mediately after its acquisition.

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

1 “(i) the stated redemption price at ma-
2 turity of such bond shall be treated as equal
3 to its revised issue price, and

4 “(ii) the determination of the portion of
5 the original issue discount which would have
6 been includible in the gross income of the
7 taxpayer under section 1272(a) shall be made
8 under regulations prescribed by the Secre-
9 tary.

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

13 “(c) TREATMENT OF NONRECOGNITION TRANSAC-
14 TIONS.—Under regulations prescribed by the Secretary—

15 “(1) TRANSFERRED BASIS PROPERTY.—If a
16 market discount bond is transferred in a nonrecognition
17 transaction and such bond is transferred basis property
18 in the hands of the transferee, for purposes of deter-
19 mining the amount of the accrued market discount with
20 respect to the transferee—

21 “(A) the transferee shall be treated as having
22 acquired the bond on the date on which it was ac-
23 quired by the transferor for an amount equal to
24 the basis of the transferor, and

1 “(B) proper adjustments shall be made for
2 gain recognized by the transferor on such transfer
3 (and for any original issue discount or market dis-
4 count included in the gross income of the transfer-
5 or).

6 “(2) EXCHANGED BASIS PROPERTY.—If any
7 market discount bond is disposed of by the taxpayer in
8 a nonrecognition transaction and paragraph (1) does
9 not apply to such transaction, any accrued market dis-
10 count determined with respect to the property disposed
11 of to the extent not theretofore treated as ordinary
12 income under subsection (a)—

13 “(A) shall be treated as accrued market dis-
14 count with respect to the exchanged basis proper-
15 ty received by the taxpayer in such transaction if
16 such property is a market discount bond, and

17 “(B) shall be treated as ordinary income on
18 the disposition of the exchanged basis property re-
19 ceived by the taxpayer in such exchange if such
20 property is not a market discount bond.

21 “(3) PARAGRAPH (1) TO APPLY TO CERTAIN DIS-
22 TRIBUTIONS BY CORPORATIONS OR PARTNERSHIPS.—
23 For purposes of paragraph (1), if the basis of any
24 market discount bond in the hands of a transferee is
25 determined under section 334(c), 732(a), or 732(b),

1 such property shall be treated as transferred basis
2 property in the hands of such transferee.

3 “(d) SPECIAL RULES.—Under regulations prescribed
4 by the Secretary—

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

8 “(A) paragraph (1) of such subsection shall
9 not apply, and

10 “(B) an exchange qualifying under section
11 354(a), 355(a), or 356(a) (determined without
12 regard to subsection (a) of this section) shall be
13 treated as an exchange described in paragraph (3)
14 of such subsection, and

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

18 “(e) SECTION NOT TO APPLY TO MARKET DISCOUNT
19 BONDS ISSUED ON OR BEFORE DATE OF ENACTMENT OF
20 SECTION.—This section shall not apply to any market dis-
21 count bond issued on or before the date of the enactment of
22 this section.

1 "SEC. 1277. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE
2 TO ACCRUED MARKET DISCOUNT.

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

10 "(b) DISALLOWED DEDUCTION ALLOWED FOR YEAR
11 OF DISPOSITION.—

12 "(1) IN GENERAL.—Except as otherwise provided
13 in this subsection, the amount of the disallowed inter-
14 est expense with respect to any market discount bond
15 shall be treated as interest paid or accrued by the tax-
16 payer in the taxable year in which such bond is dis-
17 posed of.

18 "(2) NONRECOGNITION TRANSACTIONS.—If any
19 market discount bond is disposed of in a nonrecognition
20 transaction (as defined in section 7701(a)(45))—

21 "(A) the disallowed interest expense with re-
22 spect to such bond shall be treated as interest
23 paid or accrued in the year of disposition only to
24 the extent of the amount of gain recognized on
25 such disposition, and

1 “(B) the disallowed interest expense with re-
2 spect to such property (to the extent not so treat-
3 ed) shall be treated as disallowed interest ex-
4 pense—

5 “(i) in the case of a transaction de-
6 scribed in section 1276(c)(1), of the transfer-
7 ee with respect to the transferred basis prop-
8 erty, or

9 “(ii) in the case of a transaction de-
10 scribed in section 1276(c)(2), with respect to
11 the exchanged basis property.

12 “(3) **DISALLOWED INTEREST EXPENSE.**—For
13 purposes of this subsection, the term ‘disallowed inter-
14 est expense’ means the aggregate amount disallowed
15 under subsection (a) with respect to the market dis-
16 count bond.

17 “(c) **NET DIRECT INTEREST EXPENSE.**—For purposes
18 of this section, the term ‘net direct interest expense’ means,
19 with respect to any market discount bond, the excess (if any)
20 of—

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

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

4 In the case of any financial institution to which section 585
5 or 593 applies, the determination of whether interest is de-
6 scribed in paragraph (1) shall be made under principles simi-
7 lar to the principles of section 291(e)(1)(B)(ii).

8 “(d) SPECIAL RULE FOR GAIN RECOGNIZED ON DIS-
9 POSITION OF MARKET DISCOUNT BONDS ISSUED ON OR
10 BEFORE DATE OF ENACTMENT OF SECTION.—In the case
11 of a market discount bond issued on or before the date of the
12 enactment of this section, any gain recognized by the taxpay-
13 er on any disposition of such bond shall be treated as ordinary
14 income to the extent the amount of such gain does not exceed
15 the amount of the disallowed interest expense with respect to
16 such bond allowable under subsection (b)(1) for the taxable
17 year in which such bond is disposed of.

18 “SEC. 1278. DEFINITIONS AND SPECIAL RULES.

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

20 “(1) MARKET DISCOUNT BOND.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), the term ‘market discount bond’
23 means any bond having market discount.

24 “(B) EXCEPTIONS.—The term ‘market dis-
25 count bond’ shall not include—

1 “(i) **SHORT-TERM OBLIGATIONS.**—Any
2 obligation with a fixed maturity date not ex-
3 ceeding 1 year from the date of issue.

4 “(ii) **TAX-EXEMPT OBLIGATIONS.**—
5 Any tax-exempt obligation (as defined in sec-
6 tion 1275(a)(3)).

7 “(iii) **UNITED STATES SAVINGS**
8 **BONDS.**—Any United States savings bond.

9 “(2) **MARKET DISCOUNT.**—

10 “(A) **IN GENERAL.**—The term ‘market dis-
11 count’ means the excess (if any) of—

12 “(i) the stated redemption price of the
13 bond at maturity, over

14 “(ii) the adjusted basis of such bond im-
15 mediately after its acquisition by the tax-
16 payer.

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

23 “(C) **DE MINIMIS RULE.**—If the market dis-
24 count is less than $\frac{1}{4}$ of 1 percent of the stated
25 redemption price of the bond at maturity multi-

1 plied by the number of complete years to maturity
2 (after the taxpayer acquired the bond), then the
3 market discount shall be considered to be zero.

4 “(D) EXCEPTION FOR GAIN REPORTABLE
5 UNDER SECTION 453.—The term ‘market dis-
6 count’ shall not include any income reportable
7 under section 453, except to the extent of accrued
8 market discount not recognized on the disposition
9 of any market discount bond in exchange for an
10 installment obligation.

11 “(3) BOND.—The term ‘bond’ means any bond,
12 debenture, note, certificate, or other evidence of indebt-
13 edness.

14 “(4) REVISED ISSUE PRICE.—The term ‘revised
15 issue price’ means of the sum of—

16 “(A) the issue price of the bond, and

17 “(B) the aggregate amount of the original
18 issue discount includible in the gross income of all
19 holders for periods before the acquisition of the
20 bond by the taxpayer (determined without regard
21 to section 1272(a)(6)).

22 “(5) ORIGINAL ISSUE DISCOUNT, ETC.—The
23 terms ‘original issue discount’, ‘stated redemption price
24 at maturity’, and ‘issue price’ have the respective
25 meanings given such terms by subpart A of this part.

1 “(b) ELECTION TO INCLUDE MARKET DISCOUNT CUR-
2 RENTLY.—

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

5 “(A) sections 1276 and 1277 shall not apply,
6 and

7 “(B) market discount on any market discount
8 bond shall be included in the gross income of the
9 taxpayer for the taxable years to which it is at-
10 tributable (as determined under the rules of sub-
11 section (b) of section 1276).

12 “(2) SCOPE OF ELECTION.—An election under
13 this subsection shall apply to all market discount bonds
14 acquired by the taxpayer on or after the 1st day of the
15 1st taxable year to which such election applies.

16 “(3) PERIOD TO WHICH ELECTION APPLIES.—
17 An election under this subsection shall apply to the
18 taxable year for which it is made and for all subse-
19 quent taxable years, unless the taxpayer secures the
20 consent of the Secretary to the revocation of such elec-
21 tion.

22 “(c) REGULATIONS.—The Secretary shall prescribe
23 such regulations as may be necessary to carry out the pur-
24 poses of this subpart.

1 **“Subpart C—Discount on Short-Term Obligations**

“Sec. 1281. Election for current inclusion in income of discount on certain short-term obligations.

“Sec. 1282. Deferral of interest deduction allocable to accrued discount.

“Sec. 1283. Definitions and special rules.

2 **“SEC. 1281. ELECTION FOR CURRENT INCLUSION IN INCOME**
 3 **OF DISCOUNT ON CERTAIN SHORT-TERM OBLI-**
 4 **GATIONS.**

5 “(a) **IN GENERAL.**—In the case of any short-term obli-
 6 gation to which an election under this section applies, for
 7 purposes of this title, there shall be included in the gross
 8 income of the holder an amount equal to the sum of the daily
 9 portions of the acquisition discount for each day during the
 10 taxable year on which such holder held such bond.

11 “(b) **ELECTION TO HAVE SECTION APPLY.**—

12 “(1) **IN GENERAL.**—A taxpayer may make an
 13 election under this section to have this section apply to
 14 all short-term obligations acquired by the taxpayer on
 15 or after the first day of the first taxable year to which
 16 such election applies.

17 “(2) **PERIOD TO WHICH ELECTION APPLIES.**—

18 An election under this section shall apply to the tax-
 19 able year for which it is made and for all subsequent
 20 taxable years, unless the taxpayer secures the consent
 21 of the Secretary to the revocation of such election.

22 “(c) **CROSS REFERENCE.**—

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

1 **“SEC. 1282. DEFERRAL OF INTEREST DEDUCTION ALLOCABLE**
2 **TO ACCRUED DISCOUNT.**

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

10 **“(b) SECTION NOT TO APPLY TO OBLIGATIONS TO**
11 **WHICH ELECTION UNDER SECTION 1281 APPLIES.—**This
12 section shall not apply to any short-term obligation to which
13 an election under section 1281 applies.

14 **“(c) CERTAIN RULES MADE APPLICABLE.—**Rules
15 similar to the rules of subsections (b), (c), and (d) of section
16 1277 shall apply for purposes of this section.

17 **“(d) CROSS REFERENCE.—**

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

18 **“SEC. 1283. DEFINITIONS AND SPECIAL RULES.**

19 **“(a) DEFINITIONS.—**For purposes of this subpart—

20 **“(1) SHORT-TERM OBLIGATION.—**

21 **“(A) IN GENERAL.—**Except as provided in
22 subparagraph (B), the term ‘short-term obligation’

1 means any bond, debenture, note, certificate, or
2 other evidence of indebtedness which has a fixed
3 maturity day not exceeding 1 year from the date
4 of issue.

5 “(B) EXCEPTIONS FOR TAX-EXEMPT OBLI-
6 GATIONS.—The term ‘short-term obligation’ shall
7 not include any tax-exempt obligation (as defined
8 in section 1275(a)(3)).

9 “(2) ACQUISITION DISCOUNT.—The term ‘acqui-
10 sition discount’ means the excess of—

11 “(A) the stated redemption price at maturity
12 (as defined in section 1273), over.

13 “(B) the taxpayer’s basis for the obligation.

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

15 “(1) RATABLE ACCRUAL.—Except as otherwise
16 provided in this subsection, the daily portion of the ac-
17 quisition discount is an amount equal to—

18 “(A) the amount of such discount, divided by

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

22 “(2) ELECTION OF ACCRUAL ON BASIS OF CON-
23 STANT INTEREST RATE (IN LIEU OF RATABLE AC-
24 CRUAL).—

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

7 “(i) the taxpayer’s yield to maturity
8 based on the taxpayer’s cost of acquiring the
9 obligation, and

10 “(ii) compounding daily.

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

14 “(c) SPECIAL RULES FOR NONGOVERNMENTAL OBLI-
15 GATIONS.—

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

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

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

24 “(2) ELECTION TO HAVE PARAGRAPH (1) NOT
25 APPLY.—

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

6 “(B) PERIOD TO WHICH ELECTION AP-
7 PLIES.—An election under this paragraph shall
8 apply to the taxable year for which it is made and
9 for all subsequent taxable years, unless the tax-
10 payer secures the consent of the Secretary to the
11 revocation of such election.

12 “(d) OTHER SPECIAL RULES.—

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

17 “(2) DOUBLE INCLUSION IN INCOME NOT RE-
18 QUIRED.—Section 1281 shall not require the inclusion
19 of any amount previously includible in gross income.

20 “(3) COORDINATION WITH OTHER PROVI-
21 SIONS.—Section 454(b) and section 1271(a)(3) shall
22 not apply to any short-term obligation to which section
23 1281 applies.

24 **“Subpart D—Miscellaneous Provisions**

“Sec. 1286. Tax treatment of stripped bonds.

“Sec. 1287. Denial of capital gain treatment for gains on certain ob-
ligations not in registered form.

“Sec. 1288. Treatment of original issue discount on tax-exempt obligations.

1 **“SEC. 1286. TAX TREATMENT OF STRIPPED BONDS.**

2 “(a) **INCLUSION IN INCOME AS IF BOND AND COUPONS**
 3 **WERE ORIGINAL ISSUE DISCOUNT BONDS.**—If any person
 4 purchases after July 1, 1982, a stripped bond or a stripped
 5 coupon, then such bond or coupon while held by such pur-
 6 chaser (or by any other person whose basis is determined by
 7 reference to the basis in the hands of such purchaser) shall be
 8 treated for purposes of section 1272(a) as a bond originally
 9 issued on the purchase date and having an original issue dis-
 10 count equal to the excess (if any) of—

11 “(1) the stated redemption price at maturity (or,
 12 in the case of coupon, the amount payable on the due
 13 date of such coupon), over

14 “(2) such bond’s or coupon’s ratable share of the
 15 purchase price.

16 For purposes of paragraph (2), ratable shares shall be deter-
 17 mined on the basis of their respective fair market values on
 18 the date of purchase.

19 “(b) **TAX TREATMENT OF PERSON STRIPPING**
 20 **BOND.**—For purposes of this subtitle, if any person strips 1
 21 or more coupons from a bond and after July 1, 1982, dis-
 22 poses of the bond or such coupon—

23 “(1) such person shall include in gross income an
 24 amount equal to the interest accrued on such bond

1 while held by such person and before the time that
2 such coupon or bond was disposed of (to the extent
3 such interest has not theretofore been included in such
4 person's gross income),

5 “(2) the basis of the bond and coupons shall be
6 increased by the amount of the accrued interest de-
7 scribed in paragraph (1),

8 “(3) the basis of the bond and coupons immediate-
9 ly before the disposition (as adjusted pursuant to para-
10 graph (2)) shall be allocated among the items retained
11 by such person and the items disposed of by such
12 person on the basis of their respective fair market
13 values, and

14 “(4) for purposes of subsection (a), such person
15 shall be treated as having purchased on the date of
16 such disposition each such item which he retains for an
17 amount equal to the basis allocated to such item under
18 paragraph (3).

19 A rule similar to the rule of paragraph (4) shall apply in the
20 case of any person whose basis in any bond or coupon is
21 determined by reference to the basis of the person described
22 in the preceding sentence.

23 “(c) RETENTION OF EXISTING LAW FOR STRIPPED
24 BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond
25 issued at any time with interest coupons—

1 “(1) is purchased after August 16, 1954, and
2 before January 1, 1958, and the purchaser does not
3 receive all the coupons which first become payable
4 more than 12 months after the date of the purchase, or

5 “(2) is purchased after December 31, 1957, and
6 before July 2, 1982, and the purchaser does not re-
7 ceive all the coupons which first become payable after
8 the date of the purchase,

9 then the gain on the sale or other disposition of such bond by
10 such purchaser (or by a person whose basis is determined by
11 reference to the basis in the hands of such purchaser) shall be
12 considered as ordinary income to the extent that the fair
13 market value (determined as of the time of the purchase) of
14 the bond with coupons attached exceeds the purchase price.
15 If this subsection and section 1271(a)(2)(A) apply with re-
16 spect to gain realized on the sale or exchange of any evidence
17 of indebtedness, then section 1271(a)(2)(A) shall apply with
18 respect to that part of the gain to which this subsection does
19 not apply.

20 “(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGA-
21 TIONS.—In the case of any tax-exempt obligation (as defined
22 in section 1275(a)(3))—

23 “(1) subsections (a) and (b)(1) shall not apply,

24 “(2) the rules of subsection (b)(4) shall apply for
25 purposes of subsection (c), and

1 “(3) subsection (c) shall be applied without regard
2 to the requirement that the bond be purchased before
3 July 2, 1982.

4 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
5 poses of this section—

6 “(1) BOND.—The term ‘bond’ means a bond,
7 debenture, note, or certificate or other evidence of
8 indebtedness.

9 “(2) STRIPPED BOND.—The term ‘stripped bond’
10 means a bond issued at any time with interest coupons
11 where there is a separation in ownership between the
12 bond and any coupon which has not yet become
13 payable.

14 “(3) STRIPPED COUPON.—The term ‘stripped
15 coupon’ means any coupon relating to a stripped bond.

16 “(4) STATED REDEMPTION PRICE AT MATURI-
17 TY.—The term ‘stated redemption price at maturity’
18 has the meaning given such term by section 1273(a)(2).

19 “(5) COUPON.—The term ‘coupon’ includes any
20 right to receive interest on a bond (whether or not evi-
21 denced by a coupon). This paragraph shall apply for
22 purposes of subsection (c) only in the case of purchases
23 after July 1, 1982.

24 “(f) REGULATION AUTHORITY.—The Secretary may
25 prescribe regulations providing that where, by reason of

1 varying rates of interest, put or call options, or other circum-
2 stances, the tax treatment under this section does not accu-
3 rately reflect the income of the holder of a stripped coupon or
4 stripped bond, or of the person disposing of such bond or
5 coupon, as the case may be, for any period, such treatment
6 shall be modified to require that the proper amount of income
7 be included for such period.

8 **“SEC. 1287. DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS**
9 **ON CERTAIN OBLIGATIONS NOT IN REGIS-**
10 **TERED FORM.**

11 **“(a) IN GENERAL.—**If any registration-required obliga-
12 tion is not in registered form, any gain on the sale or other
13 disposition of such obligation shall be treated as ordinary
14 income (unless the issuance of such obligation was subject to
15 tax under section 4701).

16 **“(b) DEFINITIONS.—**For purposes of subsection (a)—

17 **“(1) REGISTRATION-REQUIRED OBLIGATION.—**

18 The term ‘registration-required obligation’ has the
19 meaning given to such term by section 163(f)(2) except
20 that clause (iv) of subparagraph (A), and subparagraph
21 (B), of such section shall not apply.

22 **“(2) REGISTERED FORM.—**The term ‘registered
23 form’ has the same meaning as when used in section
24 163(f).

1 **“SEC. 1288. TREATMENT OF ORIGINAL ISSUE DISCOUNT ON**
2 **TAX-EXEMPT OBLIGATIONS.**

3 **“(a) GENERAL RULE.—**Original issue discount on any
4 tax-exempt obligation shall be treated as accruing—

5 **“(1) for purposes of section 163, in the manner**
6 **provided by section 1272(a) (determined without regard**
7 **to paragraph (6) thereof), and**

8 **“(2) for purposes of determining the adjusted basis**
9 **of the holder, in the manner provided by section**
10 **1272(a) (determined with regard to paragraph (6)**
11 **thereof).**

12 **“(b) DEFINITIONS.—**For purposes of this section—

13 **“(1) ORIGINAL ISSUE DISCOUNT.—**The term
14 ‘original issue discount’ has the meaning given to such
15 term by section 1273(a) without regard to paragraph
16 (3) thereof. In applying section 1273(b)(1) for purposes
17 of the preceding sentence, an issue shall be treated as
18 registered with the Securities and Exchange Commis-
19 sion if it is a publicly offered tax-exempt obligation.

20 **“(2) TAX-EXEMPT OBLIGATION.—**The term ‘tax-
21 exempt obligation’ has the meaning given to such term
22 by section 1275(a)(3).”.

23 **(b) AMENDMENT OF SECTION 483.—**Section 483 (relat-
24 ing to interest on certain deferred payments) is amended to
25 read as follows:

1 **“SEC. 483. INTEREST ON CERTAIN DEFERRED PAYMENTS.**

2 “(a) **AMOUNT CONSTITUTING INTEREST.**—For pur-
3 poses of this title, in the case of any payment—

4 “(1) under any contract for the sale or exchange
5 of any property, and

6 “(2) to which this section applies,

7 there shall be treated as interest that portion of the total
8 unstated interest under such contract which, as determined in
9 a manner consistent with the method of computing interest
10 under section 1272(a), is properly allocable to such payment.

11 “(b) **TOTAL UNSTATED INTEREST.**—For purposes of
12 this section, the term ‘total unstated interest’ means, with
13 respect to a contract for the sale or exchange of property, an
14 amount equal to the excess of—

15 “(1) the sum of the payments to which this sec-
16 tion applies which are due under the contract, over

17 “(2) the sum of the present values of such pay-
18 ments and the present values of any interest payments
19 due under the contract.

20 For purposes of the preceding sentence, the present value of
21 a payment shall be determined under the rules of section
22 1274(b)(2) using a discount rate equal to 120 percent of the
23 applicable Federal rate determined under section 1274(d).

24 “(c) **PAYMENTS TO WHICH SUBSECTION (a) AP-**
25 **PLIES.**—

1 “(1) IN GENERAL.—Except as provided in sub-
2 section (f), this section shall apply to any payment on
3 account of the sale or exchange of property which con-
4 stitutes part or all of the sales price and which is due
5 more than 6 months after the date of such sale or ex-
6 change under a contract—

7 “(A) under which some or all of the pay-
8 ments are due more than 1 year after the date of
9 such sale or exchange, and

10 “(B) under which, using a discount rate
11 equal to 110 percent of the applicable Federal
12 rate determined under section 1274(d), there is
13 total unstated interest.

14 “(2) TREATMENT OF OTHER DEBT INSTRU-
15 MENTS.—For purposes of this section, a debt instru-
16 ment of the purchaser which is given in consideration
17 for the sale or exchange of property shall not be treat-
18 ed as a payment, and any payment due under such
19 debt instrument shall be treated as due under the con-
20 tract for the sale or exchange.

21 “(3) DEBT INSTRUMENT DEFINED.—For purposes
22 of this subsection, the term ‘debt instrument’ has the
23 meaning given such term by section 1275(a)(1).

24 “(d) PAYMENTS INDEFINITE AS TO TIME, LIABILITY,
25 OR AMOUNT.—In the case of a contract for the sale or ex-

1 change of property under which the liability for, or the
2 amount or due date of, any portion of a payment cannot be
3 determined at the time of the sale or exchange, this section
4 shall be separately applied to such portion as if it (and any
5 amount of interest attributable to such portion) were the only
6 payments due under the contract; and such determinations of
7 liability, amount, and due date shall be made at the time
8 payment of such portion is made.

9 “(e) CHANGE IN TERMS OF CONTRACT.—If the liabili-
10 ty for, or the amount or due date of, any payment (including
11 interest) under a contract for the sale or exchange of property
12 is changed, the ‘total unstated interest’ under the contract
13 shall be recomputed and allocated (with adjustment for prior
14 interest (including unstated interest) payments) under regula-
15 tions prescribed by the Secretary.

16 “(f) EXCEPTIONS AND LIMITATIONS.—

17 “(1) COORDINATION WITH ORIGINAL ISSUE DIS-
18 COUNT RULES.—This section shall not apply to any
19 debt instrument to which section 1272 applies.

20 “(2) SALES PRICES OF \$3,000 OR LESS.—This
21 section shall not apply to any payment on account of
22 the sale or exchange of property if it can be determined
23 at the time of such sale or exchange that the sales
24 price cannot exceed \$3,000.

1 “(3) CARRYING CHARGES.—In the case of the
2 purchaser, the tax treatment of amounts paid on ac-
3 count of the sale or exchange of property shall be
4 made without regard to this section if any such
5 amounts are treated under section 163(b) as if they in-
6 cluded interest.

7 “(4) CERTAIN SALES OF PATENTS.—In the case
8 of any transfer described in section 1235(a) (relating to
9 sale or exchange of patents), this section shall not
10 apply to any amount contingent on the productivity,
11 use, or disposition of the property transferred.

12 “(5) ANNUITIES.—This section shall not apply to
13 any amount the liability for which depends in whole or
14 in part on the life expectancy of 1 or more individuals
15 and which constitutes an amount received as an annu-
16 ity to which section 72 applies.

17 “(g) MAXIMUM RATE OF INTEREST ON CERTAIN
18 TRANSFERS OF LAND BETWEEN RELATED PARTIES.—

19 “(1) IN GENERAL.—In the case of any qualified
20 sale, the discount rate used in determining the total
21 unstated interest rate under subsection (b) shall not
22 exceed 7 percent, compounded semiannually.

23 “(2) QUALIFIED SALE.—For purposes of this sub-
24 section, the term ‘qualified sale’ means any sale or ex-
25 change of land by an individual to a member of such

1 individual's family (within the meaning of section
2 267(c)(4)).

3 “(3) \$500,000 LIMITATION.—Paragraph (1) shall
4 not apply to any qualified sale between individuals
5 made during any calendar year to the extent that the
6 sales price for such sale (when added to the aggregate
7 sales price for prior qualified sales between such indi-
8 viduals during the calendar year) exceeds \$500,000.

9 “(4) NONRESIDENT ALIEN INDIVIDUALS.—Para-
10 graph (1) shall not apply to any sale or exchange if
11 any party to such sale or exchange is a nonresident
12 alien individual.”.

13 (c) PENALTY FOR FAILURE TO MEET INFORMATION
14 REQUIREMENTS.—

15 (1) IN GENERAL.—Subchapter B of chapter 68
16 (relating to assessable penalties) is amended by adding
17 at the end thereof the following new section:

18 “SEC. 6706. ORIGINAL ISSUE DISCOUNT INFORMATION RE-
19 QUIREMENTS.

20 “(a) FAILURE TO SHOW INFORMATION ON DEBT IN-
21 STRUMENT.—In the case of a failure to set forth on a debt
22 instrument the information required to be set forth on such
23 instrument under section 1275(c)(1), unless it is shown that
24 such failure is due to reasonable cause and not to willful ne-

1 glect, the issuer shall pay a penalty of \$50 for each instru-
2 ment with respect to which such a failure exists.

3 “(b) **FAILURE TO FURNISH INFORMATION TO SECRE-**
4 **TARY.**—Any issuer who fails to furnish information required
5 under section 1275(c)(2) with respect to any issue of debt
6 instruments on the date prescribed therefor (determined with
7 regard to any extension of time for filing) shall pay a penalty
8 equal to 1 percent of the aggregate issue price of such issue,
9 unless it is shown that such failure is due to reasonable cause
10 and not willful neglect.

11 “(c) **DEFICIENCY PROCEDURES NOT TO APPLY.**—Sub-
12 chapter B of chapter 63 (relating to deficiency procedures for
13 income, estate, gift, and certain excise taxes) shall not apply
14 in respect of the assessment or collection of any penalty im-
15 posed by this section.”.

16 (2) **CLERICAL AMENDMENT.**—The table of sec-
17 tions for subchapter B of chapter 68 is amended by
18 adding at the end thereof the following new item:

“Sec. 6706. Original issue discount information requirements.”.

19 **SEC. 26. TECHNICAL AND CONFORMING AMENDMENTS RELAT-**
20 **ED TO ORIGINAL ISSUE DISCOUNT CHANGES.**

21 (a) **IN GENERAL.**—

22 (1) Sections 1232, 1232A, and 1232B are hereby
23 repealed.

24 (2) Clause (i) of section 103A(i)(2)(C) (defining
25 yield on the issue) is amended by striking out “section

1 1232(b)(2)” and inserting in lieu thereof “sections
2 1273(b) and 1274”.

3 (3) Subsection (e) of section 163 (relating to origi-
4 nal issue discount) is amended to read as follows:

5 “(e) ORIGINAL ISSUE DISCOUNT.—

6 “(1) IN GENERAL.—In the case of any debt in-
7 strument issued after July 1, 1982, the portion of the
8 original issue discount with respect to such debt instru-
9 ment which is allowable as a deduction to the issuer
10 for any taxable year shall be equal to the aggregate
11 daily portions of the original issue discount for days
12 during such taxable year.

13 “(2) DEFINITIONS AND SPECIAL RULES.—For
14 purposes of this subsection—

15 “(A) DEBT INSTRUMENT.—The term ‘debt
16 instrument’ has the meaning given such term by
17 section 1275(a)(1).

18 “(B) DAILY PORTIONS.—The daily portion
19 of the original issue discount for any day shall be
20 determined under section 1272(a) (without regard
21 to paragraph (6) thereof and without regard to
22 section 1273(a)(3)).

23 “(3) CROSS REFERENCE.—

“For provision relating to deduction of original issue discount on tax-exempt obligation, see section 1288.”

1 (4) Paragraph (3) of section 165(j) (relating to
2 denial of deductions for losses on certain obligations
3 not in registered form) is amended by striking out
4 “subsection (d) of section 1232” and inserting in lieu
5 thereof “section 1287”.

6 (5) Paragraph (1) of section 249(b) (relating to
7 limitation on deduction of bond premium on repur-
8 chase) is amended by striking out “section 1232(b)”
9 and inserting in lieu thereof “sections 1273(b) and
10 1274”.

11 (6) Clause (ii) of section 263(g)(2)(B) (defining in-
12 terest and carrying charges) is amended by striking out
13 “section 1232(a)(3)(A)” and inserting in lieu thereof
14 “section 1271(a)(3)(A)”.

15 (7) Paragraph (1) of section 405(d) (relating to
16 taxability of beneficiary of qualified bond purchase
17 plan) is amended by striking out “section 1232 (relat-
18 ing to bonds and other evidences of indebtedness)” and
19 inserting in lieu thereof “section 1271 (relating to
20 treatment of amounts received on retirement or sale or
21 exchange of debt instruments)”.

22 (8) Paragraph (1) of section 409(b) (relating to
23 income tax treatment of bonds) is amended by striking
24 out “section 1232 (relating to bonds and other evi-

1 dences of indebtedness)” and inserting in lieu thereof
2 “section 1271 (relating to treatment of amounts re-
3 ceived on retirement or sale or exchange of debt
4 instruments)”.

5 (9) Paragraph (3) of section 811(b) (relating to
6 amortization of premium and accrual of discount), as
7 amended by this Act, is amended by striking out “sec-
8 tion 1232(b)” and inserting in lieu thereof “section
9 1273”.

10 (10) Subsection (b) of section 1037 (relating to ap-
11 plication of section 1232) is amended—

12 (A) by striking out “section 1232(a)(2)(B)” in
13 paragraph (1) and inserting in lieu thereof “sec-
14 tion 1271(c)(2)”,

15 (B) by striking out “section 1232” in para-
16 graphs (1) and (2) and inserting in lieu thereof
17 “subpart A of part V of subchapter P”, and

18 (C) by striking out “SECTION 1232” in the
19 subsection heading and inserting in lieu thereof
20 “ORIGINAL ISSUE DISCOUNT RULES”.

21 (11) Subsection (h) of section 1351 (relating to
22 special rule for evidences of indebtedness) is amended
23 by striking out “section 1232(a)(2)” and inserting in
24 lieu thereof “section 1273(a)”.

1 (12) Paragraph (6) of section 6049(d) (relating to
2 treatment of original issue discount) is amended—

3 (A) by striking out “section 1232A” each
4 place it appears in subparagraph (A) and inserting
5 in lieu thereof “section 1272”, and

6 (B) by striking out “section 1232(b)(1)” and
7 inserting in lieu thereof “section 1273(a)”.

8 (b) CLERICAL AMENDMENTS.—

9 (1) The table of parts for subchapter P of chapter
10 1 is amended by adding at the end thereof the follow-
11 ing new item:

“PART V. Special rules for bonds and other debt instruments.”.

12 (2) The table of sections for part IV of subchapter
13 P of chapter 1 is amended by striking out the items
14 relating to sections 1232, 1232A, and 1232B.

15 **SEC. 27. TECHNICAL AND CONFORMING AMENDMENTS RELAT-**
16 **ED TO TREATMENT OF MARKET DISCOUNT AND**
17 **ACQUISITION DISCOUNT.**

18 (a) **DEFINITION OF SUBSTITUTED BASIS PROPERTY;**
19 **ETC.—**

20 (1) **IN GENERAL.—**Section 7701(a) (relating to
21 definitions) is amended by adding at the end thereof the
22 following new paragraphs:

23 “(42) **SUBSTITUTED BASIS PROPERTY.—**The
24 term ‘substituted basis property’ means property which
25 is—

1 “(A) transferred basis property, or

2 “(B) exchanged basis property.

3 “(43) TRANSFERRED BASIS PROPERTY.—The
4 term ‘transferred basis property’ means property
5 having a basis determined under any provision of subti-
6 tle A (or under any corresponding provision of prior
7 income tax law) providing that the basis shall be deter-
8 mined in whole or in part by reference to the basis in
9 the hands of the donor, grantor, or other transferor.

10 “(44) EXCHANGED BASIS PROPERTY.—The term
11 ‘exchanged basis property’ means property having a
12 basis determined under any provision of subtitle A (or
13 under any corresponding provision of prior income tax
14 law) providing that the basis shall be determined in
15 whole or in part by reference to other property held at
16 any time by the person for whom the basis is to be
17 determined.

18 “(45) NONRECOGNITION TRANSACTION.—The
19 term ‘nonrecognition transaction’ means any disposition
20 of property in a transaction in which gain or loss is not
21 recognized in whole or in part for purposes of subtitle
22 A.”.

23 (2) TECHNICAL AMENDMENT.—Subsection (b) of
24 section 1016 is amended by striking out the last
25 sentence.

1 (b) ELECTIONS MADE IN MANNER PRESCRIBED BY
2 SECRETARY.—Section 7805 (relating to rules and regula-
3 tions) is amended by adding at the end thereof the following
4 new subsection:

5 “(d) MANNER OF MAKING ELECTIONS PRESCRIBED BY
6 SECRETARY.—Except to the extent otherwise provided by
7 this title, any election under this title shall be made at such
8 time and in such manner as the Secretary shall by regula-
9 tions or forms prescribe.”.

10 (c) OTHER TECHNICAL AMENDMENTS.—

11 (1) Paragraph (12) of section 341(e) (related to
12 nonapplication of section 1254(a)) is amended by strik-
13 ing out “and 1254(a)” and inserting in lieu thereof
14 “1254(a), and 1276(a)”.

15 (2) Paragraph (2) of section 453B(d) (relating to
16 liquidations to which section 337 applies) is amended
17 by striking out “or 1254(a)” and inserting in lieu
18 thereof “1254(a), or 1276(a)”.

19 (3) Subsection (c) of section 751 (defining unreal-
20 ized receivables) is amended—

21 (A) by striking out “and an oil, gas, or geo-
22 thermal property (described in section 1254) and
23 inserting in lieu thereof “an oil, gas, or geother-
24 mal property (described in section 1254), and a

1 market discount bond (as defined in section
2 1278)", and

3 (B) by striking out "or 1254(a)" and insert-
4 ing in lieu thereof "1254(a), or 1276(a)".

5 **SEC. 28. EFFECTIVE DATES.**

6 (a) **GENERAL RULE.**—Except as otherwise provided in
7 this section, the amendments made by this subtitle shall
8 apply to taxable years ending after the date of the enactment
9 of this Act.

10 (b) **TREATMENT OF DEBT INSTRUMENTS RECEIVED IN**
11 **EXCHANGE FOR PROPERTY.**—

12 (1) **IN GENERAL.**—

13 (A) Except as otherwise provided in this sub-
14 section, section 1274 of the Internal Revenue
15 Code of 1954 (as added by section 25) and the
16 amendment made by section 25(b) (relating to
17 amendment of section 483) shall apply to sales or
18 exchanges after December 31, 1984.

19 (B) Section 1274 of such Code and the
20 amendment made by section 25(b) shall not apply
21 to any sale or exchange pursuant to a written
22 contract which was binding on February 28,
23 1984, and at all times thereafter before the sale
24 or exchange.

1 (2) REVISION OF SECTION 482 REGULATIONS.—

2 Not later than 180 days after the date of the enact-
3 ment of this Act, the Secretary of the Treasury or his
4 delegate shall modify the safe harbor interest rates ap-
5 plicable under section 483 of such Code by reason of
6 the amendments made by section 25.

7 (3) CLARIFICATION OF INTEREST ACCRUAL;
8 FAIR MARKET VALUE.—

9 (A) IN GENERAL.—In the case of any sale
10 or exchange after February 28, 1984, and before
11 January 1, 1985—

12 (i) nothing in section 483 of the Internal
13 Revenue Code of 1954 shall permit any in-
14 terest to be deductible before the period to
15 which such interest is properly allocable, and

16 (ii) in any case where the Secretary of
17 the Treasury or his delegate establishes by
18 clear and convincing evidence the fair market
19 value of any property, nothing in section 483
20 of such Code shall be construed as permit-
21 ting the basis of such property to exceed the
22 fair market value of such property as so es-
23 tablished.

24 (B) EXCEPTION FOR BINDING CON-
25 TRACTS.—Subparagraph (A) shall not apply to

1 any sale or exchange pursuant to a written con-
2 tract which was binding on February 28, 1984,
3 and at all times thereafter before the sale or ex-
4 change.

5 (C) INTEREST ACCRUAL RULE NOT TO
6 APPLY WHERE SUBSTANTIALLY EQUAL ANNUAL
7 PAYMENTS.—Clause (i) of subparagraph (A) shall
8 not apply to any debt instrument with substan-
9 tially equal annual payments.

10 (c) MARKET DISCOUNT RULES.—

11 (1) ORDINARY INCOME TREATMENT.—Section
12 1276 of the Internal Revenue Code of 1954 (as added
13 by section 25) shall apply to obligations issued after
14 the date of the enactment of this Act in taxable years
15 ending after such date.

16 (2) INTEREST DEFERRAL RULES.—Section 1277
17 of such Code (as added by section 25) shall apply to
18 obligations acquired after the date of the enactment of
19 this Act in taxable years ending after such date.

20 (d) RULES RELATING TO DISCOUNT ON SHORT-TERM
21 OBLIGATIONS.—Subpart C of part V of subchapter P of
22 chapter 1 of such Code (as added by section 25) shall apply
23 to obligations acquired after the date of the enactment of this
24 Act.

1 (e) ELECTIONS WITH RESPECT TO TREATMENT OF
2 SHORT-TERM OBLIGATIONS.—

3 (1) ELECTION TO HAVE PROVISIONS APPLY TO
4 ALL OBLIGATIONS HELD DURING THE TAXABLE
5 YEAR.—A taxpayer may elect to have section 1282 of
6 the Internal Revenue Code of 1954 (and, if applicable,
7 section 1281 of such Code) apply to all short-term obli-
8 gations which were held by the taxpayer at any time
9 during the taxpayer's first taxable year ending after
10 the date of the enactment of this Act.

11 (2) ELECTION FOR INSTALLMENT PAYMENT OF
12 TAX.—

13 (A) IN GENERAL.—If the taxpayer makes an
14 election under this paragraph—

15 (i) the taxpayer may pay part or all the
16 tax for the taxable year referred to in para-
17 graph (1) in 2 or more (but not exceeding 5)
18 equal installments, and

19 (ii) the maximum amount of tax which
20 may be paid in installments under this sub-
21 section shall be the excess of—

22 (I) the tax for such taxable year
23 determined by taking into account para-
24 graph (1), over

1 (II) the tax for such taxable year
2 determined by taking into account para-
3 graph (1) but by not taking into account
4 any gain recognized on the disposition
5 of any short-term obligation to the
6 extent that the taxable income would
7 have been increased for the preceding
8 taxable year if section 1282 of such
9 Code (and, if applicable, section 1281 of
10 such Code) had applied to all short-term
11 obligations held during such preceding
12 taxable year.

13 An election under this paragraph may be made only if
14 the taxpayer makes an election under paragraph (1).

15 (3) DATE FOR PAYMENT OF INSTALLMENT.—

16 (A) If an election is made under paragraph
17 (2), the first installment under paragraph (2) shall
18 be paid on or before the due date for filing the
19 return for the taxable year referred to in para-
20 graph (1), and each succeeding installment shall
21 be paid on or before the date which is 1 year
22 after the date prescribed for payment of the pre-
23 ceding installment.

24 (B) If a bankruptcy case or insolvency pro-
25 ceeding involving the taxpayer is commenced

1 before the final installment is paid, the total
2 amount of any unpaid installments shall be treated
3 as due and payable on the day preceding the day
4 on which such case or proceeding is commenced.

5 (4) INTEREST IMPOSED.—For purposes of section
6 6601 of the Internal Revenue Code of 1954, the time
7 for payment of any tax with respect to which an elec-
8 tion is made under paragraph (2) shall be determined
9 without regard to paragraph (2).

10 (5) FORM OF ELECTION.—An election under
11 paragraph (2) shall be made not later than the time for
12 filing the return for the taxable year referred to in
13 paragraph (1) and shall be made in the manner and
14 form required by regulations prescribed by the Secre-
15 tary. The election shall set forth—

16 (A) the amount determined under paragraph
17 (2)(B) and the number of installments elected by
18 the taxpayer, and

19 (B) such other information for purposes of
20 carrying out the provisions of this subsection as
21 may be required by such regulations.

22 (f) TREATMENT OF ORIGINAL ISSUE DISCOUNT ON
23 TAX-EXEMPT OBLIGATIONS.—Section 1288 of such Code
24 (as added by section 25) shall apply to obligations issued after
25 September 3, 1982, and acquired after March 1, 1984.

1 (g) REPEAL OF CAPITAL ASSET REQUIREMENT.—

2 Section 1272 of such Code (as added by section 25) shall not
3 apply to any obligation issued before December 31, 1984,
4 which is not a capital asset in the hands of the taxpayer.

5 (h) REPORTING REQUIREMENTS.—Section 1275(c) of
6 such Code (as added by section 25) and the amendments
7 made by section 25(c) shall take effect on the day 30 days
8 after the date of the enactment of this Act.

9 (i) CLARIFICATION THAT PRIOR TRANSITIONAL
10 RULES NOT AFFECTED.—Nothing in the amendment made
11 by section 25(a) shall affect the application of any transitional
12 rule for any provision which was a predecessor to any provi-
13 sion contained in part V of subchapter P of chapter 1 of the
14 Internal Revenue Code of 1954 (as added by section 25).

15 **Subtitle D—Corporate Provisions**

16 **PART I—LIMITATIONS ON DIVIDENDS RECEIVED**

17 **DEDUCTION**

18 **SEC. 31. DIVIDENDS RECEIVED DEDUCTION REDUCED WHERE** 19 **PORTFOLIO STOCK IS DEBT FINANCED.**

20 (a) GENERAL RULE.—Part VIII of subchapter B of
21 chapter 1 (relating to special deductions for corporations) is
22 amended by inserting after section 246 the following new
23 section:

1 "SEC. 246A. DIVIDENDS RECEIVED DEDUCTION REDUCED
2 WHERE PORTFOLIO STOCK IS DEBT FINANCED.

3 "(a) GENERAL RULE.—In the case of any dividend on
4 debt-financed portfolio stock, there shall be substituted for
5 the percentage which (but for this subsection) would be used
6 in determining the amount of the deduction allowable under
7 section 243, 244, or 245 a percentage equal to the product
8 of—

9 "(1) 85 percent, and

10 "(2) 100 percent minus the average indebtedness
11 percentage.

12 "(b) SECTION NOT TO APPLY TO DIVIDENDS FOR
13 WHICH 100 PERCENT DIVIDENDS RECEIVED DEDUCTION
14 ALLOWABLE.—Subsection (a) shall not apply to—

15 "(1) qualifying dividends (as defined in section
16 243(b) without regard to section 243(c)(4)), and

17 "(2) dividends received by a small business invest-
18 ment company operating under the Small Business In-
19 vestment Act of 1958.

20 "(c) DEBT FINANCED PORTFOLIO STOCK.—For pur-
21 poses of this section, the term 'debt financed portfolio stock'
22 means any stock of a corporation if—

23 "(1) as of the beginning of the ex-dividend date,
24 the taxpayer does not own stock of such corporation
25 possessing at least 50 percent of the total combined
26 voting power of all classes of stock entitled to vote and

1 does not own at least 50 percent of the total number of
2 shares of all other classes of stock of the corporation,
3 and

4 “(2) at some time during the base period there is
5 portfolio indebtedness with respect to such stock.

6 “(d) AVERAGE INDEBTEDNESS PERCENTAGE.—For
7 purposes of this section—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), the term ‘average indebtedness percentage’
10 means the percentage obtained by dividing—

11 “(A) the average amount (determined under
12 regulations prescribed by the Secretary) of the
13 portfolio indebtedness with respect to the stock
14 during the base period, by

15 “(B) the average amount (determined under
16 regulations prescribed by the Secretary) of the ad-
17 justed basis of the stock during the base period.

18 “(2) SPECIAL RULE WHERE STOCK NOT HELD
19 THROUGHOUT BASE PERIOD.—In the case of any
20 stock which was not held by the taxpayer throughout
21 the base period—

22 “(A) paragraph (1) shall be applied as if the
23 base period consisted only of that portion of the
24 base period during which the stock was held by
25 the taxpayer, and

1 “(B) the average indebtedness percentage
2 shall be the amount determined under paragraph
3 (1) (as modified by subparagraph (A)) multiplied
4 by a fraction—

5 “(i) the numerator of which is the
6 number of days during the base period on
7 which the taxpayer held the stock, and

8 “(ii) the denominator of which is the
9 number of days during the base period.

10 “(3) PORTFOLIO INDEBTEDNESS.—

11 “(A) IN GENERAL.—The term ‘portfolio in-
12 debtedness’ means any indebtedness directly at-
13 tributable to investment in the stock.

14 “(B) CERTAIN PROCEEDS OF SHORT SALE
15 TREATED AS INDEBTEDNESS.—For purposes of
16 subparagraph (A), any proceeds attributable to a
17 short sale shall be treated as indebtedness for the
18 period beginning on the day on which the short
19 sale is made and ending on the day the short sale
20 is closed. The preceding sentence shall not apply
21 if no deduction was allowable with respect to pay-
22 ments in lieu of dividends in connection with such
23 short sale by reason of section 263(h).

24 “(4) BASE PERIOD.—The term ‘base period’
25 means, with respect to any dividend, the shorter of—

1 “(A) the period beginning on the ex-dividend
2 date for the most recent previous dividend on the
3 stock and ending on the day before the ex-divi-
4 dend date for the dividend involved, or

5 “(B) the 1-year period ending on the day
6 before the ex-dividend date for the dividend in-
7 volved.

8 “(e) **REDUCTION IN DIVIDENDS RECEIVED DEDUCTION**
9 **NOT TO EXCEED ALLOCABLE INTEREST.**—Under regula-
10 tions prescribed by the Secretary, any reduction under this
11 section in the amount allowable as a deduction under section
12 243, 244, or 245 with respect to any dividend shall not
13 exceed the amount of any interest deduction (including any
14 deductible short sale expense) allocable to such dividend.”.

15 (b) **CLERICAL AMENDMENT.**—The table of sections for
16 part VIII of subchapter B of chapter 1 is amended by insert-
17 ing after the item relating to section 246 the following new
18 item:

 “Sec. 246A. Dividends received deduction reduced where portfolio
 stock is debt financed.”.

19 (c) **EFFECTIVE DATE.**—The amendments made by this
20 section shall apply with respect to stock the holding period
21 for which begins after the date of the enactment of this Act in
22 taxable years ending after such date.

1 **SEC. 32. TREATMENT OF DIVIDENDS FROM REGULATED IN-**
2 **VESTMENT COMPANIES.**

3 (a) **INCREASE IN REQUIRED AMOUNT OF DIVI-**
4 **DENDS.**—Subparagraph (B) of section 854(b)(1) (relating to
5 other dividends) is amended by striking out “75 percent” and
6 inserting in lieu thereof “95 percent”.

7 (b) **CERTAIN DIVIDENDS NOT TAKEN INTO ACCOUNT**
8 **FOR PURPOSES OF COMPUTING DEDUCTION UNDER SEC-**
9 **TION 243.**—Subsection (b) of section 854 is amended by
10 adding at the end thereof the following new paragraph:

11 “(4) **SPECIAL RULES FOR COMPUTING DEDUC-**
12 **TION UNDER SECTION 243.**—For purposes of comput-
13 ing the deduction under section 243, an amount shall
14 be treated as a dividend for purposes of paragraph (1)
15 only if a deduction would have been allowable under
16 section 243 to the regulated investment company (de-
17 termined after the application of section 246 and as if
18 section 243 applied to dividends received by a regulat-
19 ed investment company).”.

20 (c) **EFFECTIVE DATE.**—The amendments made by this
21 section shall apply to taxable years of regulated investment
22 companies beginning after the date of the enactment of this
23 Act.

1 **PART II—TREATMENT OF CERTAIN DISTRIBUTIONS**

2 **SEC. 35. CORPORATE SHAREHOLDER'S BASIS IN STOCK RE-**
3 **DUCED BY NONTAXED PORTION OF EXTRAOR-**
4 **DINARY DIVIDENDS.**

5 (a) **GENERAL RULE.**—Part IV of subchapter O of chap-
6 ter 1 (relating to special rules for gain or loss on disposition
7 of property) is amended by redesignating section 1059 as sec-
8 tion 1060 and by inserting after section 1058 the following
9 new section:

10 **“SEC. 1059. CORPORATE SHAREHOLDER'S BASIS IN STOCK RE-**
11 **DUCED BY NONTAXED PORTION OF EXTRAOR-**
12 **DINARY DIVIDENDS.**

13 **“(a) GENERAL RULE.**—If any corporation—

14 “(1) receives an extraordinary dividend with re-
15 spect to any share of stock, and

16 “(2) sells or otherwise disposes of such stock
17 before such stock has been held for more than 1 year.
18 the basis of such corporation in such stock shall be reduced
19 by the nontaxed portion of such dividend.

20 **“(b) NONTAXED PORTION.**—For purposes of this
21 section—

22 “(1) **IN GENERAL.**—The nontaxed portion of any
23 dividend is the excess (if any) of—

24 “(A) the amount of such dividend, over

25 “(B) the taxable portion of such dividend.

1 “(2) TAXABLE PORTION.—The taxable portion of
2 any dividend is—

3 “(A) the portion of such dividend includible
4 in gross income, reduced by

5 “(B) the amount of any deduction allowable
6 with respect to such dividend under section 243,
7 244, or 245.

8 “(c) EXTRAORDINARY DIVIDEND DEFINED.—For pur-
9 poses of this section—

10 “(1) IN GENERAL.—The term ‘extraordinary divi-
11 dend’ means any dividend with respect to a share of
12 stock if the amount of such dividend equals or exceeds
13 the threshold percentage of the taxpayer’s adjusted
14 basis in such share of stock (determined without regard
15 to this section).

16 “(2) THRESHOLD PERCENTAGE.—The term
17 ‘threshold percentage’ means—

18 “(A) 5 percent in the case of stock which is
19 preferred as to dividends, and

20 “(B) 10 percent in the case of any other
21 stock.

22 “(3) AGGREGATION OF DIVIDENDS.—

23 “(A) AGGREGATION WITHIN 85-DAY
24 PERIOD.—All dividends—

1 “(i) which are received by the taxpayer
2 (or person described in subparagraph (C))
3 with respect to any share of stock, and

4 “(ii) which have ex-dividend dates
5 within the same period of 85 consecutive
6 days,

7 shall be treated as 1 dividend.

8 “(B) AGGREGATION WITHIN 1 YEAR WHERE
9 DIVIDENDS EXCEED 20 PERCENT OF ADJUSTED
10 BASIS.—All dividends—

11 “(i) which are received by the taxpayer
12 (or a person described in subparagraph (C))
13 with respect to any share of stock, and

14 “(ii) which have ex-dividend dates
15 during the same period of 365 consecutive
16 days,

17 shall be treated as extraordinary dividends if the
18 aggregate of such dividends exceeds 20 percent of
19 the taxpayer’s adjusted basis in such stock (deter-
20 mined without regard to this section).

21 “(C) SUBSTITUTED BASIS TRANSAC-
22 TIONS.—In the case of any stock, a person is de-
23 scribed in this subparagraph if—

24 “(i) the basis of such stock in the hands
25 of such person is determined in whole or in

1 part by reference to the basis of such stock
2 in the hands of the taxpayer, or

3 “(ii) the basis of such stock in the hands
4 of the taxpayer is determined in whole or in
5 part by reference to the basis of such stock
6 in the hands of such person.

7 “(d) SPECIAL RULES.—For purposes of this section—

8 “(1) TIME FOR REDUCTION.—Any reduction in
9 basis under subsection (a) by reason of any distribution
10 which is an extraordinary dividend shall occur at the
11 beginning of the ex-dividend date for such distribution.

12 “(2) DISTRIBUTIONS IN KIND.—To the extent
13 any dividend consists of property other than cash, the
14 amount of such dividend shall be treated as the fair
15 market value of such property as of the date of the
16 distribution.

17 “(3) DETERMINATION OF HOLDING PERIOD.—
18 For purposes of determining the holding period of stock
19 under subsection (a)(2), rules similar to the rules of
20 section 246(c) shall apply; except that ‘1 year’ shall be
21 substituted for the number of days specified in subpara-
22 graph (B) of section 246(c)(3).

23 “(4) EX-DIVIDEND DATE.—The term ‘ex-divi-
24 dend’ means the date on which the share of stock be-
25 comes ex-dividend.

1 “(5) EXTENSION TO CERTAIN PROPERTY DISTRI-
2 BUTIONS.—In the case of any distribution of property
3 (other than cash) to which section 301 applies—

4 “(A) such distribution shall be treated as a
5 dividend without regard to whether the corpora-
6 tion has earnings and profits, and

7 “(B) the amount so treated shall be reduced
8 by the amount of any reduction in basis under
9 section 301(c)(2) by reason of such distribution.

10 “(e) REGULATIONS.—The Secretary shall prescribe
11 such regulations as may be appropriate to carry out the pur-
12 poses of this section including regulations providing for the
13 application of this section in the case of stock dividends, stock
14 splits, reorganizations, and other similar transactions.”.

15 (b) RULES FOR COMPUTING HOLDING PERIODS.—

16 (1) Subsection (c) of section 246 (relating to the
17 exclusion of certain dividends) is amended by adding at
18 the end thereof the following new paragraph:

19 “(4) HOLDING PERIOD REDUCED FOR PERIODS
20 WHERE RISK OF LOSS SUBSTANTIALLY DIMIN-
21 ISHED.—

22 “(A) IN GENERAL.—The holding periods de-
23 termined under paragraph (3) shall be appropri-
24 ately reduced (in the manner provided in regula-

1 tions prescribed by the Secretary) for any period
2 (during such periods) in which—

3 “(i) the taxpayer has an option to sell,
4 is under a contractual obligation to sell, or
5 has made (and not closed) a short sale of,
6 substantially identical stock or securities,

7 “(ii) the taxpayer is the grantor of an
8 option to buy substantially identical stock or
9 securities, or

10 “(iii) under regulations prescribed by the
11 Secretary, a taxpayer has diminished his risk
12 of loss by holding 1 or more other positions
13 with respect to substantially similar property.

14 “(B) EXCEPTIONS.—

15 “(i) QUALIFIED COVERED CALLS.—
16 Subparagraph (A) shall not apply in the case
17 of any qualified covered call (as defined in
18 section 1092(d)(7) but without regard to the
19 requirement that gain or loss with respect to
20 the option not be ordinary income or loss).

21 “(ii) EXCEPTION FOR CERTAIN ORDI-
22 NARY INCOME PROPERTY.—Clause (iii) of
23 subparagraph (A) shall not apply in the case
24 of any stock which is held by a dealer pri-
25 marily for sale to customers in the ordinary

1 course of his trade or business or which is
2 part of a hedging transaction.”.

3 (2) Subparagraph (B) of paragraph (1) of subsec-
4 tion (c) of section 246 is amended by striking out the
5 words “substantially identical stock or securities” and
6 inserting in lieu thereof “positions in substantially simi-
7 lar property”.

8 (3) Paragraph (3) of section 246(c) is amended by
9 striking out the last sentence.

10 (c) **HOLDING PERIOD OF CORPORATE DISTRIBUTE**
11 **OF APPRECIATED PROPERTY.—**

12 (1) **IN GENERAL.—**Section 301 (relating to distri-
13 butions of property) is amended by redesignating sub-
14 section (e) as subsection (f) and by inserting after sub-
15 section (d) the following new subsection:

16 “(e) **SPECIAL RULE FOR HOLDING PERIOD OF APPRE-**
17 **CIATED PROPERTY DISTRIBUTED TO CORPORATION.—**For
18 purposes of this subtitle, if—

19 “(1) property is distributed to a corporation, and

20 “(2) the basis of such property in the hands of
21 such corporation is determined under subsection
22 (d)(2)(B),

23 then such corporation shall not be treated as holding the dis-
24 tributed property during any period before the date on which
25 such corporation’s holding period in the stock began.”.

1 (2) **CROSS REFERENCE.**—Paragraph (13) of sec-
 2 tion 1223 (relating to holding period of property) is
 3 amended to read as follows:

4 “(13) **CROSS REFERENCES.**—

 “(A) For special holding period provision relating to
 certain partnership distributions, see section 735(b).

 “(B) For special holding period provision relating to
 distributions of appreciated property to corporations, see
 section 301(e).”.

5 (d) **CONFORMING AMENDMENTS.**—

6 (1) The table of sections for part IV of subchapter
 7 O of chapter 1 is amended by striking out the item re-
 8 lating to section 1059 and inserting in lieu thereof the
 9 following new items:

 “Sec. 1059. Corporate shareholder's basis in stock reduced by non-
 taxed portion of extraordinary dividends.

 “Sec. 1060. Cross references.”.

10 (2) Paragraph (1) of section 246(b) (relating to
 11 limitation on aggregate amount of deduction) is amend-
 12 ed by striking out “and without regard” and inserting
 13 in lieu thereof “without regard to any adjustment
 14 under section 1059, and without regard”.

15 (3) Section 1016(a) (relating to adjustments to
 16 basis) is amended by striking out “and” at the end of
 17 paragraph (24), by striking out the period at the end of
 18 paragraph (25) and inserting in lieu thereof “, and”
 19 and by adding at the end thereof the following new
 20 paragraph:

1 “(26) to the extent provided in section 1059
2 (relating to reduction in basis for extraordinary divi-
3 dends).”.

4 (e) EFFECTIVE DATES.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section shall
7 apply to distributions after the date of the enactment of
8 this Act in taxable years ending after such date.

9 (2) SUBSECTION (b).—The amendments made by
10 subsection (b) shall apply to stock acquired after the
11 date of the enactment of this Act in taxable years
12 ending after such date.

13 **SEC. 36. DISTRIBUTION OF APPRECIATED PROPERTY BY COR-**
14 **PORATIONS.**

15 (a) GAIN RECOGNIZED ON DISTRIBUTIONS OF APPRE-
16 CIATED PROPERTY.—

17 (1) IN GENERAL.—Paragraph (1) of section 311(d)
18 (relating to appreciated property used to redeem stock)
19 is amended to read as follows:

20 “(1) IN GENERAL.—If—

21 “(A) a corporation distributes property (other
22 than an obligation of such corporation) to a share-
23 holder in a distribution to which subpart A ap-
24 plies, and

1 “(B) the fair market value of such property
2 exceeds its adjusted basis (in the hands of the dis-
3 tributing corporation),
4 then gain shall be recognized to the distributing corpo-
5 ration in an amount equal to such excess as if the
6 property distributed had been sold at the time of the
7 distribution. This subsection shall be applied after the
8 application of subsections (b) and (c).”.

9 (2) EXCEPTIONS.—

10 (A) Paragraph (2) of section 311(d) is amend-
11 ed by striking out subparagraphs (A) and (B) and
12 inserting in lieu thereof the following:

13 “(A) a distribution to an 80-percent corpo-
14 rate shareholder if the basis of the property dis-
15 tributed is determined under section 301(d)(2);

16 “(B) a distribution which is made with re-
17 spect to qualified stock if—

18 “(i) section 302(b)(4) applies to such
19 distribution, or

20 “(ii) such distribution is a qualified
21 dividend;”.

22 (B) Subsection (e) of section 311 is amended
23 by adding at the end thereof the following new
24 paragraphs:

1 “(3) 80-PERCENT CORPORATE SHAREHOLDER.—

2 The term ‘80-percent corporate shareholder’ means,
3 with respect to any distribution, any corporation which
4 owns—

5 “(A) stock in the corporation making the dis-
6 tribution possessing at least 80 percent of the
7 total combined voting power of all classes of stock
8 entitled to vote, and

9 “(B) at least 80 percent of the total number
10 of shares of all other classes of stock of the dis-
11 tributing corporation (except nonvoting stock
12 which is limited and preferred as to dividends).

13 “(4) QUALIFIED DIVIDEND.—The term ‘qualified
14 dividend’ means any distribution of property to a share-
15 holder other than a corporation if—

16 “(A) such distribution is a dividend,

17 “(B) such property was used by the distribut-
18 ing corporation in the active conduct of a qualified
19 business (as defined in paragraph (2)(B)), and

20 “(C) such property is not property described
21 in paragraph (1) or (4) of section 1221.”.

22 (3) CLERICAL AMENDMENT.—The subsection
23 heading of subsection (d) of section 311 is amended to
24 read as follows:

1 “(d) DISTRIBUTIONS OF APPRECIATED PROP-
2 ERTY.—”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in this
5 subsection, the amendments made by this section shall
6 apply to distributions declared after March 15, 1984, in
7 taxable years ending after such date.

8 (2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—

9 (A) IN GENERAL.—The amendments made
10 by this section shall not apply to distributions
11 before February 1, 1986, if—

12 (i) the distribution consists of property
13 held on March 7, 1984 (or property acquired
14 thereafter in the ordinary course of a trade
15 or business) by—

16 (I) the controlled corporation, or

17 (II) any subsidiary controlled cor-
18 poration,

19 (ii) a group of 1 or more shareholders
20 (acting in concert)—

21 (I) acquired, during the 1-year
22 period ending on February 1, 1984 at
23 least 10 percent of the outstanding
24 stock of the controlled corporation,

1 (II) held at least 10 percent of the
2 outstanding stock of the common parent
3 on February 1, 1984, and

4 (III) submitted a proposal for dis-
5 tributions of interests in a royalty trust
6 from the common parent or the con-
7 trolled corporation, and

8 (iii) the common parent acquired control
9 of the controlled corporation during the 1-
10 year period ending on February 1, 1984.

11 (B) DEFINITIONS.—For purposes of this
12 paragraph—

13 (i) The term “common parent” has the
14 meaning given such term by section 1504(a)
15 of the Internal Revenue Code of 1954.

16 (ii) The term “controlled corporation”
17 means a corporation with respect to which
18 50 percent or more of the outstanding stock
19 of its common parent is tendered for pursu-
20 ant to a tender offer outstanding on March 7,
21 1984.

22 (iii) The term “subsidiary controlled
23 corporation” means any corporation with re-
24 spect to which the controlled corporation has

1 control (within the meaning of section 368(c)
2 of such Code) on March 7, 1984.

3 (3) EXCEPTION FOR CERTAIN DISTRIBUTION OF
4 PARTNERSHIP INTERESTS.—The amendments made
5 by this section shall not apply to any distribution
6 before February 1, 1986, of an interest in a partner-
7 ship the interests of which were being traded on a na-
8 tional securities exchange on March 7, 1984, if—

9 (A) such interest was owned by the distribut-
10 ing corporation (or any member of an affiliated
11 group within the meaning of section 1504(a) of
12 such Code of which the distributing corporation
13 was a member) on March 7, 1984,

14 (B) the distributing corporation (or any such
15 affiliated member) owned more than 80 percent of
16 the interests in such partnership on March 7,
17 1984, and

18 (C) more than 10 percent of the interests in
19 such partnership was offered for sale to the public
20 during the 1-year period ending on March 7,
21 1984.

1 SEC. 37. EXTENSION OF HOLDING PERIOD FOR LOSSES AT-
2 TRIBUTABLE TO CAPITAL GAIN DIVIDENDS OF
3 REGULATED INVESTMENT COMPANIES OR
4 REAL ESTATE INVESTMENT TRUSTS.

5 (a) REGULATED INVESTMENT COMPANIES.—

6 (1) IN GENERAL.—Subparagraph (A) of section
7 852(b)(4) (relating to loss attributable to capital gain
8 dividend) is amended to read as follows:

9 “(A) LOSS ATTRIBUTABLE TO CAPITAL
10 GAIN DIVIDEND.—If—

11 “(i) subparagraph (B) or (D) of para-
12 graph (3) provides that any amount with re-
13 spect to any share is to be treated as a long-
14 term capital gain, and

15 “(ii) such share is held by the taxpayer
16 for 6 months or less,

17 then any loss (to the extent not disallowed under
18 subparagraph (B)) on the sale or exchange of such
19 share shall, to the extent of the amount described
20 in clause (i), be treated as a long-term capital
21 loss.”.

22 (2) DETERMINATION OF HOLDING PERIODS.—

23 Subparagraph (C) of section 852(b)(4) is amended to
24 read as follows:

25 “(C) DETERMINATION OF HOLDING PERI-
26 ODS.—For purposes of this paragraph, the rules

1 of section 246(c) shall apply in determining the
2 period for which the taxpayer held any share of
3 stock; except that for the number of days specified
4 in subparagraph (B) of section 246(c)(3) there
5 shall be substituted—

6 “(i) ‘6 months’ for purposes of subpara-
7 graph (A), and

8 “(ii) ‘30 days’ for purposes of subpara-
9 graph (B).”.

10 (3) EXCEPTION FOR LOSSES INCURRED UNDER
11 PERIODIC LIQUIDATION PLANS.—Paragraph (4) of
12 section 852(b) is amended by adding at the end thereof
13 the following new subparagraph:

14 “(D) LOSSES INCURRED UNDER A PERIODIC
15 LIQUIDATION PLAN.—To the extent provided in
16 regulations, subparagraph (A) shall not apply to
17 losses incurred on the sale or exchange of shares
18 of stock in a regulated investment company pursu-
19 ant to a plan which provides for the periodic liqui-
20 dation of such shares.”.

21 (b) REAL ESTATE INVESTMENT TRUSTS.—Paragraph
22 (7) of section 857(b) (relating to loss on sale or exchange of
23 stock in real estate investment trust) is amended to read as
24 follows:

1 “(7) LOSS ON SALE OR EXCHANGE OF STOCK
2 HELD 6 MONTHS OR LESS.—

3 “(A) IN GENERAL.—If—

4 “(i) subparagraph (B) of paragraph (3)
5 provides that any amount with respect to
6 any share or beneficial interest is to be treat-
7 ed as a long-term capital gain, and

8 “(ii) the taxpayer has held such share or
9 interest for 6 months or less,

10 then any loss on the sale or exchange of such
11 share or interest shall, to the extent of the
12 amount described in clause (i), be treated as a
13 long-term capital loss.

14 “(B) DETERMINATION OF HOLDING
15 PERIOD.—For purposes of this paragraph, the
16 rules of section 246(c) shall apply in determining
17 the period for which the taxpayer has held any
18 share of stock or beneficial interest; except that ‘6
19 months’ shall be substituted for the number of
20 days specified in subparagraph (B) of section
21 246(c)(3).

22 “(C) EXCEPTION FOR LOSSES INCURRED
23 UNDER PERIODIC LIQUIDATION PLANS.—To the
24 extent provided in regulations, subparagraph (A)
25 shall not apply to any loss incurred on the sale or

1 exchange of shares of stock of, or beneficial inter-
2 est in, a real estate investment trust pursuant to a
3 plan which provides for the periodic liquidation of
4 such shares or interests.”.

5 (c) EFFECTIVE DATE.—The amendments made by this
6 section shall apply to losses incurred with respect to shares of
7 stock and beneficial interests with respect to which the tax-
8 payer’s holding period begins after the date of the enactment
9 of this Act.

PART III—MISCELLANEOUS PROVISIONS

11 SEC. 41. DENIAL OF DEDUCTIONS FOR CERTAIN EXPENSES IN- 12 CURRED IN CONNECTION WITH SHORT SALES.

13 (a) SHORT SALE PAYMENTS ATTRIBUTABLE TO DIVI-
14 DENDS.—Section 263 (relating to capital expenditures) is
15 amended by adding at the end thereof the following new sub-
16 section:

17 “(h) PAYMENTS IN LIEU OF DIVIDENDS IN CONNec-
18 TION WITH SHORT SALES.—

19 “(1) IN GENERAL.—If—

20 “(A) a taxpayer makes any payment (or
21 other distribution) with respect to any stock used
22 by such taxpayer in a short sale and such pay-
23 ment or distribution is in lieu of a dividend pay-
24 ment on such stock, and

1 “(B) the closing of such short sale occurs on
2 or before the 15th day after the date of such short
3 sale,

4 then no deduction shall be allowed for such payment or
5 distribution. The basis of the stock used to close the
6 short sale shall be increased by the amount not allowed
7 as a deduction by reason of the preceding sentence.

8 “(2) LONGER PERIOD IN CASE OF EXTRAORDI-
9 NARY DIVIDENDS.—If the payment described in para-
10 graph (1)(A) is in respect of an extraordinary dividend,
11 paragraph (1)(B) shall be applied by substituting ‘the
12 day 1 year after the date of such short sale’ for ‘the
13 15th day after the date of such short sale’.

14 “(3) EXTRAORDINARY DIVIDEND.—For purposes
15 of this subsection, the term ‘extraordinary dividend’
16 has the meaning given to such term by section 1059(c);
17 except that such section shall be applied by treating
18 the amount realized by the taxpayer in the short sale
19 as his adjusted basis in the stock.

20 “(4) SPECIAL RULE WHERE RISK OF LOSS SUB-
21 STANTIALLY DIMINISHED.—The running of any period
22 of time applicable under paragraph (1)(B) (as modified
23 by paragraph (2)) shall be suspended during any period
24 in which—

1 “(A) the taxpayer holds, has an option to
2 buy, or is under a contractual obligation to buy,
3 substantially identical stock or securities, or

4 “(B) under regulations prescribed by the Sec-
5 retary, a taxpayer has diminished his risk of loss
6 by holding 1 or more other positions with respect
7 to substantially similar property.”.

8 (b) INVESTMENT INTEREST TO INCLUDE CERTAIN
9 EXPENSES INVOLVING SHORT SALES.—Subparagraph (D)
10 of section 163(d)(3) (defining investment interest) is amended
11 to read as follows:

12 “(D) INVESTMENT INTEREST.—

13 “(i) IN GENERAL.—The term ‘invest-
14 ment interest’ means interest paid or accrued
15 on indebtedness incurred or continued to pur-
16 chase or carry property held for investment.

17 “(ii) CERTAIN EXPENSES INCURRED IN
18 CONNECTION WITH SHORT SALES.—For
19 purposes of clause (i), the term ‘interest’ in-
20 cludes any amount allowable as a deduction
21 in connection with the personal property
22 used in a short sale.”.

23 (c) INTEREST FOR PURPOSES OF SECTION 265(2) TO
24 INCLUDE CERTAIN EXPENSES INVOLVING SHORT
25 SALES.—Section 265(2) (relating to denial of deduction for

1 interest relating to tax-exempt income) is amended by adding
2 at the end thereof the following new sentence: "For purposes
3 of this paragraph, the term 'interest' includes any amount
4 paid or incurred in connection with the personal property
5 used in a short sale."

6 (d) **EFFECTIVE DATE.**—The amendments made by this
7 section shall apply to short sales after the date of the enact-
8 ment of this Act in taxable years ending after such date.

9 **SEC. 42. NONRECOGNITION OF GAIN OR LOSS BY CORPORA-**
10 **TION ON OPTIONS WITH RESPECT TO ITS**
11 **STOCK.**

12 (a) **GENERAL RULE.**—Subsection (a) of section 1032
13 (relating to exchange of stock for property) is amended by
14 adding at the end thereof the following new sentence: "No
15 gain or loss shall be recognized by a corporation with respect
16 to any lapse or acquisition of an option to buy or sell its stock
17 (including treasury stock)."

18 (b) **EFFECTIVE DATE.**—The amendment made by sub-
19 section (a) shall apply to options acquired or lapsed after the
20 date of the enactment of this Act in taxable years ending
21 after such date.

22 **SEC. 43. AMENDMENTS TO ACCUMULATED EARNINGS TAX.**

23 (a) **CLARIFICATION THAT TAX APPLIES TO CORPO-**
24 **RATIONS WHICH ARE NOT CLOSELY HELD.**—Section 532
25 (relating to corporations subject to accumulated earnings tax)

1 is amended by adding at the end thereof the following new
2 subsection:

3 “(c) APPLICATION DETERMINED WITHOUT REGARD
4 TO NUMBER OF SHAREHOLDERS.—The application of this
5 part to a corporation shall be determined without regard to
6 the number of shareholders of such corporation.”.

7 (b) TREATMENT OF CAPITAL GAINS AND LOSSES.—
8 Subsection (b) of section 535 (defining accumulated taxable
9 income) is amended by striking out paragraphs (5), (6), and
10 (7) and inserting in lieu thereof the following:

11 “(5) CAPITAL LOSSES.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), there shall be allowed as a de-
14 duction an amount equal to the net capital loss for
15 the taxable year.

16 “(B) RECAPTURE OF PREVIOUS DEDUC-
17 TIONS FOR CAPITAL GAINS.—The aggregate
18 amount allowable as a deduction under subpara-
19 graph (A) for any taxable year shall be reduced by
20 the lesser of—

21 “(i) the nonrecaptured capital gains de-
22 ductions, or

23 “(ii) the amount of the accumulated
24 earnings and profits of the corporation as of
25 the close of the preceding taxable year.

1 “(C) NONRECAPTURED CAPITAL GAINS DE-
2 DUCTIONS.—For purposes of subparagraph (B), the
3 term ‘nonrecaptured capital gains deductions’
4 means the excess of—

5 “(i) the aggregate amount allowable as
6 a deduction under paragraph (6) for preced-
7 ing taxable years beginning after the date of
8 the enactment of the Tax Reform Act of
9 1984, over

10 “(ii) the aggregate of the reductions
11 under subparagraph (B) for preceding taxable
12 years.

13 “(6) NET CAPITAL GAINS.—

14 “(A) IN GENERAL.—There shall be allowed
15 as a deduction—

16 “(i) the net capital gain for the taxable
17 year (determined with the application of
18 paragraph (7)), reduced by

19 “(ii) the taxes attributable to such net
20 capital gain.

21 “(B) ATTRIBUTABLE TAXES.—For purposes
22 of subparagraph (A), the taxes attributable to the
23 net capital gain shall be an amount equal to the
24 difference between—

1 “(i) the taxes imposed by this subtitle
2 (except the tax imposed by this part) for the
3 taxable year, and

4 “(ii) such taxes computed for such year
5 without including in taxable income the net
6 capital gain for the taxable year (determined
7 without the application of paragraph (7)).

8 “(7) CAPITAL LOSS CARRYOVERS.—

9 “(A) UNLIMITED CARRYFORWARD.—The net
10 capital loss for any taxable year shall be treated
11 as a short-term capital loss in the next taxable
12 year.

13 “(B) SECTION 1212 INAPPLICABLE.—No al-
14 lowance shall be made for the capital loss carry-
15 back or carryforward provided in section 1212.

16 “(8) SPECIAL RULES FOR MERE HOLDING OR IN-
17 VESTMENT COMPANIES.—In the case of a mere hold-
18 ing or investment company—

19 “(A) CAPITAL LOSS DEDUCTION, ETC., NOT
20 ALLOWED.—Paragraphs (5) and (7)(A) shall not
21 apply.

22 “(B) EARNINGS AND PROFITS.—For pur-
23 poses of subchapter C, the accumulated earnings
24 and profits at any time shall not be less than they
25 would be if this subsection had applied to the

1 computation of earnings and profits for all taxable
2 years beginning after the date of the enactment of
3 the Tax Reform Act of 1984.”.

4 (c) EFFECTIVE DATE.—The amendments made by this
5 section shall apply to taxable years beginning after the date
6 of the enactment of this Act.

7 **SEC. 44. PHASE-OUT OF GRADUATED RATES FOR LARGE COR-**
8 **PORATIONS.**

9 (a) IN GENERAL.—Subsection (b) of section 11 (relating
10 to amount of tax imposed on corporations) is amended by
11 adding at the end thereof the following new flush sentence:
12 “In the case of a corporation with taxable income in excess
13 of \$1,000,000 for any taxable year, the amount of tax deter-
14 mined under the preceding sentence for such taxable year
15 shall be increased by the lesser of (A) 5 percent of such
16 excess, or (B) \$20,000.”.

17 (b) CONFORMING AMENDMENT.—Section 1561(a) (re-
18 lating to limitations on certain multiple tax benefits in the
19 case of certain control corporations) is amended by adding at
20 the end thereof the following new sentence: “Notwithstand-
21 ing paragraph (1), in applying the last sentence of section
22 11(b) to such component members, the taxable income of all
23 such component members shall be taken into account and any
24 increase in tax under such last sentence shall be divided

1 among such component members in the same manner as
2 amounts under paragraph (1).”.

3 (c) **EFFECTIVE DATE.**—The amendments made by this
4 section shall apply to taxable years beginning after December
5 31, 1983.

6 **SEC. 45. INCREASE IN REDUCTION IN CERTAIN CORPORATE**
7 **PREFERENCE ITEMS FROM 15 PERCENT TO 20**
8 **PERCENT.**

9 (a) **IN GENERAL.**—Section 291 (relating to special rules
10 for corporate preference items) is amended by striking out
11 “15 percent” each place it appears and inserting in lieu
12 thereof “20 percent”.

13 (b) **DEFERRED DISC AND FSC INCOME.**—Paragraph (4)
14 of section 291(a) (relating to certain deferred DISC income)
15 is amended to read as follows:

16 “(4) **CERTAIN DEFERRED DISC OR FSC**
17 **INCOME.**—If a corporation is a shareholder of a DISC
18 or FSC, in the case of taxable years beginning after
19 December 31, 1982—

20 “(A) section 995(b)(1)(F)(i) shall be applied
21 with respect to such corporation by substituting
22 ‘60 percent’ for ‘one-half’, and

23 “(B) section 923(a) shall be applied with re-
24 spect to such corporation—

1 “(i) by substituting ‘32 percent’ for ‘34
2 percent’ in paragraph (2), and

3 “(ii) by substituting ‘16/23’ for ‘17/23’
4 in paragraph (3).”.

5 (c) **MINIMUM TAX.**—Section 57(b) (relating to applica-
6 tion with section 291) is amended by striking out “71.6 per-
7 cent” each place it appears and inserting in lieu thereof “59
8 5/6 percent”.

9 (d) **EFFECTIVE DATE.**—

10 (1) **IN GENERAL.**—Except as provided in this
11 subsection, the amendments made by this section shall
12 apply to taxable years beginning after December 31,
13 1984.

14 (2) **1250 GAIN.**—The amendments made by this
15 section to section 291(a)(1) of the Internal Revenue
16 Code of 1954 shall apply to sales or other dispositions
17 after December 31, 1984, in taxable years ending after
18 such date.

19 (3) **POLLUTION CONTROL FACILITIES.**—The
20 amendments made by this section to section 291(a)(5)
21 of such Code shall apply to property placed in service
22 after December 31, 1984, in taxable years ending after
23 such date.

24 (4) **DRILLING AND MINING COSTS.**—The amend-
25 ments made by this section to section 291(b) of such

1 Code shall apply to expenditures after December 31,
2 1984, in taxable years ending after such date.

3 **SEC. 46. RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS.**

4 (a) **IN GENERAL.**—Part IX of subchapter B of chapter
5 1 (relating to items not deductible) is amended by adding at
6 the end thereof the following new section:

7 **“SEC. 280F. PAYMENTS UNDER GOLDEN PARACHUTE AGREE-**
8 **MENTS.**

9 “(a) **IN GENERAL.**—In the case of a golden parachute
10 agreement, no deduction shall be allowed under this chapter
11 for any amount paid or incurred (or property transferred) pur-
12 suant to a golden parachute agreement.

13 “(b) **GOLDEN PARACHUTE AGREEMENT DEFINED—**
14 For purposes of this section—

15 “(1) **IN GENERAL.**—The term ‘golden parachute
16 agreement’ means any agreement to make one or more
17 payments (or transfers of property) to an applicable in-
18 dividual if—

19 “(A) such payments are contingent upon a
20 change or threatened change (of a kind specified
21 in the agreement) in the ownership or control of
22 the corporation or a significant portion of its
23 assets,

24 “(B) the present value (determined in accord-
25 ance with section 1274(b)(2)) of the aggregate

1 amount (including property) to be received under
2 such agreement by such applicable individual ex-
3 ceeds 200 percent of the highest compensation in-
4 cludible in gross income by such applicable indi-
5 vidual from such corporation for any taxable year
6 during the 5-year taxable period preceding the
7 date the agreement is entered into, and

8 “(C) any portion of such payments does not
9 constitute a reasonable allowable for salary or
10 other compensation for personal services actually
11 rendered by such applicable individual.

12 “(2) CERTAIN AGREEMENTS SPECIFIED BY SEC-
13 TION.—To the extent provided in regulations pre-
14 scribed by the Secretary, the term ‘golden parachute
15 agreement’ shall include any agreement which the Se-
16 curities and Exchange Commission classifies as unrea-
17 sonable in cases similar to the case described in para-
18 graph (1)(A).

19 “(3) PRESUMPTION OF UNREASONABILITY.—For
20 purposes of paragraph (1)(C), an agreement described
21 in paragraph (1) (without regard to subparagraph (C))
22 shall be presumed to be unreasonable compensation for
23 services unless the taxpayer establishes otherwise.

1 “(4) **APPLICABLE INDIVIDUAL.**—For purposes of
2 this section, the term ‘applicable individual’ means any
3 individual who—

4 “(A) is an employee, independent contractor,
5 or other person specified in regulations prescribed
6 by the Secretary who performs personal services
7 for any corporation, and

8 “(B) is an officer, shareholder, or highly
9 compensated individual.”.

10 **(b) EXCISE TAX ON AMOUNTS RECEIVED.**—Subtitle D
11 (relating to miscellaneous excise taxes) is amended by adding
12 at the end thereof the following new chapter:

13 **“CHAPTER 46—GOLDEN PARACHUTE**
14 **AGREEMENTS**

 “Sec. 4999. Payments under golden parachute agreements.

15 **“SEC. 4999. PAYMENTS UNDER GOLDEN PARACHUTE AGREE-**
16 **MENTS.**

17 “(a) **IN GENERAL.**—There is hereby imposed on any
18 person who receives any amount (including property) under a
19 golden parachute agreement a tax equal to 20 percent of the
20 amount of such payment.

21 “(b) **GOLDEN PARACHUTE AGREEMENT.**—For pur-
22 poses of this section, the term ‘golden parachute agreement’
23 has the meaning given such term by section 280F(b).”.

1 (c) FICA TAXES.—Paragraph (2)(C) of section 3121(v)
 2 (relating to treatment of certain nonqualified deferred com-
 3 pensation plans) is amended by adding at the end thereof the
 4 following new sentence: “Such term shall not include a
 5 golden parachute agreement (within the meaning of section
 6 280F(b)).”.

7 (d) CONFORMING AMENDMENT.—The table of sections
 8 for part IX of subchapter B of chapter 1 is amended by
 9 adding at the end thereof the following new item:

“Sec. 280F. Payments under golden parachute agreements.”.

10 (e) EFFECTIVE DATE.—The amendments made by this
 11 section shall apply to payments under agreements entered
 12 into after March 15, 1984, in taxable years ending after such
 13 date.

14 **SEC. 47. PROVISIONS RELATING TO EARNINGS AND PROFITS.**

15 (a) ADJUSTMENTS TO EARNINGS AND PROFITS.—

16 (1) IN GENERAL.—Section 312 (relating to effect
 17 on earnings and profits) is amended by adding at the
 18 end thereof the following new subsection:

19 “(n) ADJUSTMENTS TO EARNINGS AND PROFITS
 20 TO MORE ACCURATELY REFLECT ECONOMIC GAIN
 21 AND LOSS.—For purposes of computing the earnings
 22 and profits of a corporation, the following adjustments
 23 shall be made:

24 “(1) CONSTRUCTION PERIOD INTEREST AND
 25 TAXES.—

1 “(A) IN GENERAL.—In the case of any
2 amount paid or incurred for construction period
3 interest and taxes—

4 “(i) no deduction shall be allowed with
5 respect to such amount, and

6 “(ii) the basis of the property with re-
7 spect to which such interest and taxes are
8 allocable shall be increased by such amount.

9 “(B) CONSTRUCTION PERIOD INTEREST AND
10 TAXES DEFINED.—For purposes of this para-
11 graph, the term ‘construction period interest and
12 taxes’ means all—

13 “(i) interest paid or accrued on indebt-
14 edness incurred or continued to acquire, con-
15 struct, or carry property,

16 “(ii) property taxes, and

17 “(iii) similar carrying charges,

18 to the extent such interest, taxes, or charges are
19 attributable to the construction period for such
20 property and would be allowable as a deduction in
21 determining taxable income under this chapter for
22 the taxable year in which paid or incurred (deter-
23 mined without regard to section 189).

24 “(C) CONSTRUCTION PERIOD.—The term
25 ‘construction period’ has the meaning given such

1 term by section 189(e)(2) (determined without
2 regard to any real property limitation).

3 “(2) INTANGIBLE DRILLING COSTS AND MINERAL
4 EXPLORATION AND DEVELOPMENT COSTS.—

5 “(A) INTANGIBLE DRILLING COSTS.—The
6 amount allowable as a deduction in determining
7 taxable income for any taxable year under section
8 263(c) shall be allowable as a deduction ratably
9 over the 60-month period beginning with the
10 month in which the the assets to which such
11 amount relates are placed in service.

12 “(B) MINERAL EXPLORATION AND DEVEL-
13 OPMENT COSTS.—The amount allowable as a de-
14 duction in determining taxable income for any
15 taxable year under section 616(a) or 617 shall be
16 allowable as a deduction ratably over the 120-
17 month period beginning with the month in which
18 the assets to which such amount relates are
19 placed in service.

20 “(3) CERTAIN AMORTIZED AMOUNTS AND DE-
21 FERRED EXPENSES.—In the case of the amount of any
22 expenditure with respect to which a deduction in deter-
23 mining taxable income is allowable under section 173,
24 177, or 248, such amount shall be chargeable to capi-
25 tal account.

1 “(4) CERTAIN UNTAXED APPRECIATION OF DIS-
2 TRIBUTED PROPERTY.—In the case of any distribution
3 of property by a corporation described in section
4 311(d), earnings and profits shall be increased by the
5 amount of any gain which would be includible in gross
6 income for any taxable year if section 311(d)(2) (other
7 than subparagraph (A) thereof) did not apply.

8 “(5) LIFO INVENTORY ADJUSTMENTS.—Earnings
9 and profits shall be increased or decreased by the
10 amount of any increase or decrease in the LIFO recap-
11 ture amount (determined under section 336(b)(3)) after
12 the end of each taxable year, except that any decrease
13 below the LIFO recapture amount after the close of
14 the taxable year preceding the first taxable year to
15 which this paragraph applies, shall be taken into ac-
16 count only to the extent provided in regulations pre-
17 scribed by the Secretary.

18 “(6) INSTALLMENT SALES.—In the case of any
19 installment sale, earnings and profits shall be computed
20 as if all payments with respect to such sale are made
21 in the taxable year in which such sale occurs.

22 “(7) COMPLETED CONTRACT METHOD OF AC-
23 COUNTING.—In the case of a taxpayer who uses the
24 completed contract method of accounting, earnings and

1 profits shall be computed as if such taxpayer used the
2 percentage of completion method of accounting.

3 “(8) REDEMPTIONS.—If a corporation distributes
4 amounts in a redemption to which section 302(a) or
5 303 applies, the part of such distribution which is
6 properly chargeable to earnings and profits shall be an
7 amount which is not in excess of the ratable share of
8 the earnings and profits of such corporation accumulat-
9 ed after February 28, 1913, attributable to the stock
10 so redeemed.”.

11 (2) CONFORMING AMENDMENTS.—

12 (A) Section 312(j) (relating to earnings and
13 profits of foreign investment companies) is amend-
14 ed by striking out paragraph (3).

15 (B) Subsection (e) of section 312 is hereby
16 repealed.

17 (b) ADJUSTMENT TO EFFECT OF DEPRECIATION ON
18 EARNINGS AND PROFITS.—The table contained in section
19 312(k)(3)(A) (relating to recovery property), as amended by
20 this Act, is amended by striking out “35 years” in the item
21 relating to 15-year real property and 20-year real property
22 and inserting in lieu thereof “40 years”.

23 (c) DISTRIBUTIONS OF OBLIGATIONS HAVING ORIGI-
24 NAL ISSUE DISCOUNT.—

25 (1) EFFECT ON EARNINGS AND PROFITS.—

1 (A) Paragraph (2) of section 312(a) (relating
2 to effect of earnings and profits) is amended to
3 read as follows:

4 “(2) the principal amount of the obligations of
5 such corporation (or, in the case of obligations having
6 original issue discount, the aggregate issue price of
7 such obligations), and ”.

8 (B) Section 312, as amended by subsection
9 (a), is amended by adding at the end thereof the
10 following new subsection:

11 “(o) DEFINITION OF ORIGINAL ISSUE DISCOUNT AND
12 ISSUE PRICE FOR PURPOSES OF SUBSECTION (a)(2).—For
13 purposes of subsection (a)(2), the terms ‘original issue dis-
14 count’ and ‘issue price’ have the same respective meanings as
15 when used in subpart A of part V of subchapter P of this
16 chapter.”

17 (2) TREATMENT UNDER ORIGINAL ISSUE DIS-
18 COUNT RULES.—Subsection (a) of section 1275 (relat-
19 ing to other definitions and special rules), as added by
20 this Act, is amended by adding at the end thereof the
21 following new paragraph:

22 “(4) TREATMENT OF OBLIGATIONS DISTRIBUTED
23 TO CORPORATIONS.—Any debt obligation of a corpora-
24 tion distributed by such corporation with respect to its

1 stock shall be treated as if it had been issued by such
2 corporation for property.”

3 (d) EFFECTIVE DATES.—

4 (1) ADJUSTMENTS TO EARNINGS AND PROF-
5 ITS.—

6 (A) IN GENERAL.—Except as provided in
7 this paragraph, the amendments made by subsec-
8 tion (a) shall apply to amounts paid or incurred in,
9 or distributions or redemptions occurring in, tax-
10 able years beginning after the date of the enact-
11 ment of this Act.

12 (B) SPECIAL RULE FOR DISTRIBUTION OF
13 APPRECIATED PROPERTY.—The provisions of
14 section 312(n)(4) of the Internal Revenue Code of
15 1954, as added by subsection (a), shall not apply
16 to any distribution to which the amendments
17 made by section 36 of this Act do not apply.

18 (C) LIFO INVENTORY.—The provisions of
19 section 312(n)(5) of such Code (as so added) shall
20 apply to taxable years beginning after the date of
21 the enactment of this Act.

22 (D) SPECIAL RULES FOR INSTALLMENT
23 SALES AND CERTAIN CONTRACTS.—The provi-
24 sions of section 312(n)(6) and (7) of such Code (as
25 so added) shall apply to any sale made or contract

1 entered into after March 15, 1984, unless such
2 sale or contract was made pursuant to a binding
3 contract which was in effect on March 15, 1984,
4 and at all times thereafter.

5 (2) SUBSECTION (b).—The amendments made by
6 subsection (b) shall apply to property placed in service
7 in taxable years beginning after the date of the enact-
8 ment of this Act.

9 (3) SUBSECTION (c).—The amendments made by
10 subsection (c) shall apply with respect to distributions
11 declared after March 15, 1984, in taxable years ending
12 after such date.

13 **SEC. 48. TWO-YEAR DELAY IN APPLICATION OF THE NET OP-**
14 **ERATING LOSS RULES ADDED BY THE TAX**
15 **REFORM ACT OF 1976.**

16 (a) IN GENERAL.—Subsection (g) of section 806 of the
17 Tax Reform Act of 1976 (26 U.S.C. 382 note) (relating to
18 effective dates for the amendments to sections 382 and 383
19 of the Internal Revenue Code of 1954) is amended—

20 (1) by striking out “June 30, 1984” in paragraph

21 (2) and inserting in lieu thereof “December 31, 1985”;

22 (2) by striking out “January 1, 1984” in para-
23 graph (2)(B) and inserting in lieu thereof “January 1,
24 1986”; and

1 (3) by striking out "January 1, 1984" in para-
2 graph (3) and inserting in lieu thereof "January 1,
3 1986".

4 **SEC. 49. TARGET CORPORATION MUST DISTRIBUTE ASSETS**
5 **AFTER REORGANIZATION DESCRIBED IN SEC-**
6 **TION 368(a)(1)(C).**

7 (a) **IN GENERAL.**—Paragraph (2) of section 368(a) (re-
8 lating to special rules for paragraph (1)) is amended by
9 adding at the end thereof the following new subparagraph:

10 “(G) **DISTRIBUTION REQUIREMENT FOR**
11 **PARAGRAPH (1)(C).**—

12 “(i) **IN GENERAL.**—A transaction shall
13 fail to meet the requirements of paragraph
14 (1)(C) unless the corporation substantially all
15 of the properties of which are acquired dis-
16 tributes, during the 12-month period begin-
17 ning on the date of acquisition, all of its
18 assets (other than assets retained to meet
19 claims).

20 “(ii) **EXCEPTION.**—The Secretary may
21 by regulations waive the application of
22 clause (i) to any transaction subject to any
23 conditions the Secretary may prescribe in
24 such regulations.”.

1 (b) ALLOCATION OF EARNINGS AND PROFITS IN SEC-
2 TION 368(a)(1)(C).—Subsection (h) of section 312 (relating
3 to allocation in certain corporate separations) is amended to
4 read as follows:

5 “(h) ALLOCATION IN CERTAIN CORPORATE SEPARA-
6 TIONS AND REORGANIZATIONS.—

7 “(1) SECTION 355.—In the case of a distribution
8 or exchange to which section 355 (or so much of sec-
9 tion 356 as relates to section 355) applies, proper allo-
10 cation with respect to the earnings and profits of the
11 distributing corporation and the controlled corporation
12 (or corporations) shall be made under regulations pre-
13 scribed by the Secretary.

14 “(2) SECTION 368(a)(1)(C).—In the case of a re-
15 organization described in section 368(a)(1)(C)—

16 “(A) with respect to which one corporation
17 has control of the corporation substantially all of
18 the assets of which are acquired, or

19 “(B) which is described in regulations pre-
20 scribed by the Secretary

21 proper allocation with respect to the earnings and prof-
22 its of the transferor corporation shall, under regulations
23 prescribed by the Secretary, be made between the ac-
24 quiring corporation and the transferor corporation.”.

1 (c) EFFECTIVE DATE.—The amendment made by this
2 section shall apply to transactions pursuant to plans adopted
3 after the date of the enactment of this Act.

4 SEC. 50. DEFINITION OF CONTROL FOR PURPOSES OF NON-
5 DIVISIVE REORGANIZATIONS UNDER SECTION
6 368(a)(1)(D).

7 (a) IN GENERAL.—Subsection (c) of section 368 (defin-
8 ing control) is amended to read as follows:

9 “(c) CONTROL DEFINED.—

10 “(1) IN GENERAL.—For purposes of part I (other
11 than section 304), part II, this part, and part V, the
12 term ‘control’ means the ownership of stock possessing
13 at least 80 percent of the total combined voting power
14 of all classes of stock entitled to vote and at least 80
15 percent of the total number of shares of all other
16 classes of stock of the corporation.

17 “(2) SPECIAL RULE FOR CERTAIN SUBSECTION
18 (a)(1)(D) REORGANIZATIONS.—In the case of a trans-
19 action which is described in subparagraph (D) of sub-
20 section (a)(1) and with respect to which the require-
21 ments of subparagraphs (A) and (B) of section
22 354(b)(1) are met—

23 “(A) paragraph (1) shall be applied by substi-
24 tuting ‘50 percent’ for ‘80 percent’ each place it
25 appears, and

1 “(B) section 318(a) shall apply in determin-
2 ing stock ownership for purposes of paragraph (1),
3 except that—

4 “(i) section 318(a)(2)(C) shall be applied
5 by substituting ‘5 percent’ for ‘50 percent’,
6 and

7 “(ii) section 318(a)(3)(C) shall be ap-
8 plied—

9 “(I) by substituting ‘5 percent’ for
10 ‘50 percent’, and

11 “(II) in any case where such para-
12 graph would not apply but for subclause
13 (I), by considering a corporation as
14 owning the stock (other than stock in
15 such corporation) owned by or for any
16 shareholder of such corporation in that
17 proportion which the value of the stock
18 which such shareholder owned in such
19 corporation bears to the value of all
20 stock in such corporation.”.

21 (b) EFFECTIVE DATE.—The amendment made by this
22 section shall apply to transactions pursuant to plans adopted
23 after the date of the enactment of this Act.

1 **SEC. 51. COLLAPSIBLE CORPORATIONS.**

2 (a) **DEFINITION.**—Subparagraph (A) of section
3 341(b)(1) (relating to collapsible corporations) is amended by
4 striking out “a substantial part” and inserting in lieu thereof
5 “2/3”.

6 (b) **LIMITATIONS.**—Subsection (d) of section 341 (relat-
7 ing to limitations on application of section) is amended by
8 adding at the end thereof the following sentence: “In deter-
9 mining whether property is described in subsection (b)(1) for
10 purposes of applying paragraph (2), all property described in
11 section 1221(1) shall, to the extent provided in regulations
12 prescribed by the Secretary, be treated as one item of
13 property.”.

14 (c) **CONFORMING AMENDMENT.**—Paragraph (2) of sec-
15 tion 341(d) is amended by striking out “so manufactured,
16 constructed, produced, or purchased” and inserting in lieu
17 thereof “described in subsection (b)(1)”.

18 (d) **EFFECTIVE DATE.**—

19 (1) **IN GENERAL.**—The amendments made by this
20 section shall apply with respect to sales, exchanges,
21 and distributions made after December 31, 1984.

22 (2) **PROPERTY A SUBSTANTIAL PART OF THE**
23 **INCOME FROM WHICH IS REALIZED PRIOR TO**
24 **1985.**—If, prior to January 1, 1985, a corporation has
25 realized a substantial part of the taxable income to be
26 derived from any property—

1 (A) for purposes of applying section
2 341(b)(1)(A) of the Internal Revenue Code of
3 1954, such corporation shall be treated as having
4 realized two-thirds of the taxable income to be de-
5 rived from such property, and

6 (B) for purposes of applying section 341(d)(2)
7 of such Code, such property shall not be aggre-
8 gated with any other property by reason of the
9 last sentence of section 341(d).

10 **Subtitle E—Partnership Provisions**

11 **SEC. 55. PARTNERSHIP ALLOCATIONS WITH RESPECT TO CON-** 12 **TRIBUTED PROPERTY.**

13 (a) **GENERAL RULE.**—Subsection (c) of section 704 (re-
14 lating to contributed property) is amended to read as follows:

15 “(c) **CONTRIBUTED PROPERTY.**—With respect to prop-
16 erty contributed to the partnership by a partner, depreciation,
17 depletion, and gain or loss shall, under regulations prescribed
18 by the Secretary, be shared among the partners so as to take
19 account of the variation between the basis of the property to
20 the partnership and its fair market value at the time of con-
21 tribution.”

22 (b) **CONFORMING AMENDMENTS.**—The fourth sentence
23 of section 613A(c)(7)(D) and the third sentence of section
24 743(b) are each amended by striking out “an agreement de-
25 scribed in section 704(c)(2) (relating to effect of partnership

1 agreement on contributed property), such share shall be de-
2 termined by taking such agreement into account” and insert-
3 ing in lieu thereof “property contributed to the partnership by
4 a partner, section 704(c) (relating to contributed property)
5 shall apply in determining such share”.

6 (c) **EFFECTIVE DATE.**—The amendments made by this
7 section shall apply with respect to property contributed to the
8 partnership after March 31, 1984, in taxable years ending
9 after such date.

10 **SEC. 56. DETERMINATION OF DISTRIBUTIVE SHARES WHEN**
11 **PARTNER'S INTEREST CHANGES.**

12 (a) **GENERAL RULE.**—Section 706 (relating to taxable
13 years of partner and partnership) is amended by adding at the
14 end thereof the following new subsection:

15 “(d) **DETERMINATION OF DISTRIBUTIVE SHARE**
16 **WHEN PARTNER'S INTEREST CHANGES.**—

17 “(1) **IN GENERAL.**—Except as provided in para-
18 graphs (2) and (3), if during any taxable year of the
19 partnership there is a change in any partner's interest
20 in the partnership, each partner's distributive share of
21 any item of income, gain, loss, deduction, or credit of
22 the partnership for such taxable year shall be deter-
23 mined by the use of any method prescribed by the Sec-
24 retary by regulations which takes into account the

1 varying interests of the partners in the partnership
2 during such taxable year.

3 “(2) CERTAIN CASH BASIS ITEMS PRORATED
4 OVER PERIOD TO WHICH ATTRIBUTABLE.—

5 “(A) IN GENERAL.—If during any taxable
6 year of the partnership there is a change in any
7 partner’s interest in the partnership, then (except
8 to the extent provided in regulations) each part-
9 ner’s distributive share of any allocable cash basis
10 item shall be determined—

11 “(i) by assigning the appropriate portion
12 of each such item to each day in the period
13 (during the taxable year) to which it is at-
14 tributable, and

15 “(ii) by allocating the portion assigned
16 to any such day among the partners in pro-
17 portion to their interests in the partnership
18 at the close of such day.

19 “(B) ALLOCABLE CASH BASIS ITEM.—For
20 purposes of this paragraph, the term ‘allocable
21 cash basis item’ means any of the following items
22 which are described in paragraph (1) and with re-
23 spect to which the partnership uses the cash re-
24 cepts and disbursements method of accounting:

25 “(i) Interest.

1 “(ii) Taxes.

2 “(iii) Payments for services or for the
3 use of property.

4 “(iv) Any other item of a kind specified
5 in regulations prescribed by the Secretary as
6 being an item with respect to which the ap-
7 plication of this paragraph is appropriate to
8 avoid significant misstatements of the income
9 of the partners.

10 “(C) ITEMS ATTRIBUTABLE TO PERIODS
11 NOT WITHIN TAXABLE YEAR.—To the extent
12 that any allocable cash basis item is attributable
13 to—

14 “(i) periods before the beginning of the
15 taxable year, such item shall be assigned
16 under subparagraph (A)(i) to the first day of
17 such taxable year, or

18 “(ii) periods after the close of the tax-
19 able year, such item shall be assigned under
20 subparagraph (A)(i) to the last day of the
21 taxable year.

22 “(3) ITEMS ATTRIBUTABLE TO INTEREST IN
23 OTHER PARTNERSHIP PRORATED OVER ENTIRE TAX-
24 ABLE YEAR.—If—

1 “(A) during any taxable year of the partner-
2 ship there is a change in any partner’s interest in
3 the partnership, and

4 “(B) such partnership is a partner in another
5 partnership,

6 then (except to the extent otherwise provided in regu-
7 lations) each partner’s distributive share of any item
8 attributable to the other partnership shall be deter-
9 mined by assigning an equal portion of each such item
10 to each day during the taxable year of the partnership
11 (during which such partnership is a partner in the
12 other partnership) and by allocating the portion as-
13 signed to any such day among the partners in propor-
14 tion to their interests in the partnership at the close of
15 such day.

16 “(4) TAXABLE YEAR DETERMINED WITHOUT
17 REGARD TO SUBSECTION (c)(2)(A).—For purposes of
18 this subsection, the taxable year of a partnership shall
19 be determined without regard to subsection (c)(2)(A).

20 “(5) ELECTION TO TREAT CHANGES DURING
21 MONTH AS OCCURRING ON FIRST DAY OF MONTH.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), at the election of a partnership,
24 any change in any partner’s interest in such part-
25 nership during any taxable year shall be treated

1 as occurring on the first day of the month in such
2 year in which such change occurs.

3 “(B) EXCEPTION FOR DISPOSITION OF
4 ENTIRE INTEREST.—Subparagraph (A) shall not
5 apply to any change in any partner’s interest in a
6 partnership if such change is described in subpara-
7 graph (A) of subsection (c)(2) or is related to a
8 change so described.

9 “(C) ELECTION.—The election under sub-
10 paragraph (A) shall apply to all changes in each
11 partner’s interest in such partnership (not de-
12 scribed in subparagraph (B)) occurring during the
13 taxable year for which such election is made.”.

14 (b) CONFORMING AMENDMENTS.—Paragraph (2) of
15 section 706(c) is amended—

16 (1) by striking out the last sentence of subpara-
17 graph (A), and

18 (2) by striking out “, but such partner’s distribu-
19 tive share of items described in section 702(a) shall be
20 determined by taking into account his varying interests
21 in the partnership during the taxable year” in subpara-
22 graph (B).

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

1 (1) in the case of items described in section
2 706(d)(2) of the Internal Revenue Code of 1954 (as
3 added by subsection (a)), to amounts attributable to pe-
4 riods after March 31, 1984, and

5 (2) in the case of items described in section
6 706(d)(3) of such Code (as added by subsection (a)), to
7 amounts paid or accrued by the other partnership after
8 March 31, 1984.

9 **SEC. 57. PAYMENTS TO PARTNERS FOR PROPERTY OR CER-**
10 **TAIN SERVICES.**

11 (a) **GENERAL RULE.**—Subsection (a) of section 707 (re-
12 lating to transactions between partner and partnership) is
13 amended to read as follows:

14 “(a) **PARTNER NOT ACTING IN CAPACITY AS PART-**
15 **NER.**—

16 “(1) **IN GENERAL.**—If a partner engages in a
17 transaction with a partnership other than in his capac-
18 ity as a member of such partnership, the transaction
19 shall, except as otherwise provided in this section, be
20 considered as occurring between the partnership and
21 one who is not a partner.

22 “(2) **TREATMENT OF PAYMENTS TO PARTNERS**
23 **FOR PROPERTY OR SERVICES.**—Under regulations pre-
24 scribed by the Secretary—

1 “(A) TREATMENT OF CERTAIN SERVICES
2 AND TRANSFERS OF PROPERTY.—If—

3 “(i) a partner performs services for a
4 partnership or transfers property to a part-
5 nership,

6 “(ii) there is a related direct or indirect
7 allocation and distribution to such partner,
8 and

9 “(iii) the performance of such services
10 (or such transfer) and the allocation and dis-
11 tribution, when viewed together, are properly
12 characterized as a transaction occurring be-
13 tween the partnership and a partner acting
14 other than in his capacity as a member of
15 the partnership,

16 such allocation and distribution shall be treated as
17 a transaction described in paragraph (1).

18 “(B) TREATMENT OF CERTAIN PROPERTY
19 TRANSFERS.—If—

20 “(i) there is a direct or indirect transfer
21 of money or other property by a partner to a
22 partnership,

23 “(ii) there is a related direct or indirect
24 transfer of money or other property by the

1 partnership to such partner (or another part-
2 ner), and

3 “(iii) the transfers described in clauses
4 (i) and (ii), when viewed together, are prop-
5 erly characterized as a sale of property,
6 such transfers shall be treated either as a transac-
7 tion described in paragraph (1) or as a transaction
8 between 2 or more partners acting other than in
9 their capacity as members of the partnership.”.

10 (b) EFFECTIVE DATE.—

11 (1) IN GENERAL.—The amendment made by sub-
12 section (a) shall apply—

13 (A) in the case of arrangements described in
14 section 707(a)(2)(A) of the Internal Revenue Code
15 of 1954 (as amended by subsection (a)), to serv-
16 ices performed or property transferred after Feb-
17 ruary 29, 1984, and

18 (B) in the case of transfers described in sec-
19 tion 707(a)(2)(B) of such Code (as so amended), to
20 property transferred after March 31, 1984.

21 (2) EXCEPTION FOR CERTAIN TRANSFERS.—The
22 amendment made by subsection (a) shall not apply to a
23 transfer of property described in section 707(a)(2)(B)(i)
24 that is made before December 31, 1984, if—

1 (A) such transfer was proposed in a written
2 private offering memorandum circulated before
3 February 28, 1984;

4 (B) the out-of-pocket costs incurred with re-
5 spect to such offering exceeded \$250,000 as of
6 February 28, 1984;

7 (C) the encumbrances placed on such proper-
8 ty in anticipation of such transfer all constitute
9 obligations for which neither the partnership nor
10 any partner is liable; and

11 (D) the transferor of such property is the sole
12 general partner of the partnership.

13 **SEC. 58. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED**
14 **RECEIVABLES, INVENTORY ITEMS, OR CAPITAL**
15 **LOSS PROPERTY.**

16 (a) **GENERAL RULE.**—Subpart A of part II of sub-
17 chapter K of chapter 1 (relating to contributions to a partner-
18 ship) is amended by adding at the end thereof the following
19 new section:

20 **“SEC. 724. CHARACTER OF GAIN OR LOSS ON CONTRIBUTED**
21 **UNREALIZED RECEIVABLES, INVENTORY**
22 **ITEMS, AND CAPITAL LOSS PROPERTY.**

23 **“(a) CONTRIBUTIONS OF UNREALIZED RECEIV-**
24 **ABLES.**—In the case of any property which—

1 “(1) was contributed to the partnership by a part-
2 ner, and

3 “(2) was an unrealized receivable in the hands of
4 such partner immediately before such contribution,
5 any gain or loss recognized by the partnership on the disposi-
6 tion of such property shall be treated as ordinary income or
7 ordinary loss, as the case may be.

8 “(b) CONTRIBUTIONS OF INVENTORY ITEMS.—In the
9 case of any property which—

10 “(1) was contributed to the partnership by a part-
11 ner, and

12 “(2) was an inventory item in the hands of such
13 partner immediately before such contribution,
14 any gain or loss recognized by the partnership on the disposi-
15 tion of such property during the 5-year period beginning on
16 the date of such contribution shall be treated as ordinary
17 income or ordinary loss, as the case may be.

18 “(c) CONTRIBUTIONS OF CAPITAL LOSS PROPERTY.—
19 In the case of any property which—

20 “(1) was contributed by a partner to the partner-
21 ship, and

22 “(2) was a capital asset in the hands of such part-
23 ner immediately before such contribution,
24 any loss recognized by the partnership on the disposition of
25 such property during the 5-year period beginning on the date

1 of such contribution shall be treated as a loss from the sale of
2 a capital asset to the extent that, immediately before such
3 contribution, the adjusted basis of such property in the hands
4 of the partner exceeded the fair market value of such
5 property.

6 “(d) DEFINITIONS.—For purposes of this section—

7 “(1) UNREALIZED RECEIVABLE.—The term ‘un-
8 realized receivable’ has the meaning given such term
9 by section 751(c) (determined by treating any reference
10 to the partnership as referring to the partner).

11 “(2) INVENTORY ITEM.—The term ‘inventory
12 item’ has the meaning given such term by section
13 751(d)(2) (determined by treating any reference to the
14 partnership as referring to the partner and by applying
15 section 1231 without regard to any holding period
16 therein provided).

17 “(3) SUBSTITUTED BASIS PROPERTY.—

18 “(A) IN GENERAL.—If any property de-
19 scribed in subsection (a), (b), or (c) is disposed of
20 in a nonrecognition transaction, the tax treatment
21 which applies to such property under such subsec-
22 tion shall also apply to any substituted basis prop-
23 erty resulting from such transaction (including
24 such property). A similar rule shall also apply in
25 the case of a series of nonrecognition transactions.

1 “(B) EXCEPTION FOR STOCK IN C CORPO-
2 RATION.—Subparagraph (A) shall not apply to
3 any stock in a C corporation received in an ex-
4 change described in section 351 for property de-
5 scribed in subsection (a), (b), or (c).”.

6 (b) AMENDMENT OF SECTION 735.—Section 735 (relat-
7 ing to character of gain or loss on disposition of distributed
8 property) is amended by adding at the end thereof the follow-
9 ing new subsection:

10 “(c) SPECIAL RULES.—

11 “(1) WAIVER OF HOLDING PERIODS CONTAINED
12 IN SECTION 1231.—For purposes of this section, sec-
13 tion 751(d)(2) (defining inventory item) shall be applied
14 without regard to any holding period in section
15 1231(b).

16 “(2) SUBSTITUTED BASIS PROPERTY.—

17 “(A) IN GENERAL.—If any property de-
18 scribed in subsection (a) is disposed of in a non-
19 recognition transaction, the tax treatment which
20 applies to such property under such subsection
21 shall also apply to any substituted basis property
22 resulting from such transaction. A similar rule
23 shall also apply in the case of a series of nonrec-
24 ognition transactions.

1 “(B) EXCEPTION FOR STOCK IN C CORPO-
2 RATION.—Subparagraph (A) shall not apply to
3 any stock in a C corporation received in an ex-
4 change described in section 351 for property de-
5 scribed in subsection (a).”.

6 (c) CLERICAL AMENDMENT.—The table of sections for
7 subpart A of part II of subchapter K of chapter 1 is amended
8 by adding at the end thereof the following new item:

 “Sec. 724. Character of gain or loss on contributed unrealized re-
 ceivables, inventory items, and capital loss property.”

9 (d) EFFECTIVE DATES.—

10 (1) SUBSECTION (a).—The amendment made by
11 subsection (a) shall apply to property contributed to a
12 partnership after March 31, 1984, in taxable years
13 ending after such date.

14 (2) SUBSECTION (b).—The amendment made by
15 subsection (b) shall apply to property distributed after
16 March 31, 1984, in taxable years ending after such
17 date.

18 **SEC. 59. TRANSFERS OF PARTNERSHIP AND TRUST INTERESTS**
19 **BY CORPORATIONS.**

20 (a) GENERAL RULE.—Subpart C of part II of sub-
21 chapter K of chapter 1 (relating to transfer of interests in a
22 partnership) is amended by adding at the end thereof the fol-
23 lowing new section:

1 "SEC. 744. TRANSFERS OF PARTNERSHIP AND TRUST INTER-
2 ESTS BY CORPORATIONS.

3 "(a) CORPORATE DISTRIBUTIONS.—For purposes of
4 determining the amount of gain recognized by a corporation
5 on any distribution, any distribution of an interest in a part-
6 nership shall be treated as a distribution of the corporation's
7 proportionate share of the recognition property of such part-
8 nership.

9 "(b) SALES OR EXCHANGE TO WHICH SECTION 337
10 APPLIES.—For purposes of determining the amount of gain
11 recognized on a sale or exchange described in section 337,
12 any sale or exchange by a corporation of an interest in a
13 partnership shall be treated as a sale or exchange of the cor-
14 poration's proportionate share of the recognition property of
15 such partnership.

16 "(c) RECOGNITION PROPERTY.—For purposes of this
17 section, the term 'recognition property' means any property
18 with respect to which gain would be recognized to the corpo-
19 ration if such property—

20 "(1) were distributed by the corporation in a dis-
21 tribution described in section 311 or 336, or

22 "(2) were a result in a sale described in section
23 337,

24 whichever is appropriate in determining whether property of
25 a partnership is recognition property, such partnership shall

1 be treated as owning its proportionate share of the property
2 of any other partnership in which it is a partner.

3 “(d) EXTENSION TO TRUSTS.—Under regulations,
4 rules similar to the rules of this section shall also apply in the
5 case of the distribution or sale or exchange by a corporation
6 of an interest in a trust.”.

7 (b) ADJUSTMENT OF TRANSFEREE’S BASIS IN PART-
8 NERSHIP PROPERTY.—Subsections (a) and (b) of section 743
9 (relating to optional adjustment to basis of partnership prop-
10 erty) are each amended by inserting “, by distribution,” after
11 “sale or exchange”.

12 (c) TECHNICAL AMENDMENT TO SECTION 751(c).—
13 The last sentence of section 751(c) (defining unrealized re-
14 ceivables) is amended by striking out “at its fair market
15 value”.

16 (d) CLERICAL AMENDMENT.—The table of sections for
17 subpart C of part II of subchapter K of chapter 1 is amended
18 by adding at the end thereof the following new item:

“Sec. 744. Transfers of partnership and trust interests by corpora-
tions.”.

19 (e) EFFECTIVE DATE.—The amendments made by this
20 section shall apply to distributions, sales, and exchanges
21 made after March 31, 1984, in taxable years ending after
22 such date.

1 SEC. 60. APPLICATION OF SECTION 751 IN THE CASE OF
2 TIERED PARTNERSHIPS.

3 (a) GENERAL RULE.—Section 751 (relating to unreal-
4 ized receivables and inventory items) is amended by adding at
5 the end thereof the following new subsection:

6 “(f) SPECIAL RULES IN THE CASE OF TIERED PART-
7 NERSHIPS, ETC.—In determining whether property of a
8 partnership is—

9 “(1) an unrealized receivable, or

10 “(2) an inventory item,

11 such partnership shall be treated as owning its proportionate
12 share of the property of any other partnership in which it is a
13 partner. Under regulations, rules similar to the rules of the
14 preceding sentence shall also apply in the case of interests in
15 trusts.”

16 (b) EFFECTIVE DATE.—The amendment made by sub-
17 section (a) shall apply to distributions, sales, and exchanges
18 made after March 31, 1984, in taxable years ending after
19 such date.

20 SEC. 61. SECTION 1031 NOT APPLICABLE TO PARTNERSHIP IN-
21 TERESTS; LIMITATION ON THE PERIOD DURING
22 WHICH LIKE KIND EXCHANGES MAY BE MADE.

23 (a) IN GENERAL.—Subsection (a) of section 1031 (relat-
24 ing to nonrecognition of gain or loss from exchanges solely in
25 kind) is amended to read as follows:

1 “(a) NONRECOGNITION OF GAIN OR LOSS FROM EX-
2 CHANGES SOLELY IN KIND.—

3 “(1) IN GENERAL.—No gain or loss shall be rec-
4 ognized on the exchange of property held for produc-
5 tive use in a trade or business or for investment if such
6 property is exchanged solely for property of like kind
7 which is to be held either for productive use in a trade
8 or business or for investment.

9 “(2) EXCEPTION.—This subsection shall not
10 apply to any exchange of—

11 “(A) stock in trade or other property held
12 primarily for sale,

13 “(B) stocks, bonds, or notes,

14 “(C) other securities or evidences of indebt-
15 edness or interest,

16 “(D) interests in a partnership,

17 “(E) certificates of trust or beneficial inter-
18 ests, or

19 “(F) choses in action.

20 “(3) REQUIREMENT THAT PROPERTY BE IDENTI-
21 FIED AND THAT EXCHANGE BE COMPLETED NOT
22 MORE THAN 180 DAYS AFTER TRANSFER OF EX-
23 CHANGED PROPERTY.—For purposes of this subsec-
24 tion, any property received by the taxpayer shall be
25 treated as property which is not like-kind property if—

1 “(A) such property was not identified (as of
2 the date on which the taxpayer transfers the
3 property relinquished in the exchange) as property
4 to be received in the exchange, or

5 “(B) such property is received after the earli-
6 er of—

7 “(i) the day which is 180 days after the
8 date on which the taxpayer transfers the
9 property relinquished in the exchange, or

10 “(ii) the due date (determined with
11 regard to extensions) for the transferor’s
12 return of the tax imposed by this chapter for
13 the taxable year in which the transfer of the
14 relinquished property occurs.”.

15 **(b) EFFECTIVE DATE.—**

16 **(1) IN GENERAL.—**Except as otherwise provided
17 in this subsection, the amendment made by subsection
18 (a) shall apply to transfers made after the date of the
19 enactment of this Act, in taxable years ending after
20 such date.

21 **(2) REQUIREMENT THAT PROPERTY BE IDENTI-**
22 **FIED AND EXCHANGE BE COMPLETED WITHIN 180**
23 **DAYS.—**Paragraph (3) of section 1031(a) of the Inter-
24 nal Revenue Code of 1954 (as amended by subsection

1 (a) shall apply to transfers after the date of the enact-
 2 ment of this Act.

3 **Subtitle F—Trust Provisions**

4 **SEC. 65. TREATMENT OF PROPERTY DISTRIBUTED IN KIND.**

5 (a) **GENERAL RULE.**—Section 643 (relating to defini-
 6 tions applicable to subchapters A, B, C, and D) is amended
 7 by adding at the end thereof the following new subsection:

8 “(d) **TREATMENT OF PROPERTY DISTRIBUTED IN**
 9 **KIND.**—

10 “(1) **BASIS OF BENEFICIARY.**—The basis of any
 11 property received by a beneficiary in a distribution
 12 from an estate or trust shall be—

13 “(A) the adjusted basis of such property in
 14 the hands of the estate or trust immediately
 15 before the distribution, adjusted for

16 “(B) any gain or loss recognized to the
 17 estate or trust on the distribution.

18 “(2) **TREATMENT OF PROPERTY DISTRIBUTIONS.**—In the case of any distribution of property
 19 (other than cash)—

21 “(A) gain or loss shall be recognized by the
 22 estate or trust in the same manner as if such
 23 property had been sold to the distributee at its
 24 fair market value, and

1 “(B) the amount taken into account under
2 sections 661(a)(2) and 662(a)(2) shall be the fair
3 market value of such property.

4 “(3) ELECTION TO HAVE PARAGRAPH (2) NOT
5 APPLY.—In the case of any distribution of property
6 (other than cash) to which an election under this para-
7 graph applies—

8 “(A) paragraph (2) shall not apply, and

9 “(B) the amount taken into account under
10 sections 661(a)(2) and 662(a)(2) shall be the lesser
11 of the basis of such property in the hands of the
12 beneficiary (as determined under paragraph (1)) or
13 the fair market value of such property.”

14 (b) EFFECTIVE DATE.—The amendment made by sub-
15 section (a) shall apply to distributions after March 1, 1984, in
16 taxable years ending after such date.

17 **SEC. 66. TREATMENT OF MULTIPLE TRUSTS.**

18 (a) GENERAL RULE.—Section 643 (relating to defini-
19 tions applicable to subparts A, B, C, and D) is amended by
20 adding at the end thereof the following new subsection:

21 “(e) TREATMENT OF MULTIPLE TRUSTS.—For pur-
22 poses of this subchapter, under regulations prescribed by the
23 Secretary, 2 or more trusts shall be treated as 1 trust if—

1 “(1) such trusts have substantially the same
2 grantor or grantors and substantially the same primary
3 beneficiary or beneficiaries, and

4 “(2) a principal purpose of such trusts is the
5 avoidance of the tax imposed by this chapter.

6 For purposes of the preceding sentence, a husband and wife
7 shall be treated as 1 person.”

8 (b) **EFFECTIVE DATE.**—The amendment made by sub-
9 section (a) shall apply to taxable years beginning after March
10 1, 1984.

11 **Subtitle G—Accounting Changes**

12 **SEC. 71. CERTAIN AMOUNTS NOT TREATED AS INCURRED** 13 **BEFORE ECONOMIC PERFORMANCE.**

14 (a) **IN GENERAL.**—Section 461 (relating to general rule
15 for taxable year of deduction) is amended by adding at the
16 end thereof the following new subsections:

17 “(h) **CERTAIN LIABILITIES NOT INCURRED BEFORE**
18 **ECONOMIC PERFORMANCE.**—

19 “(1) **IN GENERAL.**—For purposes of this title, in
20 determining whether an amount has been incurred with
21 respect to any item during any taxable year, all of the
22 events which establish liability for such amount shall
23 not be treated as having occurred any earlier than
24 when economic performance with respect to such item
25 occurs.

1 “(2) TIME WHEN ECONOMIC PERFORMANCE
2 OCCURS.—Except as provided in regulations prescribed
3 by the Secretary, the time when economic performance
4 occurs shall be determined under the following princi-
5 ples:

6 “(A) SERVICES AND PROPERTY.—If the lia-
7 bility of the taxpayer requires a payment to an-
8 other person for—

9 “(i) the providing of services to the tax-
10 payer by another person, economic perform-
11 ance occurs when such person provides such
12 services,

13 “(ii) the providing of property, economic
14 performance occurs when the person pro-
15 vides such property, or

16 “(iii) the use of property by the taxpay-
17 er, economic performance occurs as the tax-
18 payer uses such property.

19 “(B) PROVIDING OF SERVICES OR PROPER-
20 TY BY THE TAXPAYER.—If the liability of the
21 taxpayer requires the taxpayer to provide proper-
22 ty or services, economic performance occurs as
23 the taxpayer provides such property or services.

24 “(C) WORKERS COMPENSATION, TORT, AND
25 EMPLOYEE BENEFIT LIABILITIES OF THE TAX-

1 PAYER.—If the liability of the taxpayer requires a
2 payment to another person and—

3 “(i) arises under any workers compensa-
4 tion act,

5 “(ii) arises out of any tort, or

6 “(iii) arises under any contractual liabil-
7 ity of the taxpayer to provide benefits to em-
8 ployees of the taxpayer other than benefits—

9 “(I) provided through a plan sub-
10 ject to the requirements of section 404
11 or 404A or a welfare benefit fund de-
12 scribed in section 4976(e), or

13 “(II) which are paid before the
14 date which is 2½ months after the
15 close of the taxable year of the taxpay-
16 er.

17 economic performance occurs as the payments to
18 such person are made. Subparagraphs (A) and (B)
19 shall not apply to any liability described in the
20 preceding sentence.

21 “(D) OTHER ITEMS.—In the case of any
22 other liability of the taxpayer, economic perform-
23 ance occurs at the time determined under regula-
24 tions prescribed by the Secretary.

1 “(3) SUBSECTION NOT TO APPLY TO CERTAIN
2 CASES TO WHICH OTHER PROVISIONS OF THIS TITLE
3 SPECIFICALLY APPLY.—This subsection shall not
4 apply to any item to which any of the following provi-
5 sions apply:

6 “(A) Subsection (c) or (f) of section 166 (re-
7 lating to reserves for bad debts).

8 “(B) Section 463 (relating to vacation pay).

9 “(C) Section 466 (relating to discount cou-
10 pons).

11 “(D) Any other provisions of this title which
12 specifically provides for a deduction for a reserve
13 for estimated expenses.

14 “(4) SPECIAL RULES FOR CERTAIN NUCLEAR DE-
15 COMMISSIONING AND RECLAMATION AND CLOSING
16 COSTS.—

17 “(A) IN GENERAL.—This subsection shall
18 not apply to any portion of any liability with re-
19 spect to which the taxpayer makes an election
20 under subsection (i) or (j).

21 “(B) LIABILITIES WITH RESPECT TO
22 WHICH ELECTION NOT MADE.—If the taxpayer
23 fails to make an election under subsection (i) or
24 (j)—

1 “(i) in the case of any liability with re-
2 spect to the decommissioning of a nuclear
3 powerplant (or unit thereof), economic per-
4 formance occurs as the decommissioning is
5 performed, and

6 “(ii) in the case of any liability with re-
7 spect to any qualified reclamation or closing
8 expenses (within the meaning of subsection
9 (j)), economic performance occurs as the rec-
10 lamation or closing activities occur.

11 “(i) SPECIAL RULE FOR LIABILITIES IN CONNECTION
12 WITH THE DECOMMISSIONING OF A NUCLEAR POWER-
13 PLANT.—

14 “(1) IN GENERAL.—If the taxpayer elects the ap-
15 plication of this subsection, there shall be allowed as a
16 deduction for any taxable year the amount of payments
17 made by the taxpayer to a Nuclear Decommissioning
18 Reserve Fund (hereinafter referred to as the ‘Fund’)
19 during such taxable year.

20 “(2) LIMITATION ON AMOUNTS PAID INTO
21 FUND.—The amount which a taxpayer may pay into
22 the Fund for any taxable year shall not exceed the
23 lesser of—

24 “(A) the amount of nuclear decommissioning
25 costs which is included in the taxpayer’s cost of

1 service for ratemaking purposes for such taxable
2 year, or

3 “(B) the ruling amount applicable to such
4 taxable year.

5 “(3) INCOME AND DEDUCTIONS OF THE TAXPAY-
6 ER.—

7 “(A) INCLUSION OF AMOUNTS DISTRIBUT-
8 ED.—There shall be includible in the gross
9 income of the taxpayer for any taxable year—

10 “(i) any amount distributed from the
11 Fund during such taxable year, other than
12 any amount distributed to pay costs de-
13 scribed in paragraph (5)(B)(ii) (unless such
14 distribution is to the taxpayer),

15 “(ii) the amount of any deemed distribu-
16— tion under paragraph (5)(F) if the Fund is
17 disqualified in such taxable year, and

18 “(iii) the balance in the Fund as of the
19 time the Fund is terminated under paragraph
20 (5)(G).

21 “(B) DEDUCTION WHEN ECONOMIC PER-
22 FORMANCE OCCURS.—In addition to any deduc-
23 tion under paragraph (1), there shall be allowable
24 as a deduction for any taxable year the amount of
25 the nuclear decommissioning costs with respect to

1 which economic performance (within the meaning
2 of subsection (h)(2)) occurs during such taxable
3 year.

4 “(4) RULING AMOUNT.—For purposes of this sub-
5 section—

6 “(A) REQUEST REQUIRED.—No deduction
7 shall be allowed for any payment to the Fund
8 unless the taxpayer requests, and receives, from
9 the Secretary, a schedule of ruling amounts.

10 “(B) RULING AMOUNT.—The term ‘ruling
11 amount’ means, with respect to any taxable year,
12 the amount which the Secretary determines under
13 subparagraph (A) to be necessary to—

14 “(i) to fund the future nuclear decom-
15 missioning costs of the taxpayer with respect
16 to the nuclear powerplant (or unit thereof),
17 multiplied by a fraction—

18 “(I) the numerator of which is the
19 number of taxable years between the
20 taxable year in which the Fund is es-
21 tablished and the taxable year in which
22 decommissioning is reasonably expected
23 to commence, and

1 “(II) the denominator of which is
2 the useful life of the nuclear powerplant
3 (or unit thereof), and

4 “(ii) to prevent any excessive funding of
5 such costs or the funding of such costs at a
6 rate more rapid than level funding, taking
7 into account such discount rates as the Sec-
8 retary deems appropriate.

9 “(C) REVIEW OF AMOUNT.—The Secretary
10 shall at least once during the useful life of the nu-
11 clear powerplant or unit thereof (or, more fre-
12 quently, upon the request of the taxpayer) review,
13 and revise if necessary, the schedule of ruling
14 amounts determined under subparagraph (A).

15 “(5) NUCLEAR DECOMMISSIONING TRUST
16 FUND.—

17 “(A) IN GENERAL.—Each taxpayer who
18 elects the application of this subsection shall es-
19 tablish a Nuclear Decommissioning Trust Fund
20 with respect to each nuclear powerplant (or unit
21 thereof) to which such election applies.

22 “(B) TAXATION OF FUND.—There is im-
23 posed on the gross income of the Fund for any
24 taxable year a tax at a rate equal to the maxi-

1 mum rate in effect under section 11(b), except
2 that—

3 “(i) there shall not be included in the
4 gross income of the Fund any payment to
5 the Fund with respect to which a deduction
6 is allowable under paragraph (1), and

7 “(ii) there shall be allowed as a deduc-
8 tion any amount paid by the Fund described
9 in subparagraph (D)(ii) (other than to the
10 taxpayer).

11 “(C) CONTRIBUTIONS TO FUND.—The Fund
12 shall not accept any payments (or other amounts)
13 other than payments with respect to which a de-
14 duction is allowable under paragraph (1).

15 “(D) USE OF FUND.—The Fund shall be
16 used exclusively for—

17 “(i) satisfying, in whole or in part, any
18 liability of any person contributing to the
19 Fund for the decommissioning of a nuclear
20 powerplant (or unit thereof), and

21 “(ii) to pay administrative costs (includ-
22 ing taxes) and other incidental expenses of
23 the Fund (including legal, accounting, actu-
24 arial, and trustee expenses) in connection
25 with the operation of the Fund.

1 “(E) PROHIBITIONS AGAINST SELF-DEAL-
2 ING.—Under regulations prescribed by the Secre-
3 tary, for purposes of section 4951 (and so much of
4 this title as relates to such section), the Fund
5 shall be treated in the same manner as a trust de-
6 scribed in section 501(c)(21).

7 “(F) DISQUALIFICATION OF FUND.—In any
8 case in which the Fund violates any provision of
9 this subsection or section 4951, the Secretary
10 may disqualify such Fund from the application of
11 this subsection. In any case to which this subpar-
12 agraph applies, the Fund shall be treated as
13 having distributed all of its funds on the date such
14 determination takes effect.

15 “(G) TERMINATION UPON COMPLETION.—
16 Upon completion of the nuclear decommissioning
17 of the nuclear powerplant (or unit thereof) with
18 respect to which a Fund relates, the taxpayer
19 shall terminate such Fund.

20 “(j) SPECIAL RULES RELATING TO CERTAIN RECLA-
21 MATION AND CLOSING COSTS.—

22 “(1) IN GENERAL.—In the case of any qualified
23 reclamation or closing expenses, there shall be allowed
24 as a deduction for any taxable year an amount equal to

1 the current reclamation and closing costs of the tax-
2 payer with respect to such expenses if the taxpayer—

3 “(A) elects the application of this subsection,
4 and

5 “(B) establishes a separate account as of the
6 close of such taxable year—

7 “(i) for each property or portion thereof
8 to which the costs arising in such taxable
9 year relate (as determined under paragraph
10 (7)), and

11 “(ii) which meets the requirements of
12 this subsection.

13 “(2) ADJUSTMENTS TO ACCOUNT.—Any account
14 established with respect to any qualified reclamation or
15 closing expenses shall—

16 “(A) be increased by the amount of the cur-
17 rent reclamation or closing costs,

18 “(B) be credited with interest (compounded
19 semiannually) at a rate equal to one-half the dis-
20 count rate in effect under section 483—

21 “(i) with respect to the Federal short-
22 term rate in the case of current reclamation
23 costs, and

1 “(ii) with respect to the Federal long-
2 term rate in the case of current closing costs,
3 and

4 “(C) reduced by the amount paid by the tax-
5 payer for qualified reclamation and closing ex-
6 penses allocable to such account.

7 “(3) INCLUSION IN INCOME OF CERTAIN
8 AMOUNTS.—

9 “(A) IN GENERAL.—There shall be includi-
10 ble in the gross income of any taxpayer for any
11 taxable year the aggregate amount of the reduc-
12 tions under paragraph (2)(C) in any account of the
13 taxpayer during such taxable year.

14 “(B) SPECIAL RULES FOR RECLAMATION
15 ACCOUNTS.—In the case of any account estab-
16 lished with respect to qualified reclamation ex-
17 penses—

18 “(i) all amounts in such account shall be
19 withdrawn as of the close of the 3rd taxable
20 year after the taxable year in which such ac-
21 count is established, and

22 “(ii) such amounts shall be included in
23 the gross income of the taxpayer for such
24 3rd taxable year.

1 “(4) ALLOWANCE OF DEDUCTION AS ECONOMIC
2 PERFORMANCE OCCURS.—In addition to any deduction
3 allowable under paragraph (1), a deduction shall be al-
4 lowable for any qualified reclamation and closing ex-
5 penses in the taxable year in which economic perform-
6 ance (within the meaning of subsection (h)(2)) occurs.

7 “(5) CURRENT RECLAMATION AND CLOSING
8 COSTS.—For purposes of this subsection—

9 “(A) CURRENT RECLAMATION COSTS.—The
10 term ‘current reclamation costs’ means the quali-
11 fied reclamation expenses which would be in-
12 curred (on the date the account with respect to
13 such expenses is established) if the reclamation
14 activities to which such expenses relate were
15 commenced on such date.

16 “(B) CURRENT CLOSING COSTS.—The term
17 ‘current closing costs’ means, with respect to any
18 taxable year, the excess of—

19 “(i) the qualified closing expenses (de-
20 termined on a unit-of-production method of
21 accounting), as of the last day of such taxable
22 year as if the activities to which such ex-
23 penses relate were commenced on such day,
24 over

1 “(ii) the amount determined under
2 clause (i) as of the beginning of such taxable
3 year.

4 “(C) 2 PERCENT DISCOUNT.—For purposes
5 of this paragraph, any amount under subpara-
6 graphs (A) and (B) shall be discounted under reg-
7 ulations prescribed by the Secretary, using a dis-
8 count rate equal to 2 percent, compounded annu-
9 ally, for each calendar year (or fraction thereof)
10 between—

11 “(i) in the case of subparagraph (A), the
12 date the account is established, or

13 “(ii) in the case of subparagraph (B),
14 the first day of the taxable year, and

15 “(iii) the date on which the activity to
16 which the qualified reclamation or closing ex-
17 penses relate is reasonably expected to com-
18 mence.

19 “(6) QUALIFIED RECLAMATION EXPENSES.—For
20 purposes of this subsection, the term ‘qualified reclama-
21 tion expenses’ means any of the following expenses:

22 “(A) MINING RECLAMATION.—Any expenses
23 incurred for any land reclamation activity which is
24 conducted in accordance with a reclamation plan

1 (including an amendment or modification thereof)
2 which is submitted pursuant to—

3 “(i) the provisions of section 511 or 528
4 of the Surface Mining Control and Reclama-
5 tion Act of 1977 (as in effect on January 1,
6 1984) and which is part of a surface mining
7 and reclamation permit granted under the
8 provisions of title V of such Act (as so in
9 effect), or

10 “(ii) any other Federal or State law
11 which imposes reclamation and permit re-
12 quirements substantially similar to the re-
13 quirements imposed by title V of such Act
14 (as so in effect).

15 “(B) SOLID WASTE DISPOSAL.—

16 “(i) IN GENERAL.—Any expenses in-
17 curred for any land reclamation activity in
18 connection with solid waste disposal sites
19 which is conducted in accordance with—

20 “(I) any provision of the Solid
21 Waste Disposal Act (as in effect on
22 January 1, 1984) requiring such activi-
23 ty, or

1 PENSES.—Section 464 (relating to limitations on de-
2 ductions in case of farming syndicates) is amended by
3 inserting “or any taxable year for which a person is
4 described in subsection (f)” after “subsection (c))” in
5 subsections (a) and (b).

6 (2) PERSONS TO WHOM LIMITATIONS APPLY.—
7 Section 464 is amended by adding at the end thereof
8 the following new subsection:

9 “(f) SECTION TO APPLY TO CERTAIN PERSONS PRE-
10 PAYING 50 PERCENT OR MORE OF FARMING EXPENSES.—

11 “(1) IN GENERAL.—This subsection applies to
12 any taxpayer who—

13 “(A) computes taxable income for the taxable
14 year on the cash receipts and disbursements
15 method of accounting, and

16 “(B) fails to meet the requirements of para-
17 graph (2).

18 “(2) PREPAID EXPENSES MUST BE LESS THAN
19 50 PERCENT.—A taxpayer meets the requirements of
20 this paragraph for any taxable year if—

21 “(A) the taxpayer’s deductible farming ex-
22 penses for the taxable year with respect to which
23 economic performance occurs in any succeeding
24 taxable year are less than 50 percent of—

1 “(B) the taxpayer’s aggregate deductible
2 farming expenses for such taxable year.

3 “(3) DEFERRAL OF DEDUCTIONS FOR ADDITION-
4 AL ITEMS.—In the case of a taxpayer to whom this
5 subsection applies, no deduction shall be allowable for
6 any deductible farming expense to which subsection (a)
7 does not apply until the taxable year in which econom-
8 ic performance with respect to such expense occurs (or,
9 if later, the taxable year when paid).

10 “(4) SUBSECTION NOT TO APPLY TO CERTAIN
11 TAXPAYERS.—

12 “(A) IN GENERAL.—This subsection shall
13 not apply to any eligible taxpayer for any taxable
14 year if—

15 “(i) (I) the aggregate expenses described
16 in paragraph (2) (A) for the 3 taxable years
17 preceding such taxable year are less than 50
18 percent of,

19 “(II) the aggregate expenses described
20 in paragraph (2) (B) for such 3 taxable years,
21 or

22 “(ii) the taxpayer fails to meet the re-
23 quirements of paragraph (2) by reason of any
24 change in business operation directly attrib-
25 utable to extraordinary circumstances.

1 “(B) ELIGIBLE TAXPAYER.—For purposes
2 of this paragraph, the term ‘eligible taxpayer’
3 means any taxpayer—

4 “(i) whose principal residence (within
5 the meaning of section 1034) is on a farm,

6 “(ii) who has a principal occupation of
7 farming, or

8 “(iii) who is a member of the family
9 (within the meaning of subsection (c) (2) (E))
10 of a taxpayer described in clause (i) or (ii).

11 “(5) DEDUCTIBLE FARMING EXPENSES.—For
12 purposes of this subsection, the term ‘deductible farm-
13 ing expenses’ means any amount allowable as a deduc-
14 tion under this chapter (including any amount allow-
15 able as a deduction for depreciation or amortization)
16 which is properly allocable to the trade or business of
17 farming.

18 “(6) ECONOMIC PERFORMANCE.—For purposes of
19 this subsection—

20 “(A) IN GENERAL.—Economic performance
21 shall be treated as occurring at the time deter-
22 mined under section 461(h)(2).

23 “(B) CERTAIN PROPERTY.—In the case of
24 any property described in section 461(h)(2)(A)(ii),
25 economic performance shall be treated as occur-

1 ring at the time such property is used or con-
2 sumed.”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) The heading for section 467 is amended
5 by striking out “**IN CASE OF FARMING**
6 **SYNDICATES**” and inserting in lieu thereof
7 “**FOR CERTAIN FARMING EX-**
8 **PENSES**”.

9 (B) The table of sections for subpart C of
10 part II of subchapter E of chapter 1 is amended
11 by striking out “in case of farming syndicates” in
12 the item relating to section 464 and inserting in
13 lieu thereof “for certain farming expenses.”.

14 (c) 10-YEAR NET OPERATING LOSS CARRYBACK
15 PERIOD FOR DEFERRED STATUTORY OR TORT LIABILITY
16 DEDUCTIONS.—

17 (1) IN GENERAL.—Paragraph (1) of section 172(b)
18 (relating to years to which loss may be carried) is
19 amended by adding at the end thereof the following
20 new subparagraph:

21 “(K) SPECIAL RULE FOR DEFERRED STATU-
22 TORY OR TORT LIABILITY LOSSES.—In the case
23 of a taxpayer which has a deferred statutory or
24 tort liability loss (as defined in subsection (k)) for
25 any taxable year beginning after December 31,

1 1983, the deferred statutory or tort liability loss
2 shall be a net operating loss carryback to each of
3 the 10 taxable years preceding the taxable year of
4 such loss.”.

5 (2) DEFERRED STATUTORY OR TORT LIABILITY
6 LOSSES.—Section 172 is amended by redesignating
7 subsection (k) as subsection (l) and by inserting after
8 subsection (j) the following new subsection:

9 “(k) DEFINITIONS AND SPECIAL RULES RELATING TO
10 DEFERRED STATUTORY OR TORT LIABILITY LOSSES.—For
11 purposes of this section—

12 “(1) DEFERRED STATUTORY OR TORT LIABILITY
13 LOSS.—The term ‘deferred statutory or tort liability
14 loss’ means, for any taxable year, the lesser of—

15 “(A) the net operating loss for such taxable
16 year, reduced by any portion thereof attributable
17 to—

18 “(i) a foreign expropriation loss, or

19 “(ii) a product liability loss, or

20 “(B) the sum of the amounts allowable as a
21 deduction under this chapter (other than any de-
22 duction described in subsection (j)(1)(B)) which—

23 “(i) is taken into account in computing
24 the net operating loss for such taxable year,
25 and

1 “(ii) is for an amount incurred with re-
2 spect to a liability which arises under a Fed-
3 eral or State law or out of any tort of the
4 taxpayer and—

5 “(I) in the case of a liability aris-
6 ing out of a Federal or State law, the
7 act (or failure to act) giving rise to such
8 liability occurs at least 3 years before
9 the beginning of such taxable year, or

10 “(II) in the case of a liability aris-
11 ing out of a tort, such liability arises
12 out of a series of actions (or failures to
13 act) over an extended period of time a
14 substantial portion of which occurs at
15 least 3 years before the beginning of
16 such taxable year.

17 A liability shall not be taken into account under the
18 preceding sentence unless the taxpayer used an accrual
19 method of accounting throughout the period or periods
20 during which the acts or failures to act giving rise to
21 such liability occurred.

22 “(2) SPECIAL RULE FOR NUCLEAR POWER-
23 PLANTS.—Except as provided in regulations prescribed
24 by the Secretary, that portion of a deferred statutory
25 or tort liability loss which is attributable to amounts in-

1 curred in the decommissioning of a nuclear powerplant
2 (or any unit thereof) may, for purposes of subsection
3 (b)(1)(K), be carried back to each of the taxable years
4 during the period—

5 “(A) beginning with the taxable year in
6 which such plant (or unit thereof) was placed in
7 service, and

8 “(B) ending with the taxable year preceding
9 the loss year.

10 “(3) COORDINATION WITH SUBSECTION (b)(2).—
11 In applying paragraph (2) of subsection (b), a deferred
12 statutory or tort liability loss shall be treated in a
13 manner similar to the manner in which a foreign ex-
14 propriation loss is treated.

15 “(4) NO CARRYBACK TO TAXABLE YEARS BEGIN-
16 NING BEFORE JANUARY 1, 1984.—No deferred statu-
17 tory or tort liability loss may be carried back to a tax-
18 able year beginning before January 1, 1984, unless
19 such loss may be carried back to such year without
20 regard to subsection (b)(1)(K).”.

21 (3) CONFORMING AMENDMENTS.—

22 (A) Clause (i) of section 172(b)(1)(A) is
23 amended by striking out “and (J)” and inserting
24 in lieu thereof “(J), and (K)”.

1 (B) Subsections (h) and (j) of section 172 are
2 each amended by striking out “subsection (b)” in
3 the matter preceding paragraph (1) and inserting
4 in lieu thereof “this section”.

5 (d) **CONFORMING AMENDMENT.**—Paragraph (4) of sec-
6 tion 461 (f) (relating to contested liabilities) is amended by
7 inserting “determined after application of subsection (h)”
8 after “taxable year”.

9 (e) **INCLUSION IN INCOME OF NUCLEAR DECOMMISS-**
10 **SIONING COSTS INCLUDED IN THE TAXPAYER’S RATE**
11 **BASE.**—

12 (1) **IN GENERAL.**—Part II of subchapter B of
13 chapter 1 (relating to items specifically included in
14 gross income) is amended by adding at the end thereof
15 the following new section:

16 **“SEC. 88. CERTAIN AMOUNTS WITH RESPECT TO NUCLEAR DE-**
17 **COMMISSIONING COSTS.**

18 **“In the case of any taxpayer who is required to include**
19 **the amount of any nuclear decommissioning costs in the tax-**
20 **payer’s cost of service for ratemaking purposes, there shall be**
21 **includible in the gross income of such taxpayer the amount so**
22 **included for any taxable year.”.**

23 (2) **CONFORMING AMENDMENT.**—The table of
24 sections for part II of subchapter B of chapter 1 is

1 amended by adding at the end thereof the following
2 new item:

“Sec. 88. Certain amounts with respect to nuclear decommissioning costs.”.

3 (f) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in this
5 subsection and subsection (g), the amendments made by
6 this section shall apply to amounts—

7 (A) with respect to which a deduction would
8 be allowable under chapter 1 of the Internal Rev-
9 enue Code of 1954 (determined without regard to
10 such amendments) after the date of enactment of
11 this Act, or

12 (B) with respect to which—

13 (i) a deduction is allowed under chapter
14 1 of such Code (as so determined) before the
15 date of the enactment of this Act, and

16 (ii) a deduction would be allowable
17 under chapter 1 of such Code (determined
18 with regard to such amendments) after the
19 date of the enactment of this Act.

20 In the case of an amount described in subparagraph
21 (B), such amendments shall not be applied to disallow
22 a deduction for any taxable year ending before the date
23 of the enactment of this Act.

24 (2) PREPAID FARMING EXPENSES.—The amend-
25 ment made by subsection (b) shall apply to amounts

1 paid after March 31, 1984 in taxable years ending
2 after such date.

3 (3) SECTION 461(h) TO APPLY IN CERTAIN
4 CASES.—Notwithstanding paragraph (1), section 461(h)
5 of the Internal Revenue Code of 1954 (as added by
6 this section) shall be treated as being in effect to the
7 extent necessary to carry out any amendments made
8 by this section which take effect before section 461(h).

9 (4) CHANGE IN METHOD OF ACCOUNTING.—For
10 purposes of section 481 of the Internal Revenue Code
11 of 1954, the application of the amendments made by
12 this section shall be treated as a change in method of
13 accounting.

14 (g) EXCEPTION FOR CERTAIN EXISTING ACTIVITIES
15 AND CONTRACTS.—

16 (1) EXISTING ACCOUNTING PRACTICE.—If, on
17 March 1, 1984, any taxpayer was regularly computing
18 a deduction for mining reclamation activities under a
19 method substantially similar to the method described in
20 section 461 (j) of the Internal Revenue Code of 1954
21 (as added by this section), the liability for such recla-
22 mation activities for land disturbed before the date of
23 the enactment of this Act shall be treated as having
24 been incurred when such land is disturbed.

25 (2) FIXED PRICE SUPPLY CONTRACTS.—

1 (A) **IN GENERAL.**—In the case of any fixed
2 price supply contract entered into before March 1,
3 1984, the amendment made by this section shall
4 not be applied in computing any deduction for
5 mining reclamation and closing expenses with re-
6 spect to land disturbed to acquire minerals cov-
7 ered by such contract, except that this subpara-
8 graph shall apply only if the taxpayer deducts
9 only the estimated current costs of such expenses.

10 (B) **NO EXTENSION OR RENEGOTIATION.**—
11 Subparagraph (A) shall not apply—

12 (i) to any extension of any contract
13 beyond the period such contract was in effect
14 on March 1, 1984, or

15 (ii) to any renegotiation of, or other
16 change in, the terms and conditions of such
17 contract in effect on March 1, 1984.

18 **SEC. 72. AMORTIZATION OF CONSTRUCTION PERIOD INTER-**
19 **EST AND TAXES FOR RESIDENTIAL REAL PROP-**
20 **ERTY HELD BY CORPORATIONS.**

21 (a) **IN GENERAL.**—Subsection (d) of section 189 (relat-
22 ing to amortization of real property construction period inter-
23 est and taxes) is amended—

24 (1) by striking out paragraph (2), and

1 (2) by redesignating paragraph (3) as paragraph
2 (2).

3 (b) EFFECTIVE DATE.—The amendments made by this
4 section shall apply to taxable years beginning after December
5 31, 1984, with respect to construction beginning after March
6 15, 1984.

7 **SEC. 73. CAPITALIZATION OF START-UP EXPENDITURES.**

8 (a) IN GENERAL.—Section 195 (relating to start-up ex-
9 penditures) is amended to read as follows:

10 **“SEC. 195. START-UP EXPENDITURES.**

11 “(a) CAPITALIZATION OF EXPENDITURES.—Except as
12 otherwise provided in this section, no deduction shall be al-
13 lowed for start-up expenditures.

14 “(b) ELECTION TO AMORTIZE.

15 “(1) IN GENERAL.—Start-up expenditures may,
16 at the election of the taxpayer, be treated as deferred
17 expenses. Such deferred expenses shall be allowed as a
18 deduction prorated equally over such period of not less
19 than 60 months as may be selected by the taxpayer
20 (beginning with the month in which the active trade or
21 business begins).

22 “(2) DISPOSITIONS BEFORE CLOSE OF AMORTI-
23 ZATION PERIOD.—In any case in which a trade or
24 business is completely disposed of by the taxpayer
25 before the end of the period to which paragraph (1) ap-

1 plies, any deferred expenses which were not allowed as
2 a deduction by reason of this section may be deducted
3 to the extent allowable under section 165.

4 “(c) DEFINITIONS.—For purposes of this section—

5 “(1) START-UP EXPENDITURES.—The term
6 ‘start-up expenditure’ means any amount—

7 “(A) paid or incurred in connection with—

8 “(i) investigating the creation or acqui-
9 sition of an active trade or business, or

10 “(ii) creating an active trade or busi-
11 ness, or

12 “(iii) any activity engaged in for profit
13 and for the production of income before the
14 day on which the active trade or business
15 begins in anticipation of such activity becom-
16 ing an active trade or business, and

17 “(B) which, if paid or incurred in connection
18 with the operation of an existing active trade or
19 business (in the same field as the trade or business
20 referred to in subparagraph (A)), would be allow-
21 able as a deduction for the taxable year in which
22 paid or incurred.

23 “(2) BEGINNING OF TRADE OR BUSINESS.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B), the determination of when an

1 active trade or business begins shall be made in
2 accordance with such regulations as the Secretary
3 may prescribe.

4 “(B) ACQUIRED TRADE OR BUSINESS.—An
5 acquired active trade or business shall be treated
6 as beginning when the taxpayer acquires it.

7 “(d) ELECTION.—

8 “(1) TIME FOR MAKING ELECTION.—An election
9 under subsection (b) shall be made not later than the
10 time prescribed by law for filing the return for the tax-
11 able year in which the trade or business begins (includ-
12 ing extensions thereof).

13 “(2) SCOPE OF ELECTION.—The period selected
14 under subsection (b) shall be adhered to in computing
15 taxable income for the taxable year for which the elec-
16 tion is made and all subsequent taxable years.

17 “(3) MANNER OF MAKING ELECTION.—An elec-
18 tion under subsection (b) shall be made in such manner
19 as the Secretary shall by regulations prescribe.”.

20 (b) CONFORMING AMENDMENT.—The table of sections
21 for part VI of subchapter B of chapter 1 is amended by strik-
22 ing out the item relating to section 195 and inserting in lieu
23 thereof the following:

“Sec. 195. Start-up expenditures.”.

1 (c) **EFFECTIVE DATE.**—The amendments made by this
2 section shall apply to taxable years beginning after June 30,
3 1984.

4 **SEC. 74. TREATMENT OF CERTAIN DEFERRED PAYMENTS FOR**
5 **USE OF PROPERTY OR SERVICES.**

6 (a) **GENERAL RULE.**—Subpart C of part II of sub-
7 chapter E of chapter 1 (relating to taxable year for which
8 deductions taken) is amended by adding at the end thereof
9 the following new section:

10 **“SEC. 467. CERTAIN PAYMENTS FOR USE OF PROPERTY OR**
11 **SERVICES.**

12 **“(a) ACCRUAL METHOD AND INTEREST FOR USE OF**
13 **PROPERTY.**—In the case of the payor or payee of any de-
14 ferred rental payment agreement, there shall be taken into
15 account for purposes of this title for any taxable year—

16 **“(1)** that portion of the constant rental amount
17 with respect to such agreement which is allocable to
18 such taxable year, and

19 **“(2)** that portion of the annual interest amount
20 with respect to such agreement which is allocable to
21 such taxable year.

22 **“(b) SERVICES.**—In the case of the payor or payee
23 under any deferred services payment agreement, there shall
24 be taken into account for purposes of this title for any taxable

1 year that portion of the annual interest amount allocable to
2 such taxable year.

3 “(c) CONSTANT RENTAL AMOUNT AND ANNUAL IN-
4 TEREST AMOUNT DEFINED.—For purposes of this section—

5 “(1) CONSTANT RENTAL AMOUNT.—The term
6 ‘constant rental amount’ means, with respect to any
7 deferred payment rental agreement, the amount which,
8 if paid as of the close of each lease period (or portion
9 thereof) under the agreement, has a present value
10 equal to the present value of the aggregate payments
11 required under the agreement.

12 “(2) ANNUAL INTEREST AMOUNT.—The term
13 ‘annual interest amount’ means, with respect to any
14 lease period, interest, computed at the rate determined
15 under subsection (g)(3), on the sum of—

16 “(A) the excess of—

17 “(i) the constant rental amount, over

18 “(ii) any payments under the agreement
19 for such lease period, and

20 “(B) any unpaid annual interest amount as of
21 the close of the lease period for any preceding
22 lease period.

23 “(3) SPECIAL RULE FOR SERVICES.—The annual
24 interest amount with respect to any deferred service
25 payment agreement shall be computed in the same

1 manner as the annual interest amount under paragraph
2 (2), except that the Secretary may by regulations pro-
3 vide for adjustments to such amount in any case where
4 services are not performed ratably over the period of
5 the agreement.

6 “(4) LEASE PERIOD.—The term ‘lease period’
7 means, with respect to any deferred rental payment
8 agreement, the 12-month period beginning on the first
9 day to which such agreement applies and each suc-
10 ceeding 12-month period or portion thereof.

11 “(d) DEFERRED RENTAL PAYMENT AGREEMENT DE-
12 FINED.—For purposes of this section—

13 “(1) IN GENERAL.—The term ‘deferred rental
14 payment agreement’ means any agreement for the use
15 of tangible property under which—

16 “(A) there is at least 1 amount allocable to
17 the use of property during a calendar year which
18 is to be paid after the close of the calendar year
19 following the calendar year in which such use
20 occurs, or

21 “(B) there is at least one amount allocable to
22 use of property for any lease period which is not
23 commercially reasonable.

24 “(2) COMMERCIALY REASONABLE.—

1 “(A) IN GENERAL.—The determination of
2 whether any amount described in paragraph (1)(B)
3 is not commercially reasonable—

4 “(i) shall be made as of the time the
5 rental agreement is entered into, and

6 “(ii) shall be made by taking into ac-
7 count the type of property and the area in
8 which the property is located.

9 “(B) SPECIAL RULES FOR SALE-LEASE-
10 BACKS, ETC.—In the case of any agreement
11 which is part of a transaction described in subpar-
12 agraph (C), an amount payable under such agree-
13 ment for the use of property for any lease period
14 shall be treated as not commercially reasonable if
15 the increase over the amount payable for the im-
16 mediately preceding lease period is more than the
17 greatest of—

18 “(i) the percentage increase during such
19 period in the Consumer Price Index (or in
20 any other index specified in regulations),

21 “(ii) the Federal short-term rate deter-
22 mined under section 1274(d) which is in
23 effect as of the time the agreement is entered
24 into, or

1 “(iii) the increase during such period in
2 specified costs for the property payable by
3 the lessor to unrelated persons.

4 “(C) DESCRIPTION OF SALE-LEASEBACK,
5 ETC. TRANSACTIONS.—For purposes of subpara-
6 graph (B), a transaction is described in this sub-
7 paragraph if it involves—

8 “(i) a sale or lease of property by any
9 person, followed by

10 “(ii) a leaseback within 2 years to such
11 person (or a related person).

12 “(D) SPECIAL SALE-LEASEBACK, ETC.,
13 RULES NOT TO APPLY IN CERTAIN CASES.—Sub-
14 paragraph (B) shall not apply in the case of any
15 agreement if, pursuant to a request filed not later
16 than the date on which such agreement was en-
17 tered into, it is established to the satisfaction of
18 the Secretary that such agreement did not have
19 as 1 of its principal purposes the avoidance of any
20 Federal tax.

21 “(e) DEFERRED SERVICE PAYMENT AGREEMENT DE-
22 FINED.—For purposes of this section, the term ‘deferred
23 service payment agreement’ means an agreement to provide
24 services under which there is at least 1 amount allocable to
25 services performed in a calendar year which is to be paid

1 after the close of the calendar year following the calendar
2 year in which the services are performed.

3 “(f) EXCEPTIONS.—

4 “(1) SECTION NOT TO APPLY TO DEFERRED PAY-
5 MENTS OF \$250,000 OR LESS.—This section shall not
6 apply to any amount to be paid for the use of property
7 (or services) if the sum of the following amounts does
8 not exceed \$250,000—

9 “(A) the aggregate amount of payments re-
10 ceived as consideration for such use of property
11 (or such services), and

12 “(B) the aggregate value of any other con-
13 sideration to be received for such use of property
14 (or such services).

15 For purposes of the preceding sentence, rules similar to
16 the rules of clauses (ii) and (iii) of section 1274(c)(2)(C)
17 shall apply.

18 “(2) COORDINATION WITH SECTION
19 1273(b)(3).—This section shall not apply to any trans-
20 action in which any debt instrument to which section
21 1273(b)(3) applies is issued.

22 “(3) PAYMENTS TO WHICH OTHER SECTIONS
23 APPLY.—Sections 83, 267, 404, 404A, and 706(a)
24 shall be applied before the application of this section,

1 and this section shall not apply to any payment to
2 which any such section applies.

3 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—For
4 purposes of this section—

5 “(1) PAYEE.—The term ‘payee’ means the person
6 to whom the deferred payment is to be made.

7 “(2) PAYOR.—The term ‘payor’ means the person
8 required to make the deferred payment.

9 “(3) DISCOUNT AND INTEREST RATE.—For pur-
10 poses of computing present value and interest under
11 subsection (c), the rate used shall be equal to 120 per-
12 cent of the applicable Federal rate determined under
13 section 1274(d) which is in effect at the time the
14 agreement is entered into with respect to debt instru-
15 ments having a maturity equal to the term of the
16 agreement.

17 “(4) RELATED PERSON.—The term ‘related
18 person’ has the meaning given to such term by section
19 168(d)(4)(D).

20 “(5) CERTAIN OPTIONS TO RENEW TAKEN INTO
21 ACCOUNT.—Except as provided in regulations pre-
22 scribed by the Secretary, there shall not be taken into
23 account in computing the term of any agreement for
24 purposes of this section any extension which is solely
25 at the option of the lessee.

1 “(h) **COMPARABLE RULES WHERE AGREEMENT FOR**
2 **DECREASING PAYMENTS.**—Under regulations prescribed by
3 the Secretary, rules comparable to the rules of this section
4 shall also apply in the case of any agreement where the
5 amount paid under the agreement for the use of property or
6 performance of services decreases during the term of the
7 agreement.”.

8 (b) **CLERICAL AMENDMENT.**—The table of sections for
9 subpart C of part II of subchapter E of chapter 1 is amended
10 by adding at the end thereof the following new item:

 “Sec. 467. Certain payments for use of property or services.”.

11 (c) **EFFECTIVE DATE.**—The amendments made by this
12 section shall apply to agreements entered into after March
13 15, 1984, in taxable years ending after such date.

14 **Subtitle H—Provisions Relating to** 15 **Tax Straddles**

16 **SEC. 75. REPEAL OF EXCEPTION FROM STRADDLE RULES FOR**
17 **STOCK OPTIONS AND CERTAIN STOCK.**

18 (a) **REPEAL OF EXCEPTION FOR STOCK OPTIONS.**—

19 (1) **IN GENERAL.**—Subparagraph (B) of section
20 1092(d)(2) (relating to special rule for stock options) is
21 amended to read as follows:

22 “(B) **EXCEPTION FOR QUALIFIED COVERED**
23 **CALL OPTIONS.**—The term ‘position’ shall not in-
24 clude any qualified covered call option.”

1 (2) QUALIFIED COVERED CALL OPTION DE-
2 FINED.—Subsection (d) of section 1092 is amended by
3 adding at the end thereof the following new paragraph:

4 “(6) QUALIFIED COVERED CALL OPTION DE-
5 FINED.—For purposes of this section—

6 “(A) IN GENERAL.—The term ‘qualified cov-
7 ered call option’ means any option granted by the
8 taxpayer to purchase stock held by the taxpayer
9 (or acquired by the taxpayer in connection with
10 the granting of the option) but only if—

11 “(i) such option is traded on a national
12 securities exchange which is registered with
13 the Securities and Exchange Commission or
14 on a similar exchange which the Secretary
15 determines has rules adequate to carry out
16 the purposes of this paragraph,

17 “(ii) gain or loss with respect to such
18 option is not ordinary income or loss,

19 “(iii) such option is granted more than
20 30 days before the day on which the option
21 expires, and

22 “(iv) such option is not a deep-in-the-
23 money option.

24 “(B) DEEP-IN-THE-MONEY OPTION.—The
25 term ‘deep-in-the-money option’ means an option

1 having a strike price lower than the lowest quali-
2 fied bench mark.

3 “(C) LOWEST QUALIFIED BENCH MARK.—

4 “(i) IN GENERAL.—Except as otherwise
5 provided in this subparagraph, the term
6 ‘lowest qualified bench mark’ means the
7 highest available strike price which is less
8 than the applicable stock price.

9 “(ii) SPECIAL RULE WHERE OPTION IS
10 FOR PERIOD MORE THAN 90 DAYS AND
11 STRIKE PRICE IS \$50 OR MORE.—In the
12 case of an option—

13 “(I) which is granted more than 90
14 days before the date on which such
15 option expires, and

16 “(II) with respect to which the
17 strike price is \$50 or more,
18 the lowest qualified bench mark is the second
19 highest available strike price which is less
20 than the applicable stock price.

21 “(D) STRIKE PRICE.—For purposes of this
22 paragraph, the term ‘strike price’ means the price
23 at which the option is exercisable.

24 “(E) APPLICABLE STOCK PRICE.—For pur-
25 poses of this paragraph, the term ‘applicable stock

1 price' means, with respect to any stock for which
2 an option has been granted—

3 “(i) the closing price of such stock on
4 the most recent day on which such stock was
5 traded before the date on which such option
6 was granted, or

7 “(ii) the opening price of such stock on
8 the day on which such option was granted,
9 but only if such price is greater than 110
10 percent of the price determined under clause
11 (i).

12 “(F) REGULATIONS.—The Secretary shall
13 prescribe such regulations as may be necessary or
14 appropriate to carry out the purposes of this para-
15 graph. Such regulations may include modifications
16 to the provisions of this paragraph which are ap-
17 propriate to take account of changes in the prac-
18 tices of option exchanges or to prevent the use of
19 options for tax avoidance purposes.”

20 (b) REPEAL OF EXCEPTION FOR STOCK.—

21 (1) IN GENERAL.—Paragraph (1) of section
22 1092(d) (defining personal property) is amended by
23 striking out “(other than stock)”.

24 (2) EXCEPTION WHERE STRADDLE CONSISTS OF
25 HOLDING STOCK.—Subsection (d) of section 1092 is

1 amended by redesignating paragraphs (3), (4), (5), and
2 (6) as paragraphs (4), (5), (6), and (7) respectively, and
3 by inserting after paragraph (2) the following new
4 paragraph:

5 “(3) SPECIAL RULES FOR STOCK.—For purposes
6 of paragraph (1), the term ‘personal property’ does not
7 include stock, other than—

8 “(A) any interest in stock which is part of a
9 straddle (determined as if such interest was per-
10 sonal property) one of the offsetting positions of
11 which is any option to buy or sell actively traded
12 stock, or

13 “(B) any stock of a corporation formed or
14 availed of to take positions in personal property
15 which offset positions taken by any shareholder.

16 For purposes of determining whether subsection (e) ap-
17 plies to any transaction to which subparagraph (B) ap-
18 plies, all includible corporations of an affiliated group
19 (within the meaning of section 1504(a)) shall be treated
20 as 1 taxpayer.”.

21 (c) TREATMENT OF GAIN OR LOSS WHERE TAXPAYER
22 GRANTOR OF OPTION TO BUY STOCK.—Section 1092 is
23 amended by redesignating subsection (f) as subsection (g) and
24 by inserting after subsection (e) the following new subsection:

1 “(f) TREATMENT OF GAIN OR LOSS WHERE TAXPAY-
2 ER GRANTOR OF OPTION TO BUY STOCK.—If—

3 “(1) the taxpayer holds any stock, and

4 “(2) at any time while the taxpayer holds such
5 stock, there is outstanding an option granted by the
6 taxpayer to purchase such stock and such option has a
7 strike price less than the applicable stock price,

8 any amount which (but for this subsection) would be treated
9 as long-term capital gain with respect to such stock (or any
10 substituted basis property with respect to such stock) shall be
11 treated as short-term capital gain to the extent of any short-
12 term capital loss recognized on the option.”.

13 (d) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as otherwise provided
15 in this subsection, the amendments made by this sec-
16 tion shall apply to positions established after October
17 31, 1983, in taxable years ending after such date.

18 (2) SPECIAL RULE FOR OFFSETTING POSITION
19 STOCK.—In the case of any stock of a corporation
20 formed or availed of to take positions in personal prop-
21 erty which offset positions taken by any shareholder,
22 the amendments made by this section shall apply to
23 positions established on or after May 23, 1983, in tax-
24 able years ending on or after such date.

1 (3) SUBSECTION (c).—The amendment made by
2 subsection (c) shall apply to positions established after
3 March 1, 1984, in taxable years ending after such
4 date.

5 **SEC. 76. SECTION 1256 EXTENDED TO CERTAIN OPTIONS.**

6 (a) GENERAL RULE.—

7 (1) Section 1256 (relating to regulated futures
8 contracts marked to market) is amended—

9 (A) by striking out “regulated futures con-
10 tract” each place it appears and inserting in lieu
11 thereof “section 1256 contract”, and

12 (B) by striking out “regulated futures con-
13 tracts” each place it appears and inserting in lieu
14 thereof “section 1256 contracts”.

15 (2) Subsection (b) of section 1256 is amended to
16 read as follows:

17 “(b) SECTION 1256 CONTRACT DEFINED.—For pur-
18 poses of this section, the term ‘section 1256 contract’
19 means—

20 “(1) any regulated futures contract,

21 “(2) any foreign currency contract,

22 “(3) any nonequity option, and

23 “(4) any dealer equity option.”

24 (3) Subsection (g) of section 1256 is amended to
25 read as follows:

1 “(g) DEFINITIONS.—For purposes of this section—

2 “(1) REGULATED FUTURES CONTRACTS DE-
3 FINED.—The term ‘regulated futures contract’ means a
4 contract—

5 “(A) with respect to which the amount re-
6 quired to be deposited and the amount which may
7 be withdrawn depends on a system of marking to
8 market, and

9 “(B) which is traded on or subject to the
10 rules of a qualified board or exchange.

11 “(2) FOREIGN CURRENCY CONTRACT DEFINED.—

12 “(A) FOREIGN CURRENCY CONTRACT.—The
13 term ‘foreign currency contract’ means a con-
14 tract—

15 “(i) which requires delivery of a foreign
16 currency which is a currency in which posi-
17 tions are also traded through regulated fu-
18 tures contracts,

19 “(ii) which is traded in the interbank
20 market, and

21 “(iii) which is entered into at arm’s
22 length at a price determined by reference to
23 the price in the interbank market.

24 “(B) REGULATIONS.—The Secretary shall
25 prescribe such regulations as may be necessary or

1 appropriate to carry out the purposes of subpara-
2 graph (A), including regulations excluding from
3 the application of subparagraph (A) any contract
4 (or type of contract) if its application thereto
5 would be inconsistent with such purposes.

6 “(3) NONEQUITY OPTION.—The term ‘nonequity
7 option’ means any listed option which is not an equity
8 option.

9 “(4) DEALER EQUITY OPTION.—The term ‘dealer
10 equity option’ means, with respect to an options dealer,
11 any listed option which—

12 “(A) is an equity option,

13 “(B) is purchased or granted by such options
14 dealer in the normal course of his trade or busi-
15 ness, and

16 “(C) is listed on the national securities ex-
17 change on which such options dealer is registered.

18 “(5) LISTED OPTION.—The term ‘listed option’
19 means any option (other than a right to acquire stock
20 from the issuer) which is traded on (or subject to the
21 rules of) a qualified board or exchange.

22 “(6) EQUITY OPTION.—The term ‘equity option’
23 means any option—

24 “(A) which settles in stock, or

1 “(B) the value of which is determined direct-
2 ly or indirectly by reference to any stock or stock
3 index.

4 “(7) QUALIFIED BOARD OR EXCHANGE.—The
5 term ‘qualified board or exchange’ means—

6 “(A) a national securities exchange which is
7 registered with the Securities and Exchange
8 Commission,

9 “(B) a domestic board of trade designated as
10 a contract market by the Commodity Futures
11 Trading Commission, or

12 “(C) any other exchange or board of trade
13 which the Secretary determines has rules ade-
14 quate to carry out the purposes of this section.

15 “(8) OPTIONS DEALER.—The term ‘options
16 dealer’ means—

17 “(A) any person registered with the Securi-
18 ties and Exchange Commission and an appropri-
19 ate national securities exchange as a market
20 maker or specialist in listed options, or

21 “(B) a person who—

22 “(i) is registered with a domestic board
23 of trade which is designated as a contract
24 market by the Commodities Futures Trading
25 Commission, and

1 “(ii) purchases or sells any option on
2 any regulated futures contract and such
3 option is on, or subject to the rules of, the
4 domestic board of trade described in clause
5 (i).”.

6 **(h) CAPITAL GAIN TREATMENT FOR TRADERS IN SEC-**
7 **TION 1256 CONTRACTS.**—Subsection (f) of section 1256 (re-
8 lating to special rules) is amended by adding at the end there-
9 of the following new paragraphs:

10 **“(3) CAPITAL GAIN TREATMENT FOR TRADERS**
11 **IN SECTION 1256 CONTRACTS.—**

12 **“(A) IN GENERAL.**—For purposes of this
13 title, gain or loss from trading of section 1256
14 contracts (whether or not such trading is in the
15 ordinary course of the taxpayer’s trade or business
16 of trading section 1256 contracts) shall be treated
17 as gain or loss from the sale or exchange of a
18 capital asset.

19 **“(B) EXCEPTION FOR CERTAIN HEDGING**
20 **TRANSACTIONS.**—Subparagraph (A) shall not
21 apply to any section 1256 contract to the extent
22 such contract is held for purposes of hedging
23 property if any gain or loss with respect to such
24 property in the hands of the taxpayer would be
25 ordinary income or loss.

1 (C) by striking out "TAKES DELIVERY ON"
2 in the heading of paragraph (2) and inserting in
3 lieu thereof "TAKES DELIVERY ON OR EXER-
4 CISES".

5 (2) Subsection (d) of section 1092 (as in effect
6 before the amendments made by section 101) is amend-
7 ed by striking out paragraphs (4) and (5) and inserting
8 in lieu thereof the following:

9 "(4) SPECIAL RULE FOR SECTION 1256 CON-
10 TRACTS.—In the case of a straddle at least 1 (but not
11 all) of the positions of which are section 1256 con-
12 tracts, the provisions of this section shall apply to any
13 section 1256 contract and any other position making
14 up such straddle.

15 "(5) SECTION 1256 CONTRACT.—The term 'sec-
16 tion 1256 contract' has the meaning given such term
17 by section 1256(b)."

18 (3) Subsection (c) of section 1212 (relating to car-
19 ryback of losses from regulated futures contracts to
20 offset prior gains from such contracts) is amended—

21 (A) by striking out "net commodity futures
22 loss" each place it appears (including in any head-
23 ings) and inserting in lieu thereof "net section
24 1256 contracts loss",

1 (B) by striking out “regulated futures con-
2 tracts” each place it appears (including in any
3 headings) and inserting in lieu thereof “section
4 1256 contracts”, and

5 (C) by striking out “net commodity futures
6 gain” each place it appears (including in any
7 headings) and inserting in lieu thereof “net section
8 1256 contract gain”.

9 (4) Paragraph (1) of section 1234A (relating to
10 gains or losses from certain terminations) is amended
11 by striking out “a regulated futures contract” and in-
12 serting in lieu thereof “a section 1256 contract”.

13 (5) The section heading for section 1256 is
14 amended by striking out “**REGULATED FUTURES**
15 **CONTRACTS**” and inserting in lieu thereof “**SECTION**
16 **1256 CONTRACTS**”.

17 (6) The table of sections for part IV of subchapter
18 P of chapter 1 is amended by striking out “Regulated
19 futures contracts” and inserting in lieu thereof “Sec-
20 tion 1256 contracts”.

21 (7) Subparagraph (B) of section 263(g) (relating to
22 certain interest and carrying costs in the case of strad-
23 dles) is amended by striking out “and” at the end of
24 clause (i), by striking out the period at the end of
25 clause (ii) and inserting in lieu thereof a comma and

1 “or”, and by adding at the end thereof the following
2 new clause:

3 “(iii) the amount of any dividends in-
4 cludible in gross income with respect to such
5 property for the taxable year.”.

6 (d) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as otherwise provided
8 in this subsection or subsection (e), the amendments
9 made by this section shall apply to positions established
10 after the date of the enactment of this Act, in taxable
11 years ending after such date.

12 (2) SPECIAL RULE FOR OPTIONS ON REGULATED
13 FUTURES CONTRACTS.—In the case of any option with
14 respect to a regulated futures contract (within the
15 meaning of section 1256 of the Internal Revenue Code
16 of 1954), the amendments made by this section shall
17 apply—

18 (A) in the case of a nonequity option (within
19 the meaning of section 1256(g)(3) of such Code),
20 to positions established after October 31, 1983, in
21 taxable years ending after such date, and

22 (B) in the case of an equity option (within
23 the meaning of section 1256(g)(6) of such Code),
24 to positions established after the date of the en-

1 actment of this Act, in taxable years ending after
2 such date.

3 (e) ELECTIONS WITH RESPECT TO PROPERTY HELD
4 ON OR BEFORE THE DATE OF THE ENACTMENT OF THIS
5 ACT.—At the election of the taxpayer—

6 (1) the amendments made by this section shall
7 apply to all section 1256 contracts held by the taxpay-
8 er on the date of the enactment of this Act, effective
9 for periods after such date in taxable years ending after
10 such date, or

11 (2) in lieu of an election under paragraph (1), the
12 amendments made by this section shall apply to all
13 section 1256 contracts held by the taxpayer at any
14 time during the taxable year of the taxpayer which in-
15 cludes the date of the enactment of this Act.

16 (f) ELECTION FOR INSTALLMENT PAYMENT OF TAX
17 ATTRIBUTABLE TO STOCK OPTIONS.—

18 (1) If the taxpayer makes an election under this
19 subsection—

20 (A) the taxpayer may pay part or all of the
21 tax for the taxable year referred to in subsection
22 (e)(2) in 2 or more (but not exceeding 5) equal in-
23 stallments, and

1 (B) the maximum amount of tax which may
2 be paid in installments under this subsection shall
3 be the excess of—

4 (i) the tax for such taxable year deter-
5 mined by taking into account subsection
6 (e)(2), over

7 (ii) the tax for such taxable year deter-
8 mined by taking into account subsection
9 (e)(2) and by treating—

10 (I) all section 1256 contracts
11 which are stock options, and

12 (II) any stock which was part of a
13 straddle including any such stock op-
14 tions and the income on which is ordi-
15 nary income to the taxpayer,
16 and which were held by the taxpayer on the
17 first day of such taxable year as having been
18 acquired for a purchase price equal to their
19 fair market value on the last business day of
20 the preceding taxable year.

21 An election under this subsection may be made only if
22 the taxpayer makes an election under subsection (e)(2).

23 (2) DATE FOR PAYMENT OF INSTALLMENT.—

24 (A) If an election is made under this subsec-
25 tion, the first installment under paragraph (1)

1 shall be paid on or before the due date for filing
2 the return for the taxable year described in para-
3 graph (1), and each succeeding installment shall
4 be paid on or before the date which is one year
5 after the date prescribed for payment of the pre-
6 ceding installment.

7 (B) If a bankruptcy case or insolvency pro-
8 ceeding involving the taxpayer is commenced
9 before the final installment is paid, the total
10 amount of any unpaid installments shall be treated
11 as due and payable on the day preceding the day
12 on which such case or proceeding is commenced.

13 (3) INTEREST IMPOSED.—For purposes of section
14 6601 of the Internal Revenue Code of 1954, the time
15 for payment of any tax with respect to which an elec-
16 tion is made under this subsection shall be determined
17 without regard to this subsection.

18 (4) FORM OF ELECTION.—An election under this
19 subsection shall be made not later than the time for
20 filing the return for the taxable year described in para-
21 graph (1) and shall be made in the manner and form
22 required by regulations prescribed by the Secretary.
23 The election shall set forth—

1 (A) the amount determined under paragraph
2 (1)(B) and the number of installments elected by
3 the taxpayer,

4 (B) each section 1256 contract which is a
5 stock option held by the taxpayer on the first day
6 of the taxable year described in paragraph (1),
7 and the date such contract was acquired,

8 (C) the fair market value on the last business
9 day of the preceding taxable year of every con-
10 tract described in subparagraph (B), and

11 (D) such other information for purposes of
12 carrying out the provisions of this subsection as
13 may be required by such regulations.

14 (g) DELAY OF IDENTIFICATION REQUIREMENT.—Sec-
15 tion 1256(e)(2)(C) of the Internal Revenue Code of 1954
16 shall not apply to any stock option or stock acquired on or
17 before the 60th day after the date of the enactment of this
18 Act.

19 (h) DEFINITIONS.—For purposes of subsections (e) and
20 (f)—

21 (1) SECTION 1256 CONTRACT.—The term “sec-
22 tion 1256 contract” has the meaning given to such
23 term by section 1256(b) of the Internal Revenue Code
24 of 1954 (as amended by this section).

1 (2) STOCK OPTION.—The term “stock option”
2 means any option to buy or sell stock which is de-
3 scribed in section 1092(d)(2)(B) (as in effect before the
4 amendments made by this Act).

5 **SEC. 77. REGULATIONS UNDER SECTION 1092(b).**

6 (a) GENERAL RULE.—Subsection (b) of section 1092
7 (relating to character of gain or loss; wash sales) is amended
8 to read as follows:

9 “(b) REGULATIONS.—The Secretary shall prescribe
10 such regulations with respect to gain or loss on positions
11 which are part of a straddle as may be necessary to carry out
12 the purposes of this section. To the extent consistent with
13 such purposes, such regulations shall include rules applying
14 the principles of subsections (a) and (d) of section 1091 and of
15 subsections (b) and (d) of section 1233.”.

16 (b) REQUIREMENT THAT REGULATIONS BE ISSUED
17 WITHIN 6 MONTHS AFTER THE DATE OF ENACTMENT.—
18 The Secretary of the Treasury or his delegate shall prescribe
19 regulations under section 1092(b) of the Internal Revenue
20 Code of 1954 (including regulations relating to mixed strad-
21 dles) not later than the date 6 months after the date of the
22 enactment of this Act.

1 SEC. 78. LIMITATION ON LOSSES FROM HEDGING TRANSAC-
2 TIONS.

3 (a) GENERAL RULE.—Subsection (e) of section 1256
4 (relating to mark to market not to apply to hedging transac-
5 tions) is amended by adding at the end thereof the following
6 new paragraph:

7 “(5) LIMITATION ON LOSSES FROM HEDGING
8 TRANSACTIONS ALLOCABLE TO LIMITED PARTNERS
9 OR ENTREPRENEURS.—

10 “(A) IN GENERAL.—

11 “(i) LIMITATION.—Any separately com-
12 puted hedging loss for a taxable year which
13 is allocable to any limited partner or limited
14 entrepreneur (within the meaning of para-
15 graph (3)) shall be allowed only to the extent
16 of the taxable income of such limited partner
17 or entrepreneur for such taxable year attrib-
18 utable to the trade or business in which the
19 hedging transactions were entered into. For
20 purposes of the preceding sentence, taxable
21 income shall be determined by not taking
22 into account items attributable to hedging
23 transactions.

24 “(ii) CARRYOVER OF DISALLOWED
25 LOSS.—Any hedging loss disallowed under
26 clause (i) shall be treated as a deduction at-

1 tributable to a hedging transaction allowable
2 in the first succeeding taxable year.

3 “(B) EXCEPTION WHERE ECONOMIC
4 LOSS.—Subparagraph (A)(i) shall not apply to any
5 hedging loss to the extent that such loss exceeds
6 the aggregate unrecognized gains from hedging
7 transactions as of the close of the taxable year.

8 “(C) EXCEPTION FOR CERTAIN HEDGING
9 TRANSACTIONS.—In the case of any hedging
10 transaction relating to property other than stock
11 or securities, this section shall only apply in the
12 case of a taxpayer described in section 465(a)(1).

13 “(D) HEDGING LOSS.—The term ‘hedging
14 loss’ means the excess of—

15 “(i) the deductions allowable under this
16 chapter for the taxable year attributable to
17 hedging transactions (determined without
18 regard to subparagraph (A)(i)), over

19 “(ii) income received or accrued by the
20 taxpayer during such taxable year from such
21 transactions.

22 “(E) UNRECOGNIZED GAIN.—The term ‘un-
23 recognized gain’ has the meaning given to such
24 term by section 1092(a)(3).”.

1 (b) EFFECTIVE DATE.—The amendment made by sub-
2 section (a) shall apply to taxable years beginning after De-
3 cember 31, 1984.

4 SEC. 79. CLARIFICATION THAT SECTION 1234 APPLIES TO OP-
5 TIONS ON REGULATED FUTURES CONTRACTS
6 AND CASH SETTLEMENT OPTIONS.

7 (a) GENERAL RULE.—Section 1234 (relating to options
8 to buy or sell) is amended by adding at the end thereof the
9 following new subsection:

10 “(c) TREATMENT OF OPTIONS ON REGULATED FU-
11 TURES CONTRACTS AND CASH SETTLEMENT OPTIONS.—

12 “(1) REGULATED FUTURES CONTRACTS.—Gain
13 or loss shall be recognized on the exercise of an option
14 on a regulated futures contract (within the meaning of
15 section 1256(g)(1)).

16 “(2) CASH SETTLEMENT OPTIONS.—

17 “(A) IN GENERAL.—For purposes of subsec-
18 tions (a) and (b), a cash settlement option shall be
19 treated as an option to buy or sell property.

20 “(B) CASH SETTLEMENT OPTION DE-
21 FINED.—For purposes of subparagraph (A), the
22 term ‘cash settlement option’ means any option
23 which on exercise settles in (or could be settled
24 in) cash or property other than the underlying
25 property.”.

1 (b) **EFFECTIVE DATE.**—The amendment made by sub-
2 section (a) shall apply to options purchased or granted after
3 October 31, 1983, in taxable years ending after such date.

4 **SEC. 80. WASH SALE RULES TO APPLY TO LOSSES ON CER-**
5 **TAIN SHORT SALES.**

6 (a) **IN GENERAL.**—Section 1091 (relating to losses from
7 wash sales of stock or securities) is amended by adding at the
8 end thereof the following new subsection:

9 “(c) **CERTAIN SHORT SALES OF STOCKS OR SECURI-**
10 **TIES.**—Rules similar to the rules of subsection (a) shall apply
11 to any loss realized on the closing of a short sale of stock or
12 securities if, within a period beginning 30 days before the
13 date of such closing and ending 30 days after such date—

14 “(1) substantially identical stock or securities
15 were sold, or

16 “(2) another short sale of substantially identical
17 stock or securities was entered into.”.

18 (b) **EFFECTIVE DATE.**—The amendment made by this
19 section shall apply to short sales of stock or securities after
20 the date of the enactment of this Act in taxable years ending
21 after such date.

1 SEC. 81. TIME FOR IDENTIFICATION BY TAXPAYER OF CER-
2 TAIN TRANSACTIONS.

3 (a) IDENTIFIED STRADDLES.—Clause (i) of section
4 1092(a)(2)(B) (defining identified straddles) is amended to
5 read as follows:

6 “(i) which is clearly identified as an
7 identified straddle before the earlier of—

8 “(I) the close of the day on which
9 the straddle is acquired, or

10 “(II) such time as the Secretary
11 may prescribe by regulations.”.

12 (b) DEALERS IN SECURITIES.—Section 1236(a)(1) (re-
13 lating to capital gains of dealers in securities) is amended by
14 striking out “(before the close of the following day in the case
15 of an acquisition before January 1, 1982)” and inserting in
16 lieu thereof “(or such earlier time as the Secretary may pre-
17 scribe by regulations)”.

18 (c) MIXED STRADDLES.—Subparagraph (B) of section
19 1256(d)(4) (defining mixed straddles) is amended by inserting
20 “(or such earlier time as the Secretary may prescribe by reg-
21 ulations)” after “acquired”.

22 (d) HEDGING TRANSACTIONS.—Subparagraph (C) of
23 section 1256(e)(2) (defining hedging transactions) is amended
24 by inserting “(or such earlier time as the Secretary may pre-
25 scribe by regulations)” after “entered into”.

1 (e) **EFFECTIVE DATE.**—The amendment made by this
2 section shall apply to items identified after the date of the
3 enactment of this Act, in taxable years ending after such
4 date.

5 **SUBTITLE I—PENSIONS**

6 **PART I—GENERAL PROVISIONS**

7 **SEC. 85. DEDUCTION LIMITS FOR QUALIFIED PENSION PLANS.**

8 (a) **MODIFICATION OF SECTION 404(a)(7) LIMITS.**—
9 Paragraph (7) of section 404(a) (relating to limits on deduc-
10 tions of employers to employee trusts, etc.) is amended to
11 read as follows:

12 “(7) **DEDUCTION LIMITS.**—

13 “(A) **IN GENERAL.**—If, in connection with 2
14 or more trusts (or 1 or more trusts and an annuity
15 plan), amounts are deductible under—

16 “(i) paragraphs (1) and (3),

17 “(ii) paragraphs (2) and (3),

18 “(iii) paragraphs (1), (2), and (3), or

19 “(iv) paragraph (1) with respect to a de-
20 fined contribution plan and a defined benefit
21 plan,

22 the total amount deductible for a taxable year
23 under such trusts and plans shall not exceed the
24 lesser of the amount determined under subpara-

1 graph (B) of this paragraph or the amount deter-
2 mined under paragraph (11).

3 “(B) AMOUNT OF LIMITATION.—The
4 amount determined under this subparagraph shall
5 be equal to the greater of—

6 “(i) 25 percent of the compensation oth-
7 erwise paid or accrued during the taxable
8 year to the beneficiaries of the trusts or
9 plans described in subparagraph (A), or

10 “(ii) an amount equal to the amount of
11 employer contributions for all defined benefit
12 plans to which subparagraph (A) applies
13 which is necessary to satisfy the minimum
14 funding standard under section 412 for the
15 plan year of such plans which end with or
16 within such taxable year (or for any prior
17 plan years).

18 “(C) CARRYOVER OF EXCESS AMOUNTS.—

19 “(i) IN GENERAL.—In any case in
20 which—

21 “(I) the amount paid into the
22 trusts or plans to which subparagraph
23 (A) applies for any taxable year, ex-
24 ceeds

1 “(II) the amount determined under
2 subparagraph (A),
3 such excess shall, except as provided in
4 clause (ii), be allowed as a deduction in any
5 succeeding taxable year in order of time.

6 “(ii) LIMITATION ON CARRYOVER.—
7 The amount allowable for any succeeding
8 taxable year under this subparagraph, when
9 added to the amount otherwise allowable for
10 such taxable year for payments to trusts or
11 plans to which subparagraph (A) applies,
12 shall not exceed the lesser of the amount de-
13 termined under subparagraph (B)(i) of this
14 paragraph or the amount determined under
15 paragraph (11).

16 “(D) PARAGRAPH NOT TO APPLY.—This
17 paragraph shall not reduce the amounts otherwise
18 deductible under paragraphs (1), (2), and (3) if no
19 employee is a beneficiary under more than one
20 trust or under a trust and an annuity plan.”.

21 (b) DEDUCTION LIMITED TO 100 PERCENT OF COM-
22 PENSATION.—

23 (1) IN GENERAL.—Section 404(a) is amended by
24 adding at the end thereof the following new paragraph:

25 “(11) 100 PERCENT OF COMPENSATION LIMIT.—

1 “(A) IN GENERAL.—The amount allowable
2 as a deduction—

3 “(i) with respect to any trust or plan
4 under paragraph (1), (2), (3), (9), or (10), or

5 “(ii) with respect to one or more trusts
6 or plans to which paragraph (7) applies,

7 shall not exceed the aggregate amount of compen-
8 sation paid or accrued during the taxable year to
9 the beneficiaries of the trusts or plans described in
10 clause (i) or (ii).

11 “(B) CARRYOVER OF UNUSED AMOUNT.—In
12 any case in which—

13 “(i) the amount paid into any trust or
14 plan for which subparagraph (A) applies for
15 any taxable year, exceeds

16 “(ii) the amount determined under sub-
17 paragraph (A),

18 such excess shall, subject to the limitations of sub-
19 subparagraph (A) of this paragraph and paragraph
20 (7), be allowed as a deduction in the succeeding
21 taxable year.

22 “(C) COMPENSATION TO INCLUDE CERTAIN
23 BENEFITS.—For purposes of this paragraph, there
24 shall be taken into account as compensation the
25 amount of any benefits paid to a beneficiary of

1 any trust or plan to which subparagraph (A) ap-
2 plies during the taxable year who did not receive
3 any compensation from any employer maintaining
4 the trust or plan during such taxable year to the
5 extent such benefits do not exceed the limitation
6 under section 415(b)(1)(A) in effect with respect
7 to such beneficiary for such taxable year.”.

8 (2) CONFORMING AMENDMENTS.—Paragraph (8)
9 of section 404(a) (relating to self-employed individuals)
10 is amended by inserting “and” at the end of subpara-
11 graph (B), by striking out subparagraph (C), and by
12 redesignating subparagraph (D) as subparagraph (C).

13 (c) SECTION 415 LIMIT ON CERTAIN EMPLOYERS
14 WITH DEFINED CONTRIBUTION AND DEFINED BENEFIT
15 PLANS.—Subsection (e) of section 415 (relating to limitation
16 in case of defined benefit plan and defined contribution plan
17 for same employee) is amended by adding at the end thereof
18 the following new paragraph:

19 “(7) SPECIAL RULE FOR CERTAIN NONINTE-
20 GRATED, NON-TOP-HEAVY PLANS.—

21 “(A) IN GENERAL.—In the case of an indi-
22 vidual who is a participant in plans to which this
23 paragraph applies, paragraphs (2) and (3) shall be
24 applied by substituting ‘1.4’ for ‘1.25’ each place
25 it appears.

1 “(B) PLANS TO WHICH THIS PARAGRAPH
2 APPLIES.—This paragraph shall apply to all plans
3 maintained by any employer if, at all times after
4 June 30, 1982, no plan of the employer is—

5 “(i) a top-heavy plan (within the mean-
6 ing of section 416(g)), or

7 “(ii) an integrated plan (within the
8 meaning of section 408(k)(3)(E)).”.

9 (d) EXTENSION OF FREEZE ON COST-OF-LIVING AD-
10 JUSTMENTS TO PENSION PLAN LIMITATIONS.—

11 (1) GENERAL RULE.—Paragraph (3) of section
12 415(d) (relating to freeze on adjustment to define con-
13 tribution and benefit limits) is amended by striking out
14 “January 1, 1986” and inserting in lieu thereof “Jan-
15 uary 1, 1988”.

16 (2) TECHNICAL AMENDMENT.—Subparagraph (A) of
17 section 415(d)(2) (defining base periods), as amended by sec-
18 tion 235(b)(2)(B) of the Tax Equity and Fiscal Responsibility
19 Act of 1982, is amended by striking out “October 1, 1984”
20 and inserting in lieu thereof “October 1, 1986”.

21 (e) EFFECTIVE DATES.—The amendments made by
22 this section shall apply to years beginning after December
23 31, 1984.

1 SEC. 86. PROVISIONS RELATING TO TOP-HEAVY PLANS.

2 (a) REPEAL OF SPECIAL BENEFIT REQUIREMENT FOR
3 CERTAIN TOP-HEAVY PLANS.

4 (1) IN GENERAL.—Paragraph (2) of section
5 416(h) (relating to exception where benefits for key
6 employees do not exceed 90 percent of total benefits,
7 etc.) is amended to read as follows:

8 “(2) EXCEPTION WHERE ADDITIONAL CONTRI-
9 BUTIONS ARE MADE FOR NON-KEY EMPLOYEES.—

10 “(A) IN GENERAL.—Paragraph (1) shall not
11 apply with respect to any top-heavy plan if the
12 requirements of subparagraph (B) of this para-
13 graph are met with respect to such plan.

14 “(B) MINIMUM BENEFIT REQUIREMENTS.—

15 “(i) IN GENERAL.—The requirements of
16 this subparagraph are met with respect to
17 any top-heavy plan if such plan (and any
18 plan required to be included in an aggrega-
19 tion group with such plan) meets the require-
20 ments of subsection (c) as modified by clause
21 (ii).

22 “(ii) MODIFICATIONS.—For purposes of
23 clause (i)—

24 “(I) paragraph (1)(B) of subsection
25 (c) shall be applied by substituting ‘3
26 percent’ for ‘2 percent’, and by increas-

1 ing (but not by more than 10 percent-
 2 age points) 20 percent by one percent-
 3 age point for each year for which such
 4 plan was taken into account under this
 5 subsection, and

6 “(II) paragraph (2)(A) shall be ap-
 7 plied by substituting ‘4 percent’ for ‘3
 8 percent’.”.

9 (2) EFFECTIVE DATE.—The amendment made by
 10 this subsection shall apply to plan years beginning after
 11 December 31, 1983.

12 (b) DEFINITION OF KEY EMPLOYEE.—

13 (1) IN GENERAL.—Clause (i) of section
 14 416(i)(1)(A) (defining key employee) is amended by in-
 15 serting “having an annual compensation greater than
 16 200 percent of the amount in effect under section
 17 415(c)(1)(A) for any such plan year” after “employer”.

18 (2) EFFECTIVE DATE.—The amendment made by
 19 this subsection shall apply to plan years beginning after
 20 December 31, 1983.

21 (c) ACCRUED BENEFIT OF INDIVIDUAL NOT EM-
 22 PLOYED WITHIN LAST FIVE YEARS DISREGARDED.—

23 (1) IN GENERAL.—Paragraph (4) of section
 24 416(g) (relating to other special rules) is amended by

1 adding at the end thereof the following new subpara-
2 graph:

3 “(E) BENEFITS NOT TAKEN INTO ACCOUNT
4 IF EMPLOYEE NOT EMPLOYED FOR LAST FIVE
5 YEARS.—If any individual has not received any
6 compensation from any employer maintaining the
7 plan (other than benefits under the plan) at any
8 time during the 5-year period ending on the deter-
9 mination date, any accrued benefit for such indi-
10 vidual (and the account of such individual) shall
11 not be taken into account.”.

12 (2) EFFECTIVE DATE.—The amendment made by
13 this subsection shall apply to plan years beginning after
14 December 31, 1984.

15 (d) SALARY REDUCTION ARRANGEMENTS MAY BE
16 TAKEN INTO ACCOUNT.—

17 (1) IN GENERAL.—Paragraph (2) of section
18 416(c) (relating to minimum benefits for defined contri-
19 bution plans) is amended by striking out subparagraph
20 (C).

21 (2) EFFECTIVE DATE.—The amendment made by
22 this subsection shall apply to plan years beginning after
23 December 31, 1984.

24 (e) CERTAIN GOVERNMENTAL PLANS EXEMPT FROM
25 TOP-HEAVY PLAN RULES.—

1 (1) IN GENERAL.—Paragraph (10)(B) of section
2 401(a) (relating to plan requirements regarding top-
3 heavy plans) is amended by adding at the end thereof
4 the following new clause:

5 “(iii) EXEMPTION FOR GOVERNMENTAL
6 PLANS.—This subparagraph shall not apply
7 to any governmental plan.”.

8 (2) EFFECTIVE DATE.—The amendment made by
9 this subsection shall apply to plan years beginning after
10 December 31, 1983.

11 (f) QUALIFICATION REQUIREMENTS MODIFIED IF
12 REGULATIONS NOT ISSUED.—

13 (1) IN GENERAL.—If the Secretary of the Treas-
14 ury or his delegate does not publish final regulations
15 under section 416 of the Internal Revenue Code of
16 1954 (as in effect on the day before the date of the
17 enactment of this Act) before January 1, 1985, the
18 Secretary shall publish before such date plan amend-
19 ment provisions which may be incorporated in a plan
20 to meet the requirements of section 401(a)(10)(B)(ii) of
21 such Code.

22 (2) EFFECT OF INCORPORATION.—If a plan is
23 amended to incorporate the plan amendment provisions
24 described in paragraph (1), such plan shall be treated
25 as meeting the requirements of section 401(a)(10)(B)(ii)

1 of the Internal Revenue Code of 1954 during the
 2 period such amendment is in effect but not later than 6
 3 months after the final regulations described in para-
 4 graph (1) are published.

5 (3) FAILURE BY SECRETARY TO PUBLISH.—If
 6 the Secretary of the Treasury or his delegate does not
 7 publish plan amendment provisions described in para-
 8 graph (1), the plan shall be treated as meeting the re-
 9 quirements of section 401(a)(10)(B) of the Internal
 10 Revenue Code of 1954 if—

11 (A) such plan is amended to incorporate such
 12 requirements by reference, except that

13 (B) in the case of any optional requirement
 14 under section 416 of such Code, if such amend-
 15 ment does not specify the manner in which such
 16 requirement will be met, the employer shall be
 17 treated as having elected the requirement with re-
 18 spect to each employee which provides the maxi-
 19 mum vested accrued benefit for such employee.

20 **SEC. 87. DISTRIBUTION RULES FOR QUALIFIED PENSION**
 21 **PLANS.**

22 (a) CERTAIN DISTRIBUTION REQUIREMENTS TO
 23 APPLY TO 5-PERCENT OWNERS RATHER THAN KEY EM-
 24 PLOYEES.—Section 72(m)(5) (relating to penalties applicable

1 to certain amounts received by owner-employers) is amend-
2 ed—

3 (1) by striking out “key employee” each place it
4 appears in subparagraph (A) and inserting in lieu
5 thereof “5-percent owner”,

6 (2) by striking out “in a top-heavy plan” in clause
7 (i) of subparagraph (A), and

8 (3) by striking out “the terms ‘key employee’ and
9 ‘top-heavy plan’” in subparagraph (C) and inserting in
10 lieu thereof “the term ‘5-percent owner’”.

11 (b) REQUIRED DISTRIBUTIONS.—

12 (1) IN GENERAL.—Paragraph (9) of section
13 401(a) (relating to required distributions), as in effect
14 before the amendments made by section 242 of the
15 Tax Equity and Fiscal Responsibility Act of 1982, is
16 amended to read as follows:

17 “(9) REQUIRED DISTRIBUTIONS.—

18 “(A) IN GENERAL.—A trust forming part of
19 a plan shall not constitute a qualified trust under
20 this section unless the plan provides that the
21 entire interest of each employee will be distribut-
22 ed in accordance with the requirements of—

23 “(i) subparagraph (B) or (C)(i) in the
24 case of distributions commencing before
25 death, and

1 “(ii) subparagraph (C)(ii) or (D) in the
2 case of—

3 “(I) distributions commencing after
4 death, or

5 “(II) distributions commencing
6 before death to which subparagraph (B)
7 applies.

8 “(B) DISTRIBUTION BEFORE ATTAINMENT
9 OF CERTAIN AGE.—The requirements of this sub-
10 paragraph are met if the entire interest of an em-
11 ployee will be distributed to the employee not
12 later than 90 days after the later of—

13 “(i) the taxable year in which the em-
14 ployee attains age 70½, or

15 “(ii) the taxable year in which the em-
16 ployee retires.

17 “(C) DISTRIBUTIONS BASED ON LIVES AND
18 PERIODS NOT GREATER THAN LIFE EXPECTAN-
19 CY.—Except as provided in subparagraph (E), the
20 requirements of this subparagraph are met if—

21 “(i) ENTIRE INTEREST.—The entire in-
22 terest will be distributed, commencing not
23 later than the date determined under subpar-
24 agraph (B)—

1 “(I) over the life of the employee
2 and over the lives of the employee and
3 the beneficiary of the employee, or

4 “(II) over a period not extending
5 beyond the life expectancy of the em-
6 ployee or the life expectancy of the em-
7 ployee and the beneficiary of the em-
8 ployee.

9 “(ii) REMAINDER INTEREST.—The re-
10 mainder interest of the employee or of the
11 surviving spouse will be distributed, com-
12 mencing not later than 90 days after the
13 date of death of the employee or the surviv-
14 ing spouse—

15 “(I) over the life of the beneficiary
16 of the employee or of the beneficiary of
17 the surviving spouse, or

18 “(II) over a period not extending
19 beyond the life expectancy of such ben-
20 eficiary.

21 “(D) DISTRIBUTIONS WITHIN 5 YEARS OF
22 DEATH.—

23 “(i) IN GENERAL.—The requirements of
24 this subparagraph are met if the remainder

1 interest of an employee or other beneficiary
2 will be distributed—

3 “(I) commencing not later than 90
4 days after the date of death of the em-
5 ployee or beneficiary, and

6 “(II) within 5 years after the date
7 determined under subclause (I).

8 “(ii) SUBPARAGRAPH NOT TO APPLY
9 TO SURVIVING SPOUSE.—In any case in
10 which the beneficiary of the employee is the
11 employee’s surviving spouse—

12 “(I) this subparagraph shall not
13 apply, and

14 “(II) the requirements of clause (i)
15 or (ii) of subparagraph (C) must be met
16 with respect to the surviving spouse.

17 “(E) IMMEDIATE ANNUITY REQUIREMENT
18 IN CASE OF BENEFICIARY OTHER THAN
19 SPOUSE.—

20 “(i) IN GENERAL.—In the case of any
21 interest of an employee—

22 “(I) to which subparagraph (C) ap-
23 plies, and

1 “(II) with respect to which the
2 beneficiary is not the spouse of the em-
3 ployee,
4 the requirements of subparagraph (C) shall
5 be met only if the entire interest or remain-
6 der interest is applied, before the commence-
7 ment date under such subparagraph, to the
8 purchase of an immediate annuity contract
9 which provides for payments over the period
10 which is applicable under such subparagraph.

11 “(ii) DEFINED BENEFIT PLAN.—A de-
12 fined benefit plan may satisfy the require-
13 ments of clause (i) in any case to which sub-
14 paragraph (C) applies by providing for the
15 payment of an annuity in lieu of the pur-
16 chase of an immediate annuity contract.

17 “(F) DEFINITIONS AND SPECIAL RULES.—
18 For purposes of this paragraph—

19 “(i) 5-PERCENT OWNERS.—Clause (ii)
20 of subparagraph (B) shall not apply with re-
21 spect to any employee who is a 5-percent
22 owner (as defined in section 416) with re-
23 spect to the plan year in which the employee
24 attains age 70 1/2.

1 “(ii) LIFE EXPECTANCY.—For purposes
2 of subparagraph (C), the life expectancy of
3 an employee and the employee’s spouse
4 (other than in the case of a life annuity) shall
5 be determined not more frequently than an-
6 nually.

7 “(iii) EXTENSION OF COMMENCEMENT
8 DATE.—The Secretary may by regulation
9 extend the date on which distribution of any
10 interest is required to commence under this
11 paragraph.

12 “(iv) REMAINDER INTEREST DE-
13 FINED.—The term ‘remainder interest’
14 means, with respect to any employee or ben-
15 eficiary, that portion of the employee’s inter-
16 est which remains undistributed as of the
17 date of death of such individual.

18 “(v) DISTRIBUTIONS IN ACCORDANCE
19 WITH REGULATIONS.—Any distribution
20 under this paragraph shall be made in ac-
21 cordance with regulations prescribed by the
22 Secretary.”.

23 (2) REPEAL OF SECTION 242.—Section 242 of
24 the Tax Equity and Fiscal Responsibility Act of 1982
25 is hereby repealed.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Paragraph (6) of section 408(a) (defining indi-
3 vidual retirement account) is amended by adding at the
4 end thereof the following new flush sentence:

5 “For purposes of this paragraph (other than for a life
6 annuity), the life expectancy of any individual for
7 whose benefit the trust is maintained or his spouse
8 shall be determined not more frequently than annual-
9 ly.”.

10 (2)(A) Subsection (a) of section 408 is amended by
11 adding at the end thereof the following new paragraph:

12 “(8) Under regulations prescribed by the Secre-
13 tary, the trust shall be treated as meeting the require-
14 ments of paragraph (7) if the trust meets requirements
15 similar to the requirements of subparagraphs (C)(ii) and
16 (E) of section 401(a)(9) in the case of a beneficiary
17 other than the spouse. For purposes of the preceding
18 sentence, such requirements shall be treated as met
19 only if the immediate annuity contract is distributed to
20 the owner or beneficiary immediately after its pur-
21 chase.”.

22 (B) Subsection (b) of section 408 (defining individ-
23 ual retirement annuity) is amended by redesignating
24 paragraph (5) as paragraph (6) and by inserting after
25 paragraph (4) the following new paragraph:

1 “(5) Under regulations prescribed by the Secre-
2 tary, the contract shall be treated as meeting the re-
3 quirements of paragraph (4) if the contract meets re-
4 quirements similar to the requirements of subpara-
5 graphs (C)(ii) and (E) of section 401(a)(9) with respect
6 to any beneficiary other than the spouse. For purposes
7 of the preceding sentence, such requirements shall be
8 treated as met only if the immediate annuity contract
9 is distributed to the owner or beneficiary immediately
10 after its purchase.”.

11 (d) EFFECTIVE DATES.—

12 (1) IN GENERAL.—The amendments made by this
13 section shall apply to plan years beginning after De-
14 cember 31, 1984.

15 (2) REPEAL OF SECTION 242.—The amendment
16 made by section (b)(2) shall take effect as if included in
17 the Tax Equity and Fiscal Responsibility Act of 1982.

18 (3) TRANSITION RULE.—A trust forming part of a
19 plan shall not be disqualified under paragraph (9) of
20 section 401(a) of the Internal Revenue Code of 1954,
21 as amended by subsection (b)(1), by reason of distribu-
22 tions under a designation (before January 1, 1984) by
23 any employee in accordance with a designation de-
24 scribed in section 242(b)(2) of the Tax Equity and

1 Fiscal Responsibility Act of 1982 (as in effect before
2 the amendments made by this Act).

3 (4) SPECIAL RULE FOR GOVERNMENTAL
4 PLANS.—In the case of a governmental plan (within
5 the meaning of section 414(d) of the Internal Revenue
6 Code of 1954) paragraph (1) shall be applied by substi-
7 tuting “1986” for “1984”.

8 (5) SPECIAL RULE FOR COLLECTIVE BARGAINING
9 AGREEMENTS.—In the case of a plan maintained on
10 the date of the enactment of this Act pursuant to one
11 or more collective bargaining agreements between em-
12 ployee representatives and one or more employers, the
13 amendments made by this section shall not apply to
14 years beginning before the earlier of—

15 (A) the date on which the last of the collec-
16 tive bargaining agreements relating to the plan
17 terminates (determined without regard to any ex-
18 tension thereof agreed to after the date of the en-
19 actment of this Act), or

20 (B) January 1, 1988.

21 For purposes of subparagraph (A), any plan amendment
22 made pursuant to a collective bargaining agreement relating
23 to the plan which amends the plan solely to conform to any
24 requirement added by this section shall not be treated as a
25 termination of such collective bargaining agreement.

1 **SEC. 88. ROLLOVER OF CERTAIN PARTIAL DISTRIBUTIONS**
2 **PERMITTED.**

3 (a) **GENERAL RULE.—**

4 (1) **QUALIFIED TRUSTS.—**Clause (i) of section
5 402(a)(5)(A) (relating to rollover amounts) is amended
6 to read as follows—

7 “(i) any portion of the balance to the credit
8 of an employee in a qualified trust is paid to
9 him,”.

10 (2) **QUALIFIED ANNUITIES.—**Clause (i) of section
11 403(a)(4)(A) (relating to rollover amounts) is amended
12 to read as follows:

13 “(i) any portion of the balance to the credit
14 of an employee in an employee annuity described
15 in paragraph (1) is paid to him,”.

16 (3) **SECTION 403(b) ANNUITIES.—**Clause (i) of
17 section 403(b)(8)(A) (relating to rollover amounts) is
18 amended to read as follows:

19 “(i) any portion of the balance to the credit
20 of an employee in an annuity contract described in
21 paragraph (1) is paid to him,”.

22 (b) **SPECIAL RULES FOR ROLLOVERS OF PARTIAL**
23 **DISTRIBUTIONS.—**Paragraph (5) of section 402(a) is amend-
24 ed by redesignating subparagraphs (D) and (E) as subpara-
25 graphs (E) and (F), respectively, and by inserting after sub-
26 paragraph (C) the following new subparagraph:

1 “(D) SPECIAL RULES FOR PARTIAL DISTRI-
2 BUTIONS.—

3 “(i) REQUIREMENTS.—Subparagraph
4 (A) shall apply to a partial distribution only
5 if—

6 “(I) such distribution is of an
7 amount equal to at least 50 percent of
8 the balance to the credit of the employ-
9 ee in a qualified trust (determined im-
10 mediately before such distribution and
11 without regard to subsection (e)(4)(C)),

12 “(II) such distribution is not one of
13 a series of periodic payments, and

14 “(III) the employee elects (at such
15 time and in such manner as the Secre-
16 tary shall by regulations prescribe) to
17 have subparagraph (A) apply to such
18 partial distribution.

19 “(ii) PARTIAL DISTRIBUTIONS MAY BE
20 TRANSFERRED ONLY TO INDIVIDUAL RE-
21 TIREMENT PLANS.—In the case of a partial
22 distribution, a plan described in subclause
23 (IV) or (V) of subparagraph (E)(iv) shall not
24 be treated as an eligible retirement plan.

1 “(iii) DENIAL OF 10-YEAR AVERAGING
2 AND CAPITAL GAINS TREATMENT FOR SUB-
3 SEQUENT DISTRIBUTIONS.—If an election
4 under clause (i) is made with respect to any
5 partial distribution paid to any employee—

6 “(I) paragraph (2) of this subsec-
7 tion,

8 “(II) paragraphs (1) and (3) of sub-
9 section (e), and

10 “(III) paragraph (2) of section
11 403(a),

12 shall not apply to any distribution (paid after
13 such partial distribution) of the balance to
14 the credit of such employee under the plan
15 under which such partial distribution was
16 made (or under any other plan which, under
17 subsection (e)(4)(C), would be aggregated
18 with such plan).

19 “(iv) SPECIAL RULE FOR UNREALIZED
20 APPRECIATION.—If an election under clause
21 (i) is made with respect to any partial distri-
22 bution, the second and third sentences of
23 paragraph (1) shall not apply to such distri-
24 bution.”

1 (c) PARTIAL DISTRIBUTIONS PAID TO SPOUSE OF EM-
2 PLOYEE AFTER EMPLOYEE'S DEATH ELIGIBLE FOR ROLL-
3 OVER.—Paragraph (7) of section 402(a) (relating to rollover
4 where spouse receives lump-sum distribution at death of em-
5 ployee) is amended to read as follows:

6 “(7) ROLLOVER WHERE SPOUSE RECEIVES DIS-
7 TRIBUTIONS AFTER DEATH OF EMPLOYEE.—If any
8 distribution attributable to an employee is paid to the
9 spouse of the employee after the employee's death,
10 paragraph (5) shall apply to such distribution in the
11 same manner as if the spouse were the employee.”.

12 (d) TECHNICAL AND CONFORMING AMENDMENTS.—

13 (1) The following provisions are each amended by
14 striking out “qualifying rollover distribution” each
15 place it appears and inserting in lieu thereof “qualified
16 total distribution”—

17 (A) section 402(a)(5)(B),

18 (B) section 402(a)(5)(E)(i) (as redesignated by
19 subsection (b)), and

20 (C) section 402(a)(6)(E)(i).

21 (2) Subparagraph (B) of section 402(a)(5) is
22 amended by adding at the end thereof the following
23 new sentence: “In the case of any partial distribution,
24 the maximum amount transferred to which subpara-
25 graph (A) applies shall not exceed the portion of such

1 distribution which is includible in gross income (deter-
2 mined without regard to subparagraph (A)).”

3 (3) Clause (ii) of section 402(a)(5)(E) (as redesign-
4 nated by subsection (b)) is amended by striking out
5 “gross income” and inserting in lieu thereof “gross
6 income (determined without regard to this paragraph)”.

7 (4) Clause (v) of subparagraph (E) of section
8 402(a)(5) (as redesignated by subsection (b)) is amended
9 to read as follows:

10 “(v) PARTIAL DISTRIBUTION.—The term
11 ‘partial distribution’ means any distribution to an
12 employee of any portion of the balance to the
13 credit of such employee in a qualified trust; except
14 that such term shall not include any distribution
15 which is a qualified total distribution.”

16 (5) Subparagraph (F) of section 402(a)(5) (as re-
17 designating by subsection (b)) is amended by striking
18 out “subparagraph (D)(iv)” each place it appears and
19 inserting in lieu thereof “subparagraph (E)(iv)”.

20 (6) Paragraph (6) of section 402(a) is amended by
21 striking out “paragraph (5)(D)(i)” each place it appears
22 and inserting in lieu thereof “paragraph (5)(E)(i)”.

23 (7) Clauses (iii) and (iv) of section 402(a)(6)(D) are
24 each amended by striking out “employee contributions”
25 and inserting in lieu thereof “employee contributions

1 (or, in the case of a partial distribution, the amount not
2 includible in gross income)”.

3 (8) Clause (i) of section 402(a)(6)(E) is amended
4 by striking out “paragraph (5)(D)(i)(II)” and inserting
5 in lieu thereof “paragraph (5)(D) or (5)(E)(i)(II)”.

6 (9) Subparagraph (B) of section 403(a)(4) is
7 amended by striking out “(B) through (E)” and insert-
8 ing in lieu thereof “(B) through (F)”.

9 (10) Subparagraph (B) of section 403(b)(8) is
10 amended to read as follows:

11 “(B) SPECIAL RULES FOR PARTIAL DISTRI-
12 BUTIONS.—

13 “(i) IN GENERAL.—In the case of any
14 distribution other than a total distribution,
15 rules similar to the rules of clauses (i) and (ii)
16 of section 402(a)(5)(D) shall apply.

17 “(ii) TOTAL DISTRIBUTION.—For pur-
18 poses of subparagraph (A), the term ‘total
19 distribution’ means one or more distributicns
20 from an annuity contract described in para-
21 graph (1) which would constitute a lump-sum
22 distribution within the meaning of section
23 402(e)(4)(A) (determined without regard to
24 subparagraphs (B) and (H) of section
25 402(e)(4)) if such annuity contract were de-

1 scribed in subsection (a), or 1 or more distri-
2 butions of accumulated deductible employee
3 contributions (within the meaning of section
4 7205).

5 “(iii) AGGREGATION OF ANNUITY CON-
6 TRACTS.—For purposes of this paragraph,
7 all annuity contracts described in paragraph
8 (1) purchased by an employer shall be treat-
9 ed as a single contract, and section
10 402(e)(4)(C) shall not apply.”

11 (11) Subparagraph (C) of section 403(b)(8) is
12 amended by striking out “(D)(v), and (E)(i)” and insert-
13 ing in lieu thereof “(F)(i)”.

14 (12) Clause (ii) of section 408(d)(3)(A) is amended
15 by striking out “rollover contribution from an employ-
16 ee’s trust” and inserting in lieu thereof “rollover con-
17 tribution of a qualified total distribution (as defined in
18 section 402(a)(5)(E)(i)) from an employee’s trust”.

19 (13) Subparagraph (C) of section 409(b)(3) is
20 amended by striking out the second sentence and in-
21 serting in lieu thereof the following new sentences:
22 “**This subparagraph does not apply in the case of a**
23 **transfer to such an employee’s trust or such an annuity**
24 **unless no part of the value of such proceeds is attribut-**
25 **able to any source other than a qualified rollover con-**

1 tribution. For purposes of the preceding sentence, the
2 term ‘qualified rollover contribution’ means any roll-
3 over contribution of a qualified total distribution (as de-
4 fined in section 402(a)(5)(E)(i)) which is from such an
5 employee’s trust or annuity plan (other than an annuity
6 plan or a trust forming part of a plan under which the
7 individual was an employee within the meaning of sec-
8 tion 401(c)(1) at the time contributions were made on
9 his behalf under such plan), and which did not qualify
10 as a rollover contribution by reason of section
11 402(a)(7).”

12 (e) EFFECTIVE DATE.—The amendments made by this
13 section shall apply to distributions made after the date of the
14 enactment of this Act, in taxable years ending after such
15 date.

16 **SEC. 89. TREATMENT OF DISTRIBUTIONS OF BENEFITS SUB-**
17 **STANTIALLY ALL OF WHICH ARE DERIVED**
18 **FROM EMPLOYEE CONTRIBUTIONS.**

19 (a) IN GENERAL.—Subsection (e) of section 72 (relating
20 to amounts not received as annuities) is amended by adding
21 at the end thereof the following new paragraph:

22 “(7) SPECIAL RULES FOR PLANS WHERE SUB-

23 STANTIALLY ALL CONTRIBUTIONS ARE EMPLOYEE

24 CONTRIBUTIONS.—

1 “(A) IN GENERAL.—In the case of any plan
2 or contract to which this paragraph applies, sub-
3 paragraph (D) of paragraph (5) shall not apply to
4 any amount received from such plan or contract.

5 “(B) PLANS OR CONTRACTS TO WHICH THIS
6 PARAGRAPH APPLIES.—This paragraph shall
7 apply to—

8 “(i) any trust or contract described in
9 clause (i) or subclause (I) or (II) of clause (ii)
10 of paragraph (5)(D) if substantially all of the
11 accrued benefits under the plan or which
12 such trust is a part (or which purchases such
13 contract) are derived from employee contri-
14 butions, and

15 “(ii) any contract described in subclause
16 (III) of clause (ii) of paragraph (5)(D) if sub-
17 stantially all of the benefits are derived from
18 amounts which are not excluded from gross
19 income under section 403(b)(1).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (D) of section 72(e)(5) (relating
22 to contracts under qualified plans) is amended by strik-
23 ing out “This” and inserting in lieu thereof “Except as
24 provided in paragraph (7), this”.

1 (2) Paragraph (3) of section 72(p) (defining quali-
2 fied employer plan) is amended by inserting “other
3 than a plan described in subsection (e)(7)” after “sec-
4 tion 219(e)(3)”.

5 (c) **EFFECTIVE DATES.**—The amendments made by
6 this section shall apply to any amount received or loan made
7 after the 90th day after the date of the enactment of this Act.

8 **SEC. 90. REPEAL OF ESTATE TAX EXCLUSION FOR QUALIFIED**
9 **PENSION PLAN BENEFITS.**

10 (a) **IN GENERAL.**—Section 2039 (relating to inclusion
11 in the gross estate of annuities) is amended by striking out
12 subsections (c), (d), (e), (f), and (g).

13 (b) **EFFECTIVE DATES.**—

14 (1) **IN GENERAL.**—The amendments made by this
15 section shall apply to the estates of decedents dying
16 after December 31, 1984.

17 (2) **EXCEPTION FOR PARTICIPANTS IN PAY**
18 **STATUS.**—The amendments made by this section shall
19 not apply to the estate of any decedent who—

20 (A) was a participant in any plan who was in
21 pay status on December 31, 1984, and

22 (B) irrevocably elected before the date of the
23 enactment of this Act, the beneficiary and form of
24 benefit.

1 (3) PAY STATUS RULE EXTENDED TO \$100,000
2 LIMITATION.—Subsection (c) of section 245 of the Tax
3 Equity and Fiscal Responsibility Act of 1982 is
4 amended by inserting “, except that such amendments
5 shall not apply to the estate of any decedent who was
6 a participant in any plan who was in pay status on De-
7 cember 31, 1982, and irrevocably elected before Janu-
8 ary 1, 1983, the beneficiary and form of benefit”.

9 **SEC. 91. AFFILIATED SERVICE GROUPS, EMPLOYEE LEASING**
10 **ARRANGEMENTS, AND COLLECTIVE BARGAIN-**
11 **ING AGREEMENTS.**

12 (a) **ATTRIBUTION RULES FOR AFFILIATED SERVICE**
13 **GROUPS.—**

14 (1) **IN GENERAL.**—Subparagraph (B) of section
15 414(m)(6), as in effect for taxable years beginning after
16 December 31, 1983, is amended by striking out “sec-
17 tion 267(c)” and inserting in lieu thereof “section
18 318(a)”.

19 (2) **EFFECTIVE DATE.**—The amendment made by
20 this subsection shall apply to taxable years beginning
21 after December 31, 1984.

22 (b) **EMPLOYEE LEASING EXCEPTION ONLY APPLIES**
23 **TO NON-EMPLOYEES.—**

24 (1) **IN GENERAL.**—Paragraph (2) of section
25 414(n) (defining leased employee) is amended by strik-

1 ing out "any person" in the material preceding subpar-
2 agraph (A) and inserting in lieu thereof "any person
3 who is not an employee of the recipient and".

4 (2) EFFECTIVE DATE.—The amendment made by
5 this subsection shall apply to taxable years beginning
6 after December 31, 1983.

7 (c) DETERMINATION OF WHETHER THERE IS A COL-
8 LLECTIVE BARGAINING AGREEMENT.—

9 (1) IN GENERAL.—Subsection (a) of section 7701
10 (relating to definitions) is amended by adding at the
11 end thereof the following new paragraph:

12 "(46) DETERMINATION OF WHETHER THERE IS
13 A COLLECTIVE BARGAINING AGREEMENT.—In deter-
14 mining whether there is a collective bargaining agree-
15 ment between employee representatives and 1 or more
16 employers, the term 'employee representatives' shall
17 not include any organization more than one-half of the
18 members of which are employees who are owners, offi-
19 cers, or executives of the employer."

20 (2) EFFECTIVE DATE.—The amendment made by
21 this subsection shall take effect on April 1, 1984.

PART II—WELFARE BENEFIT PLANS

SEC. 95. ADDITIONAL REQUIREMENTS FOR TAX-EXEMPT
STATUS OF CERTAIN ORGANIZATIONS.

(a) GENERAL RULE.—Part I of subchapter F of chapter 1 (relating to exempt organizations) is amended by adding at the end thereof the following new section:

“SEC. 505. ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS
DESCRIBED IN PARAGRAPH (9), (17), OR (20) OF
SECTION 501(c).

“(a) CERTAIN REQUIREMENTS MUST BE MET IN THE
CASE OF ORGANIZATIONS DESCRIBED IN PARAGRAPH (9),
(17), OR (20) OF SECTION 501(c).—

“(1) VOLUNTARY EMPLOYEES’ BENEFICIARY ASSOCIATIONS, ETC.—An organization described in paragraph (9) or (20) of subsection (c) of section 501 which is part of a plan of an employer shall not be exempt from tax under section 501(a) unless such plan meets the requirements of paragraphs (1), (2), and (3) of subsection (b).

“(2) SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFIT TRUSTS.—A trust described in paragraph (17) of subsection (c) of section 501 shall not be exempt from tax under section 501(a) unless the plan of which such trust is a part meets the requirements of paragraphs (1) and (3) of subsection (b).

1 “(3) EXCEPTION FOR MULTIEMPLOYER
2 PLANS.—Paragraphs (1) and (2) shall not apply to any
3 organization which is part of a multiemployer plan
4 (within the meaning of section 414(f)) maintained pur-
5 suant to 1 or more collective bargaining agreements
6 between 1 or more employee organizations and 1 or
7 more employers.

8 “(b) REQUIREMENTS.—

9 “(1) LIMITATION ON BENEFITS PROVIDED TO
10 KEY EMPLOYEES.—A plan meets the requirements of
11 this paragraph for a year only if, with respect to each
12 class of benefits, the benefits of such class provided
13 under the plan (determined without regard to actual
14 benefit payments) during such year to key employees
15 do not exceed 25 percent of the benefits of such class
16 provided under such plan (as so determined) during
17 such year.

18 “(2) NONDISCRIMINATION REQUIREMENTS.—

19 “(A) IN GENERAL.—A plan meets the re-
20 quirements of this paragraph only if—

21 “(i) each class of benefits available
22 under the plan benefits a classification of em-
23 ployees which is set forth in the plan and
24 which is found by the Secretary not to be

1 discriminatory in favor of employees who are
2 highly compensated individuals, and

3 “(ii) in the case of each class of bene-
4 fits, such benefits do not discriminate in
5 favor of employees who are highly compen-
6 sated employees.

7 A life insurance, disability, severance pay, or sup-
8 plemental unemployment benefit shall not be con-
9 sidered to fail to meet the requirements of clause
10 (ii) merely because the class of benefits bears a
11 uniform relationship to the total compensation, or
12 to the basic or regular rate of compensation, of
13 employees covered by the plan.

14 “(B) AGGREGATION RULES.—Rules similar
15 to the rules of section 4976(g)(4) shall apply for
16 purposes of this subsection.

17 “(3) PLAN MUST MEET OTHER REQUIREMENTS
18 FOR EXCLUSION.—A plan meets the requirements of
19 this paragraph for any taxable year only if with respect
20 to each class of benefits—

21 “(A) which is excludible from gross income
22 under this title, and

23 “(B) with respect to which the plan must
24 meet any requirements of this title before such
25 benefits are so excludible,

26 the plan meets such requirements.

1 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) KEY EMPLOYEE.—

4 “(A) IN GENERAL.—The term ‘key employ-
5 ee’ has the meaning given such term by section
6 416(i)(1) (determined without regard to clause (ii)
7 or (iv) of subparagraph (A) thereof).

8 “(B) MEMBERS OF FAMILY OF KEY EM-
9 PLOYEE.—Any member of the family (within the
10 meaning of section 318(a)(1)) of a key employee
11 shall be treated as a key employee.

12 “(C) INDIVIDUAL CONTINUES TO BE KEY
13 EMPLOYEE.—Any individual who becomes a key
14 employee with respect to any plan shall continue
15 to be treated as a key employee with respect to
16 such plan whether or not the key employee con-
17 tinues to be described in section 416(i)(1) (as modi-
18 fied by this paragraph).

19 “(C) INDIVIDUAL CONTINUES TO BE KEY
20 EMPLOYEE.—Any individual who becomes a key
21 employee with respect to any plan shall continue
22 to be treated as a key employee with respect to
23 such plan whether or not the key employee con-
24 tinues to be described in section 416(i)(1) (as
25 modified by this paragraph).

1 “(2) HIGHLY COMPENSATED INDIVIDUAL.—For
2 purposes of this subsection, the term ‘highly compen-
3 sated individual’ has the meaning given such term by
4 section 105(h)(5). For purposes of the preceding sen-
5 tence, section 105(h)(5) shall be applied by substituting
6 ‘10 percent’ for ‘25 percent’.

7 “(3) APPLICATION WITH SECTIONS 127 AND
8 129.—If section 127 (relating to educational assist-
9 ance) or section 129 (relating to dependent care assist-
10 ance) apply to 1 or more classes of benefits under a
11 plan to which this section applies, paragraphs (1) and
12 (2) of subsection (b) shall not apply to such classes of
13 benefits.

14 “(4) FAILURE WITH RESPECT TO FACILITIES.—
15 An organization to which this section applies shall not
16 fail to be exempt from tax under section 501(a) merely
17 because the plan fails to meet the requirements of
18 paragraph (1) of subsection (b) with respect to a class
19 of benefits which consists of the use of a facility.

20 “(5) PLANS DEFINED; INDEPENDENT CONTRAC-
21 TORS.—Rules similar to the rules of paragraphs (2)
22 and (3) of section 4976(h) in application of this section.

23 “(6) REGULATIONS RELATING TO CLASSES OF
24 BENEFITS.—The Secretary may prescribe regulations
25 for determining—

1 “(A) the method by which benefits may be
2 assigned to a class for purposes of subsection (b),
3 and

4 “(B) the amount of benefits allocated to an
5 employee under subsection (b)(1).

6 “(7) REPORTING REQUIREMENT.—Any employer
7 who maintains an organization to which this section
8 applies shall include, in any return of the tax imposed
9 by chapter 1 for any taxable year, information as to
10 whether such organization meets the requirements of
11 this section for years of the organization ending with
12 or within such taxable year.

13 “(8) ORGANIZATION.—The term ‘organization’
14 includes any trust to which this section applies.”.

15 (c) CLERICAL AMENDMENT.—The table of sections for
16 part I of subchapter F of chapter 1 is amended by adding at
17 the end thereof the following new item:

“Sec. 505. Additional requirements for organizations described in
paragraph (9), (17), or (20) of section 501(c).”.

18 (d) EFFECTIVE DATE.—The amendments made by this
19 section shall apply to years beginning after December 31,
20 1984.

21 **SEC. 96. EXCISE TAXES INVOLVING FUNDED WELFARE BENE-**
22 **FIT PLANS.**

23 (a) IN GENERAL.—Chapter 43 (relating to qualified
24 pension, etc. plans) is amended by adding at the end thereof
25 the following new section:

1 "SEC. 4976. TAXES INVOLVING FUNDED WELFARE BENEFIT
2 PLANS.

3 "(a) GENERAL RULE.—If any employer maintains a
4 welfare benefit fund and such fund—

5 "(1) is a top-heavy welfare benefit plan for any
6 year, and

7 "(2) has an excess reserve amount as of the close
8 of such year,

9 there is hereby imposed on such employer a tax equal to the
10 amount determined under subsection (b).

11 "(b) AMOUNT OF TAX.—

12 "(1) IN GENERAL.—The amount of tax imposed
13 by subsection (a) shall be equal to the sum of the
14 amounts determined under paragraphs (2) and (3).

15 "(2) TAX ON EXCESS RESERVE AMOUNT.—The
16 amount determined under this paragraph with respect
17 to any year shall be equal to the product of—

18 "(A) the excess of—

19 "(i) the excess reserve amount as of the
20 close of the year, over

21 "(ii) the portion of the excess reserve
22 amount taken into account under subsection
23 (a) for any preceding year, multiplied by

24 "(B) the highest rate of tax imposed by sec-
25 tion 11(b) for taxable years beginning in the cal-
26 endar year with or within which such year ends.

1 “(3) TAX ON DEFERRED AMOUNT.—The
2 amount determined under this paragraph shall be equal
3 to the amount of interest (computed under section
4 6621) on the amount of the excess described in para-
5 graph (2)(A)—

6 “(A) which is allocable to any year preceding
7 the year described in paragraph (2) which begins
8 after the date of the enactment of this section,
9 and

10 “(B) over the period beginning with the close
11 of the year described in subparagraph (A) and
12 ending with the close of the year described in
13 paragraph (2).

14 For purposes of this paragraph, any amount which is
15 allocable to any year beginning before the date of the
16 enactment of this section shall be treated as allocable
17 to the first year beginning after such date.

18 “(4) ALLOCATION OF RESERVE AMOUNTS.—For
19 purposes of paragraph (3), the excess reserve amount
20 as of the close of any year to which paragraph (2) ap-
21 plies shall be allocable to the first year of the fund to
22 which paragraph (3) could apply unless the taxpayer
23 establishes that such excess reserve amount is allocable
24 to other years.

25 “(c) EXCISE TAX ON KEY EMPLOYEES.—

1 “(1) IN GENERAL.—If, for any year, a welfare
2 benefit fund is a top-heavy welfare benefit fund, there
3 is hereby imposed for such year on each key employee
4 a tax equal to—

5 “(A) the amount of benefits (excluding the
6 fair market value of the use of any facility), multi-
7 plied by

8 “(B) the highest rate of tax imposed under
9 section 1(c).

10 “(2) TOP-HEAVY WELFARE BENEFIT FUND.—For
11 purposes of paragraph (1), the term ‘top-heavy welfare
12 benefit fund’ has the meaning given such term by sub-
13 section (f), except that subsection (f)(1) shall be ap-
14 plied—

15 “(A) by substituting ‘25 percent’ for ‘50 per-
16 cent’, and

17 “(B) without regard to the phrase ‘(other
18 than the use of facilities)’.

19 “(d) SEPARATE EXCISE TAXES WITH RESPECT TO
20 FACILITIES.—

21 “(1) TAX ON KEY EMPLOYEES.—

22 “(A) IN GENERAL.—If the benefits provided
23 to key employees for the use of any facility
24 exceed 25 percent of the benefits provided to all
25 employees for use of such facility for any year,

1 there is hereby imposed on each key employee a
2 tax equal to the fair market value of the use of
3 such facility by such key employee during the
4 year.

5 “(B) EXCEPTION FOR EDUCATIONAL OR DE-
6 PENDENT CARE FACILITY.—Paragraph (1) shall
7 not apply to the use of any facility to provide edu-
8 cational assistance or dependent care assistance
9 (within the meaning of sections 127 and 129).

10 “(2) TAX ON EMPLOYERS.—

11 “(A) IN GENERAL.—If, as of the close of
12 any year, a welfare benefit fund is a top-heavy
13 welfare benefit fund, there is hereby imposed on
14 the employer maintaining such fund a tax equal to
15 the product of—

16 “(i) the fair market value (as of such
17 time) of any facility of the fund used to pro-
18 vide benefits, multiplied by,

19 “(ii) the highest rate of tax imposed by
20 section 11(b) for taxable years beginning in
21 the calendar year with or within such year
22 ends.

23 “(B) NO DOUBLE TAX.—No tax shall be im-
24 posed under subparagraph (A) with respect to any
25 facility to the extent of the fair market value of

1 such facility with respect to which a tax was pre-
2 viously imposed on such employer under subpara-
3 graph (A).

4 “(C) TOP-HEAVY WELFARE BENEFIT
5 FUND.—For purposes of this paragraph, the term
6 ‘top-heavy welfare benefit fund’ has the meaning
7 given such term by subsection (f), except that sub-
8 section (f) shall be applied without regard to the
9 phrase ‘(other than use of facilities)’.

10 “(e) WELFARE BENEFIT FUND.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘welfare benefit
13 fund’ means any fund—

14 “(A) which is part of a plan of an employer,
15 and

16 “(B) through which the employer provides
17 welfare benefits to employees or their benefici-
18 aries.

19 “(2) WELFARE BENEFIT.—The term ‘welfare
20 benefit’ means any benefit other than a benefit with re-
21 spect to which—

22 “(A) section 83(h) applies,

23 “(B) section 404 applies,

24 “(C) section 404A applies, or

25 “(D) an election under section 463 applies.

1 “(3) FUND.—The term ‘fund’ means—

2 “(A) any organization described in paragraph
3 (7), (9), (17), or (20) of section 501(c), and

4 “(B) any trust, corporation, or other organi-
5 zation (including any account held for an employ-
6 er by such organization) not exempt from the tax
7 imposed by this chapter.

8 “(f) TOP-HEAVY WELFARE BENEFIT FUND.—For pur-
9 poses of this section—

10 “(1) IN GENERAL.—The term ‘top-heavy welfare
11 benefit fund’ means any welfare benefit fund under
12 which the percentage of any class of benefits (other
13 than the use of facilities) provided for key employees
14 exceeds 50 percent of the benefits of such class pro-
15 vided under such plan during such year.

16 “(2) SPECIAL RULE FOR EDUCATIONAL AND DE-
17 PENDENT CARE BENEFITS.—In the case of a welfare
18 benefit fund, such fund shall be treated as a top-heavy
19 welfare benefit fund only if, in the case of a class of
20 benefits to which section 127 or 129 applies, the fund
21 fails to meet the requirements of paragraph (1) and the
22 requirements of section 127 or 129 with respect to
23 such class of benefits.

24 “(g) EXCESS RESERVE AMOUNT.—For purposes of this
25 section—

1 “(1) IN GENERAL.—The term ‘excess reserve
2 amount’ means the excess of—

3 “(A) the sum of—

4 “(i) the money and the fair market
5 value of other property of the welfare benefit
6 fund as of the close of the year, and

7 “(ii) the amount of benefits paid by the
8 fund during such year, reduced by any con-
9 tributions received by the fund during such
10 year, over

11 “(B) the reserve limit with respect to such
12 year.

13 “(2) RESERVE LIMIT.—The term ‘reserve limit’
14 means the sum of—

15 “(A) 3 times the average annual benefits
16 paid by the welfare benefit fund during the year
17 and the preceding year to employees with perma-
18 nent and total disabilities (within the meaning of
19 section 105(d)(4)) on account of such disabilities,
20 and

21 “(B) one-third of the average annual benefits
22 paid by the welfare benefit fund during the year
23 and the preceding year for medical care (within
24 the meaning of section 213), severance pay, and
25 supplemental unemployment compensation.

1 For purposes of this paragraph, there shall not be
2 taken into account as benefits paid any amount paid for
3 insurance premiums.

4 “(h) DEFINITIONS AND OTHER SPECIAL RULES.—

5 “(1) KEY EMPLOYEE.—The term ‘key employee’
6 has the meaning given such term by section 505 (c)(1).

7 “(2) METHOD OF CONTRIBUTIONS, ETC., HAVING
8 THE EFFECT OF PLAN.—If—

9 “(A) there is no plan, but

10 “(B) there is a method or arrangement of
11 employer contributions or benefits which has the
12 effect of a plan,

13 this section shall apply as if there were a plan.

14 “(3) EXTENSION TO PLANS FOR INDEPENDENT
15 CONTRACTORS.—If any fund would be a welfare bene-
16 fit fund (as modified by paragraph (2)) but for the fact
17 that there is no employee-employer relationship—

18 “(A) this section shall apply as if there were
19 such plan, and

20 “(B) any references in this section to the em-
21 ployer shall be treated as a reference to the
22 person for whom services are provided, and any
23 reference in this section to an employee shall be
24 treated as a reference to the person providing the
25 services.

1 “(4) AGGREGATION RULES.—For purposes of this
2 section—

3 “(A) AGGREGATION OF FUNDS OF EMPLOY-
4 ER.—All welfare benefit funds of an employer
5 shall be treated as one fund.

6 “(B) TREATMENT OF RELATED EMPLOY-
7 ERS.—Rules similar to the rules of subsections
8 (b), (c), (m), and (n) of section 414 shall apply.
9 For purposes of the preceding sentence, section
10 414 (m) (5) (B) shall be applied by substituting
11 ‘section 318’ for ‘section 267 (c)’.

12 “(5) PLAN MAINTAINED BY MORE THAN 1 EM-
13 PLOYER.—In the case of a plan maintained by more
14 than 1 employer, this section shall be applied to such
15 plan in accordance with regulations prescribed by the
16 Secretary.”.

17 (b) CONFORMING AMENDMENT.—The table of sections
18 for chapter 43 is amended by adding at the end thereof the
19 following new item:

 “Sec. 4976. Taxes involving funded welfare benefit plans.”.

20 (c) EFFECTIVE DATE.—The amendments made by this
21 section shall apply to years beginning after December 31,
22 1984.

1 **SEC. 97. TREATMENT OF CERTAIN MEDICAL, ETC., BENEFITS**
2 **UNDER SECTION 415.**

3 (a) **GENERAL RULE.**—Section 415 (relating to limita-
4 tions on benefits and contributions under qualified plan) is
5 amended by adding at the end thereof the following new sub-
6 section:

7 “(l) **TREATMENT OF CERTAIN MEDICAL BENEFITS.**—

8 “(1) **IN GENERAL.**—For purposes of this section,
9 contributions allocated to any individual medical ac-
10 count which is part of a pension plan for any year for
11 which such plan is a top-heavy plan (within the mean-
12 ing of section 416) shall be treated as an annual addi-
13 tion to a defined contribution plan for purposes of sub-
14 section (c).

15 “(2) **INDIVIDUAL MEDICAL BENEFIT ACCOUNT.**—

16 For purposes of paragraph (1), the term ‘individual
17 medical benefit account’ means any separate account—

18 “(A) which is established for a participant
19 under a pension plan, and

20 “(B) from which benefits described in section
21 401(h) are payable solely to such participant, his
22 spouse, or his dependents.”.

23 (b) **REQUIREMENT THAT SEPARATE ACCOUNT BE**
24 **MAINTAINED FOR 5-PERCENT OWNER.**—Subsection (h) of
25 section 401 (relating to medical, etc., benefits for retired em-
26 ployees and their spouses and dependents) is amended by

1 striking out “and” at the end of paragraph (4), by striking
2 out the period at the end of paragraph (5) and inserting in
3 lieu thereof “, and”, and by adding at the end thereof the
4 following new paragraph:

5 “(6) in the case of an employee who is a 5-per-
6 cent owner, a separate account is established and
7 maintained for such benefits payable to such employee
8 (and his spouse and dependents) and such benefits (to
9 the extent attributable to plan years beginning after
10 March 31, 1984, for which the employee is a 5-percent
11 owner) are only payable to such employee (and his
12 spouse and dependents) from such separate account.

13 For purposes of paragraph (6), the term ‘5-percent owner’
14 means any employee who, at any time during any of the 5
15 preceding plan years, is a 5-percent owner (as defined in sec-
16 tion 416(i)(1)(B)).”.

17 (c) **EFFECTIVE DATE.**—The amendments made by this
18 section shall apply to years beginning after the date of the
19 enactment of this Act.

20 **SEC. 98. EMPLOYER AND EMPLOYEE BENEFIT ASSOCIATION**
21 **TREATED AS RELATED PERSONS UNDER SEC-**
22 **TION 1239.**

23 (a) **GENERAL RULE.**—Section 1239 (relating to gain
24 from sale of depreciable property between certain related tax-

1 payers) is amended by adding at the end thereof the following
2 new subsection:

3 “(d) EMPLOYER AND RELATED EMPLOYEE ASSOCI-
4 ATION.—For purposes of subsection (a), the term ‘related
5 person’ also includes—

6 “(1) an employer and any person related to the
7 employer (within the meaning of subsection (b)), and

8 “(2) a welfare benefit fund (within the meaning of
9 section 4376(e)) which is controlled directly or indirect-
10 ly by persons referred to in paragraph (1).”.

11 (b) EFFECTIVE DATE.—The amendment made by sub-
12 section (a) shall apply to sales or exchanges after the date of
13 the enactment of this Act in taxable years ending after such
14 date.

15 PART III—RETIREMENT SAVINGS INCENTIVES

16 SEC. 100. SPECIAL RULES RELATING TO INDIVIDUAL RETIRE-
17 MENT ACCOUNTS.

18 (a) INCREASE IN AMOUNTS INDIVIDUALS MAY CON-
19 TRIBUTE ON BEHALF OF THEIR SPOUSE.—Subsection (c) of
20 section 219 (relating to special rules for certain married indi-
21 viduals) is amended to read as follows:

22 “(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVID-
23 UALS.—

24 “(1) IN GENERAL.—In the case of any individu-
25 al—

1 “(A) with respect to whom a deduction is
2 otherwise allowable under subsection (a) for any
3 taxable year, and

4 “(B) who files a joint return for such taxable
5 year,

6 there shall be allowed as a deduction any amount paid
7 in cash for the taxable year by or on behalf of the indi-
8 vidual to an individual retirement plan established for
9 the benefit of the individual’s spouse.

10 “(2) LIMITATION ON AMOUNT OF DEDUCTION.—

11 The amount allowable as a deduction under paragraph
12 (1) shall not exceed the excess of—

13 “(A) the lesser of—

14 “(i) the applicable amount, or

15 “(ii) an amount equal to the sum of the
16 compensation includible in the individual’s
17 and the spouse’s gross income for the taxable
18 year, over

19 “(B) the sum of the amounts allowed as a
20 deduction for such individual and such spouse
21 under subsection (a) for the taxable year.

22 In no event shall the amount allowable for a deduction
23 under paragraph (1) exceed \$2,000.

1 “(3) APPLICABLE AMOUNT.—For purposes of this
2 subsection, the applicable amount shall be determined
3 in accordance with the following table:

“In the case of a taxable year beginning in:	The applicable amount is:
1985 and 1986	\$2,750
1987 and 1988	\$3,250
1989 and 1990	\$3,750
1991 and thereafter	\$4,000.”.

4 (b) CERTAIN ALIMONY TO BE TREATED AS COMPEN-
5 SATION.—

6 (1) IN GENERAL.—Paragraph (1) of section
7 219(f) (defining compensation) is amended by adding at
8 the end thereof the following new sentence: “The term
9 ‘compensation’ shall include any amount includible in
10 the individual’s gross income under paragraph (1) of
11 section 71(a) (relating to decree of divorce or separate
12 maintenance).”.

13 (2) CONFORMING AMENDMENT.—Subsection (b)
14 of section 219 is amended by striking out paragraph
15 (4).

16 (c) EFFECTIVE DATE.—The amendments made by this
17 section shall apply to taxable years beginning after December
18 31, 1984.

1 PART IV—EMPLOYEE STOCK OWNERSHIP PROVISIONS

2 SEC. 101. NONRECOGNITION OF GAIN ON STOCK SOLD TO EM-
3 PLOYEES WHERE QUALIFIED REPLACEMENT
4 PROPERTY ACQUIRED.

5 (a) IN GENERAL.—Part III of subchapter O of chapter
6 1 (relating to nontaxable exchanges) is amended by adding at
7 the end thereof the following new section:

8 “SEC. 1041. SALES OF STOCK TO EMPLOYEES.

9 “(a) NONRECOGNITION OF GAIN.—

10 “(1) IN GENERAL.—If—

11 “(A) qualified securities are sold by the tax-
12 payer to a tax credit employee stock ownership
13 plan (as defined in section 409A) or to an employ-
14 ee stock ownership plan (as defined in section
15 4975(e)(7)), or to an eligible worker-owned coop-
16 erative, and

17 “(B) within the qualified period, qualified re-
18 placement property is purchased by the taxpayer,
19 then the gain (if any) from such sale shall, at the elec-
20 tion of the taxpayer, be recognized only to the extent
21 that the amount realized on such sale exceeds the cost
22 to the taxpayer of such qualified replacement property.

23 “(2) ELECTION.—The election under paragraph
24 (1) shall be made by filing with the Secretary a state-
25 ment (in such manner as the Secretary may by regula-

1 tions prescribe) of such election not later than the last
2 day prescribed by law (including extensions thereof) for
3 filing the return of the tax imposed by this chapter for
4 the taxable year in which the sale occurs.

5 “(b) DEFINITIONS; SPECIAL RULES.—For purposes of
6 this section—

7 “(1) QUALIFIED SECURITIES.—The term ‘quali-
8 fied securities’ means employer securities (as defined in
9 section 409A(l))—

10 “(A) which are issued by a domestic corpora-
11 tion that has no securities outstanding that are
12 readily tradable on an established securities
13 market,

14 “(B) with respect to which the taxpayer’s
15 holding period is more than 1 year, and

16 “(C) which were not received by the taxpay-
17 er in a distribution from a plan described in sec-
18 tion 401(a) or as a transfer pursuant to an option
19 or other right to acquire stock to which section
20 83, 422, 422A, 423, or 424 applies.

21 “(2) ELIGIBLE WORKER-OWNED COOPERA-
22 TIVE.—The term ‘eligible worker-owned cooperative’
23 means any organization—

24 “(A) to which part I of subchapter T applies,

1 “(B) a majority of the membership of which
2 is comprised of employees of such organization,

3 “(C) a majority of the voting stock of which
4 is owned by members,

5 “(D) a majority of the board of directors of
6 which is elected by the members on the basis of 1
7 person 1 vote, and

8 “(E) a majority of the allocated earnings and
9 losses of which are allocated to members on the
10 basis of—

11 “(i) patronage,

12 “(ii) capital contributions, or

13 “(iii) some combination of clauses (i)
14 and (ii).

15 “(3) QUALIFIED PERIOD.—The term ‘qualified
16 period’ means the period which begins 3 months prior
17 to the date on which the sale of qualified securities
18 occurs and which ends 12 months after the date of
19 such sale.

20 “(4) QUALIFIED REPLACEMENT PROPERTY.—
21 The term ‘qualified replacement property’ means any
22 security (as defined in section 165(g)(2)) issued by a
23 domestic corporation which does not, for the taxable
24 year in which such stock is issued, have passive invest-

1 ment income (as defined in section 1362(d)(3)(D)) in
2 excess of the limitation set forth in section 1375(a)(2).

3 “(5) STOCK ACQUIRED BY UNDERWRITER.—No
4 acquisition of stock by an underwriter in the ordinary
5 course of his trade or business as an underwriter,
6 whether or not guaranteed, shall be treated as a pur-
7 chase for purposes of subsection (a).

8 “(c) BASIS OF QUALIFIED REPLACEMENT PROPER-
9 TY.—The basis of the taxpayer in qualified replacement
10 property purchased by the taxpayer during the qualified
11 period shall be reduced by the amount of gain not recognized
12 solely by reason of the application of subsection (a). If more
13 than one item of qualified replacement property is purchased,
14 the amount of reduction applicable to any item of such prop-
15 erty shall be determined by multiplying the total gain not
16 recognized by reason of subsection (a) by a fraction the nu-
17 merator of which is the cost of such item of property and the
18 denominator of which is the total cost of all such items of
19 property.

20 “(d) STATUTE OF LIMITATIONS.—If any gain is real-
21 ized by the taxpayer on the sale or exchange of any qualified
22 securities and there is in effect an election under subsection
23 (a) with respect to such gain, then—

24 “(1) the statutory period for the assessment of any
25 deficiency with respect to such gain shall not expire

1 before the expiration of 3 years from the date the Sec-
2 retary is notified by the taxpayer (in such manner as
3 the Secretary may by regulations prescribe) of—

4 “(A) the taxpayer’s cost of purchasing quali-
5 fied replacement property which the taxpayer
6 claims results in nonrecognition of any part of
7 such gain,

8 “(B) the taxpayer’s intention not to purchase
9 qualified replacement property within the qualified
10 period, or

11 “(C) a failure to make such purchase within
12 the qualified period, and

13 “(2) such deficiency may be assessed before the
14 expiration of such 3-year period notwithstanding the
15 provisions of any other law or rule of law which would
16 otherwise prevent such assessment.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) Section 1223 (relating to holding period of
19 property) is amended by redesignating paragraph (13)
20 as paragraph (14) and by inserting after paragraph (12)
21 the following:

22 “(13) In determining the period for which the tax-
23 payer has held qualified replacement property (within
24 the meaning of section 1041(b)) the acquisition of
25 which resulted under section 1041 in the nonrecog-
ni-

1 tion of any part of the gain realized on the sale of
2 qualified securities (within the meaning of section
3 1041(b)), there shall be included the period for which
4 such qualified securities had been held by the tax-
5 payer.”.

6 (2) Subsection (a) of section 1016 (relating to ad-
7 justments to basis), as amended by this Act, is amend-
8 ed—

9 (A) by striking out “and” at the end of para-
10 graph (25),

11 (B) by striking out the period at the end of
12 paragraph (26) and inserting in lieu thereof “,
13 and”, and

14 (C) by adding at the end thereof the follow-
15 ing new paragraph:

16 “(27) in the case of qualified replacement proper-
17 ty, the acquisition of which resulted under section 1041
18 in the nonrecognition of any part of the gain realized
19 on the sale or exchange of any property, to the extent
20 provided in section 1041(c).”.

21 (3) The table of sections for part III of subchapter
22 O of chapter 1 is amended by adding at the end thereof
23 the following new item:

 “Sec. 1041. Sales of Stock to Employees.”.

1 (c) EFFECTIVE DATE.—The amendments made by this
2 section shall apply to sales of securities in taxable years be-
3 ginning after the date of enactment of this Act.

4 SEC. 102. DEDUCTIBILITY OF CERTAIN DIVIDEND DISTRIBU-
5 TIONS FROM EMPLOYEE STOCK OWNERSHIP
6 PLANS.

7 (a) DEDUCTION.—Section 404 (relating to deductions
8 for employer contributions to an employees' trust) is amended
9 by adding at the end thereof the following new subsection:

10 “(k) DIVIDENDS PAID DEDUCTIONS.—In addition to
11 the deductions provided under subsection (a), there shall be
12 allowed as a deduction to an employer the amount of any
13 dividend paid in cash by that employer (or any member of the
14 controlled group as described in section 409A(l)(4)) during
15 the taxable year with respect to the stock of the employer
16 if—

17 “(1) such stock is held on the record date for the
18 dividend by a tax credit employee stock ownership plan
19 (as defined in section 409A) or an employee stock own-
20 ership plan (as defined in section 4975(e)(7)), and

21 “(2) in accordance with the plan provisions—

22 “(A) the dividend is paid in cash to the par-
23 ticipants in the plan, or

24 “(B) the dividend is paid to the plan and is
25 either—

1 “(i) distributed in cash to participants in
2 the plan not later than 60 days after the
3 close of the plan year in which paid, or

4 “(ii) applied by the plan to the repay-
5 ment of a loan (as described in section
6 404(a)(10)) incurred for the purpose of ac-
7 quiring stock of the employer.”.

8 (b) DENIAL OF PARTIAL EXCLUSION.—Section 116
9 (relating to partial exclusion of dividends) is amended by
10 adding at the end thereof the following new subsection:

11 “(e) DIVIDENDS FROM EMPLOYEE STOCK OWNERSHIP
12 PLANS.—Subsection (a) shall not apply to any dividend de-
13 scribed in section 404(k).”.

14 (c) EFFECTIVE DATE.—The amendments made by this
15 section shall apply to taxable years beginning after the date
16 of enactment of this Act.

17 **SEC. 103. EXCLUSION OF INTEREST ON LOANS USED TO FI-**
18 **NANCE ACQUISITION OF EMPLOYER SECURI-**
19 **TIES BY AN ESOP.**

20 (a) IN GENERAL.—Part III of subchapter B of chapter
21 1 (relating to items excluded from gross income) is amended
22 by redesignating section 132 as section 133 and by inserting
23 after section 131 the following new section:

1 **“SEC. 132. INTEREST ON CERTAIN LOANS USED TO ACQUIRE**
2 **EMPLOYER SECURITIES.**

3 “(a) **IN GENERAL.**—Gross income does not include 50
4 percent of the interest received by a bank (within the mean-
5 ing of section 581), an insurance company to which sub-
6 chapter L applies, or a corporation actively engaged in the
7 business of lending money on a securities acquisition loan.

8 “(b) **SECURITIES ACQUISITION LOAN.**—For purposes
9 of this section, the term ‘securities acquisition loan’ means a
10 loan the proceeds of which are used by an employee stock
11 ownership plan (within the meaning of section 4975(e)(7)) to
12 acquire employer securities (within the meaning of section
13 409A(l)) for the plan.”.

14 (b) **CONFORMING AMENDMENT.**—The table of sections
15 for part III of subchapter B of chapter 1 is amended by strik-
16 ing out the item relating to section 132 and inserting in lieu
17 thereof the following:

“Sec. 132. Interest on certain loans used to acquire employer securi-
ties.

“Sec. 133. Cross references to other Acts.”.

18 (c) **EFFECTIVE DATE.**—The amendments made by this
19 section shall apply to loans extended after the date of the
20 enactment of this Act.

1 SEC. 104. REDUCTION IN CAPITAL GAINS TAX WITH RESPECT
2 TO SALES OF STOCK IN CORPORATIONS WITH
3 EMPLOYEE OWNERSHIP.

4 (a) REDUCTION IN AMOUNT OF NET CAPITAL GAIN
5 INCLUDED IN INCOME OF INDIVIDUALS.—Subsection (a) of
6 section 1202 (relating to deduction for capital gains) is
7 amended to read as follows:

8 “(a) IN GENERAL.—If for any taxable year a taxpayer
9 other than a corporation has a net capital gain, there shall be
10 allowed as a deduction from gross income an amount equal to
11 the sum of—

12 “(1) 80 percent of the qualified corporate gain of
13 the taxpayer for such taxable year, plus

14 “(2) 60 percent of the excess (if any) of—

15 “(A) such net capital gain, over

16 “(B) the qualified corporate gain of the tax-
17 payer for such taxable year.”.

18 (b) REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX
19 RATE FOR CORPORATIONS.—Subsection (a) of section 1201
20 (relating to alternative tax for corporations) is amended—

21 (1) by striking out “plus” at the end of paragraph
22 (1), and

23 (2) by striking out paragraph (2) and inserting in
24 lieu thereof the following:

25 “(2) a tax of 10 percent of the qualified corporate
26 gain of the taxpayer for the taxable year, plus

1 “(3) a tax of 28 percent of the excess (if any) of—
2 “(A) such net capital gain, over
3 “(B) the qualified corporate gain of the tax-
4 payer for the taxable year.”.

5 (c) **DEFINITIONS AND SPECIAL RULES.**—Part I of sub-
6 chapter P of chapter 1 (relating to treatment of capital gains)
7 is amended by adding at the end thereof the following new
8 section:

9 **“SEC. 1203. DEFINITIONS AND SPECIAL RULES RELATING TO**
10 **QUALIFIED CORPORATE GAIN.**

11 “(a) **QUALIFIED CORPORATE GAIN.**—For purposes of
12 this part, the term ‘qualified corporate gain’ means the net
13 capital gain of the taxpayer for the taxable year resulting
14 from the sale or exchange of qualified securities of employe-
15 owned corporations.

16 “(b) **DEFINITIONS.**—For purposes of this section—

17 “(1) **QUALIFIED SECURITIES.**—The term ‘quali-
18 fied securities’ means any shares of stock acquired by
19 the taxpayer as part of the original issue of such secu-
20 rities which have been held by the taxpayer for at least
21 3 years.

22 “(2) **EMPLOYEE-OWNED CORPORATION.**—The
23 term ‘employee-owned corporation’ means any domes-
24 tic corporation—

1 “(A) not less than 50 percent of the total
2 value of shares of all classes of stock of which is
3 owned by, or on behalf of, qualified employees of
4 such corporation, and

5 “(B) not less than 50 percent of the qualified
6 employees of which own not less than 25 percent
7 of such shares of stock.

8 “(3) QUALIFIED EMPLOYEE.—The term ‘qualified
9 employee’ means an employee of the corporation (other
10 than the taxpayer) who is not an officer or a member
11 of the board of directors of the corporation.

12 “(c) SPECIAL RULES.—For purposes of this section—

13 “(1) TIME FOR DETERMINING WHETHER A COR-
14 PORATION IS AN EMPLOYEE-OWNED CORPORATION.—
15 The determination of whether a corporation is an em-
16 ployee-owned corporation shall be made at the time
17 the qualified corporate gain is realized after taking into
18 account the sale or exchange described in subsection
19 (a).

20 “(2) CONTROLLED GROUPS.—

21 “(A) IN GENERAL.—In the case of a corpo-
22 ration which is a member of a controlled group,
23 all members of such group at any time during the
24 calendar year shall be treated as one corporation
25 for such calendar year.

1 “(B) CONTROLLED GROUP DEFINED.—Per-
2 sons shall be treated as members of a controlled
3 group if such persons would be treated as a single
4 employer under subsection (b) or (c) of section
5 414.

6 “(3) STOCK HELD BY QUALIFIED PLANS.—For
7 purposes of subsection (b)(2)(A), all shares of stock of
8 the employer held by an employees’ trust described in
9 section 401(a) which is maintained by a corporation
10 shall be considered as owned by qualified employees of
11 the corporation.

12 “(4) RELATED EMPLOYEES.—Any employees
13 whose relationship to one another is described in sec-
14 tion 267(b)(1) shall be treated as a single employee.”.

15 (d) CONFORMING AMENDMENTS.—

16 (1) Subsection (e) of section 170 (relating to con-
17 tributions of ordinary income and capital gain property)
18 is amended—

19 (A) by striking out “40 percent (28/46 in
20 the case of a corporation)” in paragraph (1)(B)
21 and inserting in lieu thereof “the applicable per-
22 centage”, and

23 (B) by adding at the end thereof the follow-
24 ing new paragraph:

1 “(5) APPLICABLE PERCENTAGE DEFINED.—For
2 purposes of paragraph (1), the term ‘applicable percent-
3 age’ means—

4 “(A) in the case of a taxpayer other than a
5 corporation—

6 “(i) whose charitable contribution con-
7 sists of qualified securities of employe-
8 owned corporations (within the meaning of
9 section 1203), 20 percent, or

10 “(ii) whose charitable contribution con-
11 sists of other property, 40 percent, or

12 “(B) in the case of a corporation—

13 “(i) whose charitable contribution con-
14 sists of such qualified securities, 10/46, or

15 “(ii) whose charitable contribution con-
16 sists of other property, 28/46.”.

17 (2) The table of sections for part I of subchapter
18 P of chapter 1 is amended by inserting after the item
19 relating to section 1202 of the following new item:

“Sec. 1203. Definitions and special rules relating to qualified corpo-
rate gain.”.

20 (e) EFFECTIVE DATE.—The amendments made by this
21 section shall apply to sales and exchanges of qualified securi-
22 ties (within the meaning of section 1203 of the Internal Rev-
23 enue Code of 1954) which are acquired by the taxpayer after

1 the date of enactment of this Act in taxable years ending
2 after such date.

3 **SEC. 105. ASSUMPTION OF ESTATE TAX LIABILITY BY ESOP**
4 **RECEIVING EMPLOYER SECURITIES.**

5 (a) **IN GENERAL.**—Subchapter C of chapter 11 (relating
6 to miscellaneous estate tax provisions) is amended by adding
7 at the end thereof the following new section:

8 **“SEC. 2210. LIABILITY FOR PAYMENT IN CASE OF TRANSFER**
9 **OF EMPLOYER SECURITIES TO AN EMPLOYEE**
10 **STOCK OWNERSHIP PLAN.**

11 **“(a) IN GENERAL.**—If—

12 “(1) a qualified amount of employer securities—

13 “(A) are acquired by an employee stock own-
14 ership plan from the decedent,

15 “(B) pass from the decedent to such a plan,

16 or

17 “(C) are transferred by the executor to such
18 a plan, and

19 “(2) the executor elects the application of this
20 section and files the agreements described in subsection
21 (e) (in such manner as the Secretary shall by regula-
22 tions prescribe) at the time prescribed by section
23 6075(a) for filing the return of tax imposed by section
24 2001 (including extensions thereof),

1 then the executor is relieved of liability for payment of that
2 portion of the tax imposed by section 2001 which an em-
3 ployee stock ownership plan is required to pay under subsec-
4 tion (b).

5 “(b) PAYMENT OF TAX BY EMPLOYEE STOCK OWNER-
6 SHIP PLAN.—

7 “(1) IN GENERAL.—An employee stock ownership
8 plan—

9 “(A) which has acquired a qualified amount
10 of employer securities from the decedent, or to
11 which such securities have passed from the dece-
12 dent or been transferred by the executor, and

13 “(B) with respect to which an agreement de-
14 scribed in subsection (e)(1) is in effect,
15 shall pay that portion of the tax imposed by section
16 2001 with respect to the taxable estate of the decedent
17 which is described in paragraph (2).

18 “(2) AMOUNT OF TAX TO BE PAID.—The portion
19 of the tax imposed by section 2001 with respect to the
20 taxable estate of the decedent that is described in this
21 paragraph is equal to the lesser of—

22 “(A) the excess of—

23 “(i) the tax imposed by section 2001
24 with respect to such taxable estate, over

1 “(ii) the tax imposed by section 2001
2 with respect to such taxable estate deter-
3 mined by excluding from the gross estate of
4 the decedent employer securities conveyed
5 under subsection (a)(1), or

6 “(B) the tax imposed by section 2001 with
7 respect to such taxable estate reduced by the sum
8 of the credits allowable against such tax.

9 “(c) INSTALLMENT PAYMENTS.—

10 “(1) IN GENERAL.—If—

11 “(A) the executor of the estate of the dece-
12 dent (without regard to this section) may elect to
13 have the provisions of section 6166 (relating to
14 extensions of time for payment of estate tax
15 where estate consists largely of interest in closely
16 held business) apply to payment of that portion of
17 the tax imposed by section 2001 with respect to
18 such estate which is attributable to employer se-
19 curities, and

20 “(B) the plan administrator provides to the
21 executor the agreement described in subsection
22 (e)(1),

23 then the plan administrator may elect, before the time
24 prescribed by section 6075(a) for filing the return of
25 such tax, to pay all or part of the tax described in sub-

1 section (b)(2) in installments under the provisions of
2 section 6166.

3 “(2) INTEREST ON INSTALLMENTS.—In the case
4 of a plan administrator who elects to pay all or a por-
5 tion of the tax described in subsection (b)(2) in install-
6 ments under section 6166, section 6601(j) shall be ap-
7 plied with respect to the entire amount of tax imposed
8 by section 2001 with respect to the estate.

9 “(d) GUARANTEE OF PAYMENTS.—Any employer—

10 “(1) whose employees are covered by an employ-
11 ee stock ownership plan, and

12 “(2) who has entered into an agreement described
13 in subsection (e)(2) which is in effect,

14 shall guarantee the payment of any amount such plan is re-
15 quired to pay under subsection (b), including any interest pay-
16 able under section 6601 which is attributable to such amount.

17 “(e) AGREEMENTS.—The agreements described in this
18 subsection are as follows:

19 “(1) A written agreement signed by the plan ad-
20 ministrator consenting to the application of subsection
21 (b) to the plan.

22 “(2) A written agreement signed by the employer
23 whose employees are covered by the plan described in
24 subsection (b) consenting to the application of subsec-
25 tion (d).

1 “(f) DEFINITIONS.—For purposes of this section—

2 “(1) QUALIFIED AMOUNT OF EMPLOYER SECURI-
3 TIES.—The term ‘qualified amount of employer securi-
4 ties’ means an amount of employer securities the value
5 of which equals or exceeds that portion of the tax im-
6 posed by section 2001 with respect to the taxable
7 estate of the decedent which is described in subsection
8 (b)(2).

9 “(2) EMPLOYER SECURITIES.—The term ‘em-
10 ployer securities’ has the meaning given such term by
11 section 409A(l).

12 “(3) EMPLOYEE STOCK OWNERSHIP PLAN.—The
13 term ‘employee stock ownership plan’ has the meaning
14 given such term by section 4975(e)(7).

15 “(4) PLAN ADMINISTRATOR.—The term ‘plan ad-
16 ministrator’ has the meaning given such term by sec-
17 tion 414(g).”.

18 (b) EXEMPTION FROM TAX ON PROHIBITED TRANS-
19 ACTIONS.—Subsection (d) of section 4975 (relating to ex-
20 emptions from the tax on prohibited transactions) is amend-
21 ed—

22 (1) by striking out “or” at the end of paragraph
23 (14),

24 (2) by striking out the period at the end of para-
25 graph (15) and inserting in lieu thereof “, or”, and

1 (3) by inserting after paragraph (15) the following
2 new paragraph:

3 “(16) any transaction in which employer securities
4 are transferred to an employee stock ownership plan
5 and the plan (or the employer on behalf of the plan)
6 pays that portion of the decedent’s estate tax described
7 in section 2210(b)(2).”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) Section 2002 (relating to liability for payment
10 of estate tax) is amended to read as follows:

11 **“SEC. 2002. LIABILITY FOR PAYMENT.**

12 “Except as provided in section 2210, the tax imposed
13 by this chapter shall be paid by the executor.”.

14 (2) The table of sections for subchapter C of chap-
15 ter 11 is amended by adding at the end thereof the fol-
16 lowing:

“Sec. 2210. Liability for payment in case of transfer of employer se-
curities to an employee stock ownership plan.”.

17 (3) Section 6018 (relating to estate tax returns) is
18 amended by adding at the end thereof the following
19 new subsection:

20 “(c) ELECTION UNDER SECTION 2210.—In all cases in
21 which subsection (a) requires the filing of a return, if an ex-
22 ecutor elects the application of section 2210—

23 “(1) RETURN BY EXECUTOR.—The return which
24 the executor is required to file under the provisions of

1 subsection (a) shall be made with respect to that por-
2 tion of estate tax imposed by subtitle B which the ex-
3 ecutor is required to pay.

4 “(2) RETURN BY PLAN ADMINISTRATOR.—The
5 plan administrator (as defined in section 414(g)) shall
6 make a return with respect to that portion of the tax
7 imposed by section 2001 which the employee stock
8 ownership plan is required to pay under section
9 2210(b).”.

10 (4) Subsection (j) of section 6166 (relating to cross
11 references) is amended by adding at the end thereof the
12 following new paragraph:

13 “(6) PAYMENT OF ESTATE TAX BY EMPLOYEE
14 STOCK OWNERSHIP PLAN.—For provision allowing
15 plan administrator to elect to pay a certain portion of
16 the estate tax in installments under the provisions of
17 this section, see section 2210(c).”.

18 (d) EFFECTIVE DATE.—The amendments made by this
19 section shall apply to those estates of decedents which are
20 required to file returns on a date (including any extensions)
21 after the date of enactment of this Act.

1 **SEC. 106. DEDUCTION FROM TAXABLE ESTATE OF HALF THE**
2 **PROCEEDS FROM SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP**
3 **PLANS OR CERTAIN WORKER-OWNED COOPERATIVES.**
4
5

6 (a) **IN GENERAL.**—Part IV of subchapter A of chapter
7 11 (relating to taxable estate) is amended by adding at the
8 end thereof the following new section:

9 **“SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE**
10 **STOCK OWNERSHIP PLANS OR WORKER-**
11 **OWNED COOPERATIVES.**

12 **“(a) IN GENERAL.**—For purposes of the tax imposed by
13 section 2001, the value of the taxable estate shall be deter-
14 mined by deducting from the value of the gross estate an
15 amount equal to 50 percent of the aggregate amount of the
16 qualified proceeds from the sale of employer securities to a
17 tax credit employee stock ownership plan (as defined in sec-
18 tion 409A) or to an employee stock ownership plan (as de-
19 fined in section 4975(e)(7)), or to an eligible worker-owned
20 cooperative which are realized by the decedent at any time
21 before the date on which the return of the tax imposed by
22 section 2001 is required to be filed (including any extensions)
23 disregarding any portion of the proceeds from the sale of em-
24 ployer securities under this subsection to the extent that such
25 securities are allocated under the plan for the benefit of—

26 **“(1) the taxpayer or decedent,**

1 “(2) any person related to the taxpayer or dece-
2 dent under the provisions of section 267(b)(1), or

3 “(3) any other person who owns more than 25
4 percent in value of any class of outstanding employer
5 securities under the provisions of section 318(a).

6 “(b) DEFINITIONS.—For purposes of this section—

7 “(1) EMPLOYER SECURITIES.—The term ‘em-
8 ployer securities’ has the meaning given to such term
9 by section 409A(l).

10 “(2) QUALIFIED PROCEEDS.—The term ‘qualified
11 proceeds’ means the proceeds from the sale of employ-
12 er securities as described in subsection (a), provided
13 such securities were not received by the taxpayer in a
14 distribution from a plan described in section 401(a) or
15 as a transfer pursuant to an option or other right to
16 acquire stock to which section 83, 422, 422A, 423, or
17 424 applies.

18 “(3) ELIGIBLE WORKER-OWNED COOPERA-
19 TIVE.—The term ‘eligible worker-owned cooperative’
20 has the meaning given such term by section
21 1041(b)(2).”.

22 (b) CONFORMING AMENDMENT.—The table of sections
23 for part IV of subchapter A of chapter 11 is amended by
24 adding at the end thereof the following new item:

“Sec. 2057. Sales of employer securities to employee stock owner-
ship plans or worker-owned cooperatives.”.

1 (c) EFFECTIVE DATE.—The amendments made by this
2 section shall apply with respect to those estates of decedents
3 which are required to file returns on a date (including any
4 extensions) after the date of enactment of this Act.

5 SEC. 107. CERTAIN CONTRIBUTIONS TO ESOP TREATED AS
6 CHARITABLE CONTRIBUTIONS.

7 (a) IN GENERAL.—Subsection (c) of section 170 (defin-
8 ing charitable contribution) is amended by inserting after
9 paragraph (5) the following new paragraph:

10 “(6) A tax credit employee stock ownership plan
11 (as defined in section 409A) or an employee stock own-
12 ership plan (as defined in section 4975(e)(7)) but only
13 if—

14 “(A) such contribution or gift consists exclu-
15 sively of employer securities (within the meaning
16 of section 409A(l));

17 “(B) such contribution or gift is allocated
18 (over a period not in excess of three plan years),
19 pursuant to the terms of such plan, to the employ-
20 ees participating under the plan in a manner con-
21 sistent with section 401(a)(4);

22 “(C) no part of such contribution or gift is al-
23 located under the plan for the benefit of—

24 “(i) the donor,

1 “(ii) any person who is a member of the
2 family of the donor (within the meaning of
3 section 267(c)(4)), or

4 “(iii) any other person who owns more
5 than 25 percent in value of any class of out-
6 standing employer securities under the provi-
7 sions of section 318(a);

8 “(D) such contribution or gift is made only
9 pursuant to the provisions of such tax credit em-
10 ployee stock ownership plan or such employee
11 stock ownership plan;

12 “(E) such plan treats such employer securi-
13 ties as being attributable to employer contribu-
14 tions;

15 “(F) no deduction under section 404 and no
16 credit under section 38 or 44G is allowed with re-
17 spect to such contribution or gift;

18 “(G) any allocation under the plan of such
19 contribution or gift which is based on compensa-
20 tion of the participants does not take into account
21 any portion of the compensation of a participant
22 that exceeds \$100,000 per year.”.

23 (b) PERCENTAGE LIMITATIONS.—Subparagraph (A) of
24 section 170(b)(1) (relating to percentage limitations for indi-
25 viduals) is amended—

1 (1) by striking out “or” at the end of clause (vii),

2 (2) by inserting “or” at the end of clause (viii),

3 and

4 (3) by inserting after clause (viii) the following
5 new clause:

6 “(ix) a tax credit employee stock owner-
7 ship plan (as defined in section 409A) or an
8 employee stock ownership plan (as defined in
9 section 4975(e)(7)),”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) Subsection (a) of section 2055 (relating to
12 transfers for public, religious, and charitable uses) is
13 amended—

14 (A) by striking out “or” at the end of para-
15 graph (3),

16 (B) by striking out the period at the end of
17 paragraph (4) and inserting in lieu thereof “; or”,
18 and

19 (C) by inserting after paragraph (4) the fol-
20 lowing new paragraph:

21 “(5) to a tax credit employee stock ownership
22 plan (as defined in section 409A) or an employee stock
23 ownership plan (as defined in section 4975(e)(7)) but
24 only if the requirements of section 170(c)(6) are met.”.

1 (2) Subsection (a) of section 2522 (relating to
2 charitable and similar gifts) is amended—

3 (A) by striking out the period at the end of
4 paragraph (4) and inserting in lieu thereof “; or”,
5 and

6 (B) by adding at the end thereof the follow-
7 ing new paragraph:

8 “(5) a tax credit employee stock ownership plan
9 (as defined in section 409A) or an employee stock own-
10 ership plan (as defined in section 4975(e)(7)) but only if
11 the requirements of section 170(c)(6) are met.”.

12 (3) Section 415 (relating to limitations on benefits
13 and contributions under qualified plans), as amended by
14 this Act, is amended by adding at the end thereof the
15 following new subsection:

16 “(m) CHARITABLE CONTRIBUTIONS.—The limitations
17 provided under this section shall not apply with respect to
18 any contribution or gift described in section 170(c)(6) if the
19 requirements of section 170(c)(6) are met.”.

20 (d) EFFECTIVE DATE.—The amendments made by this
21 section shall apply to taxable years beginning after the date
22 of enactment of this Act.

1 SEC. 108. EXCISE TAX ON CERTAIN DISPOSITIONS AND ALLO-
2 CATIONS OF EMPLOYER SECURITIES BY EM-
3 PLOYEE STOCK OWNERSHIP PLANS.

4 (a) IN GENERAL.—Chapter 43 (relating to excise taxes
5 on qualified pension plans) is amended by adding at the end
6 thereof the following new section:

7 “SEC. 4977. TAX ON CERTAIN DISPOSITIONS AND ALLOCA-
8 TIONS BY EMPLOYEE STOCK OWNERSHIP
9 PLANS AND CERTAIN COOPERATIVES.

10 “(a) DISPOSITIONS OF SECURITIES BEFORE CLOSE OF
11 MINIMUM HOLDING PERIOD.—

12 “(1) SECURITIES ACQUIRED IN SALE TO WHICH
13 SECTION 1041 APPLIES.—

14 “(A) IMPOSITION OF TAX.—There is hereby
15 imposed a tax on the disposition by any employee
16 stock ownership plan or eligible worker-owned co-
17 operative of any qualified securities which were
18 acquired by such plan or cooperative in a sale
19 with respect to which the application of section
20 1041 was elected if such disposition occurs during
21 the 84-month period which begins on the date of
22 such sale.

23 “(B) AMOUNT OF TAX.—The amount of the
24 tax imposed by subparagraph (A) is 10 percent of
25 the gain from the sale described in subparagraph
26 (A) of qualified securities to the employee stock

1 ownership plan or eligible worker-owned coopera-
2 tive.

3 “(2) LIABILITY FOR PAYMENT OF TAXES.—The
4 tax imposed by this subsection shall be paid by the em-
5 ployee stock ownership plan or the eligible worker-
6 owned cooperative, as the case may be.

7 “(3) NO APPLICATION TO CERTAIN DISPOSI-
8 TIONS.—This subsection shall not apply with respect
9 to any disposition of qualified securities which is made
10 by reason of—

11 “(A) the death, disability, or separation from
12 service of the employee,

13 “(B) a transfer of the employee to the em-
14 ployment of an acquiring corporation from the em-
15 ployment of the selling corporation in the case of
16 a sale to the acquiring corporation of substantially
17 all of the assets used by the selling corporation in
18 a trade or business conducted by the selling cor-
19 poration, or

20 “(C) the disposition of a selling corporation’s
21 interest in a subsidiary when the participant con-
22 tinues employment with such subsidiary.

23 “(b) IMPROPER ALLOCATIONS OR ACCRUAL OF BENE-
24 FITS.—

1 “(1) SECURITIES ACQUIRED IN SALE TO WHICH
2 SECTION 1041 APPLIES.—

3 “(A) IMPOSITION OF TAX.—There is hereby
4 imposed a tax on the allocation of, or accrual of
5 benefit with respect to, more than 25 percent of
6 the fair market value of qualified securities de-
7 scribed in subsection (a)(1) (determined at the
8 time of sale) to—

9 “(i) the person who sold such securities
10 to the employee stock ownership plan or eli-
11 gible worker-owned cooperative,

12 “(ii) any person who is a member of the
13 family (within the meaning of section
14 267(c)(4)) of the person described in clause
15 (i), or

16 “(iii) any person who owns (under the
17 rules of section 318(a)) more than 25 percent
18 of the value of any class of outstanding em-
19 ployer securities.

20 “(B) AMOUNT OF TAX.—The amount of the
21 tax imposed by subparagraph (A) is 10 percent of
22 the gain from the sale described in subparagraph
23 (A) of qualified securities to the employee stock
24 ownership plan or eligible worker-owned coopera-
25 tive.

1 “(2) LIABILITY FOR PAYMENT OF TAXES.—The
2 tax imposed by this subsection shall be paid by the em-
3 ployee stock ownership plan or the eligible worker-
4 owned cooperative, as the case may be.

5 “(c) FAILURE TO MAINTAIN STATUS AS AN
6 EMPLOYEE-OWNED CORPORATION.—

7 “(1) IMPOSITION OF TAX.—If—

8 “(A) any gain from the sale or exchange of
9 stock of a corporation is qualified corporate gain
10 (within the meaning of section 1203), and

11 “(B) such corporation ceases to be an em-
12 ployee-owned corporation at any time during the
13 2-year period beginning on the date of such sale
14 or exchange,

15 there is hereby imposed a tax on such cessation of
16 status as an employee-owned corporation in an amount
17 equal to 10 percent of the gain from such sale or ex-
18 change.

19 “(2) LIABILITY FOR PAYMENT OF TAX.—The tax
20 imposed by paragraph (1) shall be paid by the corpora-
21 tion described in paragraph (1).

22 “(3) CERTIFICATION OF STATUS AS AN EMPLOY-
23 EE-OWNED CORPORATION.—

24 “(A) FAILURE TO CERTIFY TREATED AS
25 CESSATION.—If a corporation fails to meet the

1 requirements of subparagraph (B), such corpora-
2 tion shall, for purposes of this subsection, be
3 treated as having ceased to be an employee-
4 owned corporation on the date such failure occurs.

5 “(B) CERTIFICATION REQUIREMENT.—If
6 any gain from the sale or exchange of stock of a
7 corporation is qualified corporate gain (within the
8 meaning of section 1203), such corporation shall
9 certify that such corporation is an employee-
10 owned corporation on each return of the tax im-
11 posed by chapter 1 which is required to be filed
12 (not including any extensions) during the 2-year
13 period which begins on the date of such sale or
14 exchange.

15 “(d) DEFINITIONS.—For purposes of this section—

16 “(1) EMPLOYEE STOCK OWNERSHIP PLAN.—

17 “(A) IN GENERAL.—The term ‘employee
18 stock ownership plan’ has the meaning given to
19 such term by section 4975(e)(7).

20 “(B) TAX CREDIT EMPLOYEE STOCK OWN-
21 ERSHIP PLANS.—The term ‘employee stock own-
22 ership plan’ includes any tax credit employee
23 stock ownership plan (within the meaning of sec-
24 tion 409A).

1 “(2) QUALIFIED SECURITIES.—The term
2 ‘qualified securities’ has the meaning given to
3 such term by section 1041(b)(1).

4 “(3) EMPLOYEE-OWNED CORPORATION.—
5 The term ‘employee-owned corporation’ has the
6 meaning given to such term by section 1203(b)(2).

7 “(4) ELIGIBLE WORKER-OWNED COOPERA-
8 TIVE.—The term ‘eligible worker-owned coopera-
9 tive’ has the meaning given to such term by sec-
10 tion 1041(b)(1).”.

11 (b) CONFORMING AMENDMENT.—The table of sections
12 for chapter 43 is amended by adding at the end thereof the
13 following new item:

“Sec. 4977. Tax on certain dispositions and allocations by employee
stock ownership plans and certain cooperatives.”.

14 (c) EFFECTIVE DATE.—The amendments made by this
15 section shall apply to taxable years beginning after the date
16 of enactment of this Act.

17 PART V—MISCELLANEOUS

18 SEC. 111. ELIMINATION OF RETROACTIVE APPLICATION OF 19 AMENDMENTS MADE BY MULTIEMPLOYER 20 PENSION PLAN AMENDMENTS ACT OF 1980.

21 (a) IN GENERAL.—

22 (1) LIABILITY.—Any withdrawal liability incurred
23 by an employer pursuant to part 1 of subtitle E of title
24 IV of the Employee Retirement Income Security Act
25 of 1974 (29 U.S.C. 1381 et seq.) as a result of the

1 complete or partial withdrawal of such employer from
2 a multiemployer plan before September 26, 1980, shall
3 be void.

4 (2) REFUNDS.—Any amounts paid by an employ-
5 er to a plan sponsor as a result of such withdrawal lia-
6 bility shall be refunded by the plan sponsor to the
7 employer, less a reasonable amount for administra-
8 tive expenses incurred by the plan sponsor in calculat-
9 ing, assessing, and refunding such amounts.

10 (b) CONFORMING AMENDMENTS.—

11 (1) EMPLOYEE RETIREMENT INCOME SECURITY
12 ACT OF 1974.—

13 (A) Sections 4211(b) and (c), 4217(a), and
14 4235(a) of the Employee Retirement Income Se-
15 curity Act of 1974 (29 U.S.C. 1391(b) and (c),
16 1397(a), and 1415(a)) are amended by striking
17 out “April 28, 1980” each place it appears and
18 inserting in lieu thereof “September 25, 1980”.

19 (B) Sections 4211 (b) and (c), 4217(a),
20 4219(c)(1)(C)(iii), and 4402(e) of such Act (29
21 U.S.C. 1391 (b) and (c), 1397(a),
22 1399(c)(1)(C)(iii), and 1461(e)) are amended by
23 striking out “April 29, 1980” each place it ap-
24 pears and inserting in lieu thereof “September 26,
25 1980”.

1 (C) Section 4402(f)(1) of such Act (29
2 U.S.C. 1461(f)(1)) is amended by striking out
3 “April 29, 1985” and inserting in lieu thereof
4 “September 26, 1985”.

5 (2) **MULTIEMPLOYER PENSION PLAN AMEND-**
6 **MENTS ACT OF 1980.**—Section 108(d) of the Multiem-
7 ployer Pension Plan Amendments Act of 1980 (29
8 U.S.C. 1385 note) is amended—

9 (A) by striking out “April 29, 1982” in
10 paragraph (1) and inserting in lieu thereof “Sep-
11 tember 26, 1982”; and

12 (B) by striking out “April 29, 1980” each
13 place it appears in paragraphs (2) and (3) and in-
14 serting in lieu thereof “September 26, 1980”.

15 (c) **NO INCREASE IN LIABILITY.**—The amendments
16 made by this section shall not be construed to increase the
17 liability incurred by any employer pursuant to part 1 of subti-
18 tle E of title IV of the Employee Retirement Income Secu-
19 rity Act of 1974 (29 U.S.C. 1381 et seq.), as in effect imme-
20 diately before the amendments made by subsection (b), as a
21 result of the complete or partial withdrawal of such employer
22 from a multiemployer plan prior to September 26, 1980.

23 (d) **SPECIAL RULE FOR CERTAIN BINDING AGREE-**
24 **MENTS.**—In the case of an employer who, on September 26,
25 1980, has a binding agreement to withdraw from a multiem-

1 ployer plan, subsection (a)(1) shall be applied by substituting
2 "December 31, 1980" for "September 26, 1980".

3 **SEC. 112. TREATMENT OF CERTAIN DISTRIBUTIONS FROM A**
4 **QUALIFIED TERMINATED PLAN.**

5 (a) **IN GENERAL.**—For purposes of the Internal Reve-
6 nue Code of 1954, if—

7 (1) a distribution was made from a qualified termi-
8 nated plan to an employee on December 16, 1976, and
9 on January 6, 1977, such employee transferred all of
10 the property received in such distribution to an individ-
11 ual retirement account (within the meaning of section
12 408(a) of such Code) established for the benefit of such
13 employee, and

14 (2) the remaining balance to the credit of such
15 employee in such qualified terminated plan was distrib-
16 uted to such employee on January 21, 1977, and all
17 the property received by such employee in such distri-
18 bution was transferred by such employee to such indi-
19 vidual retirement account on January 21, 1977,

20 then such distributions shall be treated as qualifying rollover
21 distributions (within the meaning of section 402(a)(5)(D) of
22 such Code) and shall not be includible in the gross income of
23 such employee for the taxable year in which paid.

1 (b) **QUALIFIED TERMINATED PLAN.**—For purposes of
2 this section, the term “qualified terminated plan” means a
3 pension plan—

4 (1) with respect to which a notice of sufficiency
5 was issued by the Pension Benefit Guaranty Corpora-
6 tion on December 2, 1976, and

7 (2) which was terminated by corporate action on
8 February 20, 1976.

9 (c) **REFUND OR CREDIT OF OVERPAYMENT BARRED BY**
10 **STATUTE OF LIMITATIONS.**—Notwithstanding section
11 6511(a) of the Internal Revenue Code of 1954 or any other
12 period of limitation or lapse of time, a claim for credit or
13 refund of overpayment of the tax imposed by such Code
14 which arises by reason of this section may be filed by any
15 person at any time within the 1-year period beginning on the
16 date of enactment of this Act. Sections 6511(B) and 6514 of
17 such Code shall not apply to any claim for credit or refund
18 filed under this subsection within such 1-year period.

19 **SEC. 113. PARTIAL TERMINATION FOR CERTAIN PENSION**
20 **PLANS.**

21 For purposes of section 411(d)(3) of the Internal Reve-
22 nue Code of 1954 (relating to minimum vesting standards in
23 the case of partial terminations), a partial termination shall
24 not be treated as occurring if—

1 (1) the partial termination is a result of a decline
2 in plan participation which—

3 (A) occurs by reason of the completion of the
4 Trans-Alaska Oil Pipeline construction project,
5 and

6 (B) occurred after December 31, 1975, and
7 before January 1, 1980, with respect to partici-
8 pants employed in Alaska,

9 (2) no discrimination prohibited by section
10 401(a)(4) of such Code occurred with respect to such
11 partial termination, and

12 (3) the plan precludes reversion of plan assets to
13 employers under the plan as a result of the exclusion of
14 the participants from further participation in such plan.

15 **SEC. 114. DISTRIBUTION REQUIREMENTS FOR ACCOUNTS AND**
16 **ANNUITIES OF AN INSURER IN A TITLE 11 PRO-**
17 **CEEDING.**

18 For purposes of section 408(a)(6) and section 408(b)(3)
19 of the Internal Revenue Code of 1954, a grantor of an indi-
20 vidual retirement account or an individual retirement annuity
21 shall not be treated as failing to meet the requirements of
22 such sections with respect to such account or annuity if such
23 account or annuity was issued by an insurance company
24 which, on March 15, 1984, was a party to a title 11 or simi-
25 lar case (within the meaning of section 368(a)(3)(A) of such

1 Code). The preceding sentence shall only apply during the
2 period such insurance company continues to be a party to the
3 proceeding described in such sentence.

4 **SEC. 115. EXTENSION OF TIME FOR REPAYMENT OF QUALI-**
5 **FIED REFUNDING LOANS.**

6 Paragraph (2) of section 236(c) of the Tax Equity and
7 Fiscal Responsibility Act of 1982 is amended by adding at
8 the end thereof the following new subparagraph:

9 “(D) SPECIAL RULE FOR NON-KEY EMPLOY-
10 EES.—In the case of a non-key employee (within
11 the meaning of section 416(i)(2) of the Internal
12 Revenue Code of 1954), this paragraph shall be
13 applied by substituting ‘January 1, 1985’ for
14 ‘August 14, 1983’ each place it appears.”.

15 **SEC. 116. PENSION PORTABILITY INVOLVING TELECOMMUNI-**
16 **CATIONS DIVESTITURE.**

17 (a) IN GENERAL.—The recognition after December 31,
18 1983, of creditable service, and the treatment after such
19 date of associated accrued benefits and assets, in the case of
20 any transfer of any qualifying employee between any entity
21 subject to the modified final judgment shall be governed by
22 the provisions of the modified final judgment as such provi-
23 sions applied during calendar year 1984 with respect to or
24 from the divesting corporation and any divested exchange
25 carrier.

1 (b) **QUALIFYING EMPLOYEE.**—A qualifying employee,
2 for purposes of this subsection, is an individual who is an
3 employee of an entity subject to the modified final judgment,
4 who is serving in a covered position, and who, on December
5 31, 1983, was an employee of any such entity serving in a
6 covered position.

7 (c) **DEFINITIONS.**—For purposes of this section—

8 (1) the term “covered position” means any posi-
9 tion which (A) is not a supervisor position, within the
10 meaning of section 2(11) of the National Labor Rela-
11 tions Act (29 U.S.C. 152(11)) or (B) the annual base
12 pay rate for which is not more than \$50,000, adjusted
13 by the percentage in the consumer price index since
14 December 31, 1983;

15 (2) the term “modified final judgment” means the
16 judgment of the United States District Court for the
17 District of Columbia in the case, United States against
18 Western Electric, et alia, numbered 82-0192, as modi-
19 fied;

20 (3) the term “entity subject to the modified final
21 judgment” means any carrier divested as a result of
22 such judgment, the corporation owning such carrier
23 before divestiture, and any affiliate of any such carrier
24 or corporation; and

1 (4) the term “consumer price index” means the
2 Consumer Price Index (all items—United States city
3 average) published monthly by the Bureau of Labor
4 Statistics.

5 (d) **LIMITATION ON BENEFITS.**—Nothing in this sub-
6 section shall be construed to limit benefits which would oth-
7 erwise be provided under the modified final judgment or
8 under applicable law.”.

9 (e) **COORDINATION WITH SECTION 415.**—For pur-
10 poses of computing any limit on contributions and benefits
11 with respect to a qualified employee who was an employee of
12 a party to the modified final judgment on December 31,
13 1983, under section 415 of the Internal Revenue Code of
14 1954, there shall be taken into account all contributions and
15 benefits with respect to the qualified employee under a plan
16 maintained by the divesting corporation and any divested ex-
17 change carrier.

18 **Subtitle J—Foreign Provisions**

19 **PART I—GENERAL**

20 **SEC. 121. TREATMENT OF RELATED PERSON FACTORING** 21 **INCOME.**

22 (a) **TREATMENT AS FOREIGN PERSONAL HOLDING** 23 **COMPANY INCOME.**—

24 (1) **IN GENERAL.**—Subsection (a) of section 553
25 (defining foreign personal holding company income) is

1 amended by adding at the end thereof the following
2 new paragraph:

3 “(8) INCOME FROM TRADE OR SERVICE RECEIV-
4 ABLES ACQUIRED FROM RELATED PERSONS.—

5 “(A) IN GENERAL.—Income from a trade or
6 service receivable.

7 “(B) TRADE OR SERVICE RECEIVABLE.—
8 For purposes of subparagraph (A), the term ‘trade
9 or service receivable’ means any account receiv-
10 able or evidence of indebtedness arising out of the
11 disposition of property described in section
12 1221(1), or the performance of services, by a re-
13 lated person.

14 “(C) RELATED PERSON.—For purposes of
15 this paragraph, the term ‘related person’ has the
16 meaning given to such term by section 267(b).”

17 (2) EXCEPTION FOR TRADE OR SERVICE RECEIV-
18 ABLES OF CERTAIN FOREIGN CORPORATIONS.—Sub-
19 paragraph (A) of section 954(c)(4) (relating to certain
20 income received from related persons) is amended by
21 inserting before the semicolon at the end thereof the
22 following: “or income from a trade or service receiv-
23 able (as defined in section 553(a)(8)(B)) acquired direct-
24 ly from such a related person”.

1 (b) TREATMENT OF UNITED STATES PROPERTY.—
2 Subsection (b) of section 956 (defining United States proper-
3 ty) is amended by adding at the end thereof the following
4 new paragraph:

5 “(3) TRADE OR SERVICE RECEIVABLES AC-
6 QUIRED FROM RELATED UNITED STATES PERSONS.—

7 “(A) Notwithstanding paragraph (1) or (2),
8 except as provided in subparagraph (B), the term
9 ‘United States property’ includes any trade or
10 service receivable (as defined in section
11 553(a)(8)(B)) acquired directly or indirectly from a
12 related person (within the meaning of section
13 954(d)(3)) who is a United States person.

14 “(B) EXCEPTION FOR CERTAIN EXPORT RE-
15 CEIVABLES.—Subparagraph (A) shall not apply to
16 any trade or service receivables which arise out of
17 the disposition or rental of export property (within
18 the meaning of section 993(c)), the income from
19 which would be treated as qualified export re-
20 ceipts under subparagraph (A) or (B) of section
21 993(a)(1) (without regard to whether the taxpayer
22 is a DISC). The preceding sentence shall not
23 apply to any receivables arising out of any trans-
24 action involving a DISC or FSC (without regard

1 to whether the export property disposed or rented
2 is held by the DISC or FSC).”.

3 (c) SOURCE RULE.—Section 861 (relating to income
4 from sources within the United States) is amended by adding
5 at the end thereof the following new subsection:

6 “(g) INCOME FROM TRADE OR SERVICE RECEIVABLES
7 ACQUIRED FROM RELATED UNITED STATES PERSONS.—

8 “(1) IN GENERAL.—For purposes of subsection (a)
9 and section 862(a)—

10 “(A) income from a trade or service receiv-
11 able acquired directly or indirectly from a related
12 United States person shall be treated as income
13 from sources within the United States, and

14 “(B) any distribution from a foreign corpora-
15 tion (and any amount included in gross income
16 under section 951) to the extent attributable to
17 income described in subparagraph (A) shall be
18 treated as income from sources within the United
19 States.

20 “(2) SPECIAL RULE FOR CERTAIN EXPORT RE-
21 CEIVABLES.—In the case of any trade or service re-
22 ceivable described in section 956(b)(3)(B), paragraph
23 (1) shall be applied by inserting ‘50 percent of’ before
24 ‘income’ the first place it appears in subparagraph (A).

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

3 “(A) TRADE OR SERVICE RECEIVABLE.—
4 The term ‘trade or service receivable’ has the
5 meaning given to such term by section
6 553(a)(8)(B).

7 “(B) RELATED UNITED STATES PERSON.—
8 The term ‘related United States person’ means
9 any related person (within the meaning of section
10 954(d)(3)) who is a United States person.”.

11 (d) SPECIAL RULE FOR POSSESSIONS.—

12 (1) PUERTO RICO.—Subsection (d) of section 936
13 (relating to Puerto Rico and possession tax credit) is
14 amended by adding at the end thereof the following
15 new paragraph:

16 “(4) SPECIAL RULE FOR TRADE OR SERVICE RE-
17 CEIVABLE.—Any income from a trade or service re-
18 ceivable (as defined in section 553(a)(8)(B)) shall not
19 be treated as income described in subparagraph (A) or
20 (B) of paragraph (1).”.

21 (2) VIRGIN ISLANDS.—Section 934(b) (relating to
22 exception for certain corporations) is amended by
23 adding at the end thereof the following new sentence:
24 “For purposes of this subsection, any income from any
25 trade or service receivable (as defined in section

1 553(a)(8)(B)) shall not be treated as income derived
2 from sources within the Virgin Islands.”.

3 (e) FOREIGN BASE COMPANY INCOME.—Section
4 954(b)(3)(A) (relating to special rule for foreign base compa-
5 ny income) is amended by adding at the end thereof the fol-
6 lowing new sentence: “Notwithstanding the preceding sen-
7 tence, income from any trade or service receivable (as defined
8 in section 553(a)(8)(B)) shall be treated as foreign base com-
9 pany income.”.

10 (f) EFFECTIVE DATE.—The amendments made by this
11 section shall apply to accounts receivable and evidences of
12 indebtedness transferred after March 1, 1984 in taxable years
13 ending after such date.

14 **SEC. 122. TAXATION OF CERTAIN TRANSFERS OF PROPERTY**
15 **OUTSIDE THE UNITED STATES.**

16 (a) IN GENERAL.—Subsection (a) of section 367 (relat-
17 ing to transfers of property from the United States) is amend-
18 ed to read as follows:

19 “(a) TRANSFERS OF PROPERTY FROM THE UNITED
20 STATES.—

21 “(1) GENERAL RULE.—If, in connection with any
22 exchange described in section 332, 351, 354, 355,
23 356, or 361, a United States person transfers property
24 to a foreign corporation, such foreign corporation shall
25 not, for purposes of determining the extent to which

1 gain shall be recognized on such transfer, be consid-
2 ered to be a corporation.

3 “(2) EXCEPTION FOR CERTAIN STOCK OR SECURITIES.—Except to the extent provided in regulations
4 prescribed by the Secretary, paragraph (1) shall not
5 apply to the transfer of stock or securities of a foreign
6 corporation which is a party to the exchange or a
7 party to the reorganization.
8

9 “(3) EXCEPTION FOR TRANSFERS OF CERTAIN
10 PROPERTY USED IN THE ACTIVE CONDUCT OF A
11 TRADE OR BUSINESS.—

12 “(A) IN GENERAL.—Except as provided in
13 regulations prescribed by the Secretary, para-
14 graph (1) shall not apply to any property trans-
15 ferred to a foreign corporation for use by such for-
16 eign corporation in the active conduct of a trade
17 or business outside of the United States.

18 “(B) PARAGRAPH NOT TO APPLY TO CER-
19 TAIN PROPERTY.—Except as provided in regula-
20 tions prescribed by the Secretary, subparagraph
21 (A) shall not apply to any—

22 “(i) property described in paragraph (1)
23 or (3) of section 1221 (relating to inventory
24 and copyrights, etc.) to which subsection (d)
25 does not apply,

1 “(ii) installment obligation, accounts re-
2 ceivable, or similar property,

3 “(iii) foreign currency or other property
4 denominated in foreign currency,

5 “(iv) intangible property (within the
6 meaning of section 936(h)(3)(B)) to which
7 subsection (d) does not apply, or

8 “(v) property with respect to which the
9 transferor is a lessor at the time of the trans-
10 fer, except that this clause shall not apply if
11 the transferee was the lessee.

12 “(C) TRANSFER OF FOREIGN BRANCH WITH
13 PREVIOUSLY DEDUCTED LOSSES.—Except as
14 provided in regulations prescribed by the Secre-
15 tary, subparagraph (A) shall not apply to gain re-
16 alized on the transfer of the assets of a foreign
17 branch of a United States person to a foreign cor-
18 poration in an exchange described in paragraph
19 (1) to the extent that—

20 “(i) the sum of losses—

21 “(I) which were incurred by the
22 foreign branch before the transfer, and

23 “(II) with respect to which a de-
24 duction was allowed to the taxpayer,
25 exceeds

1 “(ii) the amount which is recognized
2 under section 904(f)(3) on account of such
3 exchange.

4 Any gain to which subparagraph (A) does not
5 apply by reason of the preceding sentence shall be
6 treated for purposes of this chapter as ordinary
7 income from sources outside the United States.

8 “(4) SPECIAL RULE FOR TRANSFER OF PART-
9 NERSHIP INTERESTS.—Except as provided in regula-
10 tions prescribed by the Secretary, a transfer by a
11 United States person of an interest in a partnership to
12 a foreign corporation in an exchange described in para-
13 graph (1) shall, for purposes of this subsection, be
14 treated as a transfer to such corporation of such per-
15 son’s pro rata share of the assets of the partnership.

16 “(5) SECRETARY MAY EXEMPT CERTAIN TRANS-
17 ACTIONS FROM APPLICATION OF THIS SUBSEC-
18 TION.—Paragraph (1) shall not apply to the transfer of
19 any property which the Secretary, in order to carry out
20 the purposes of this subsection, designates by regula-
21 tion.”.

22 (b) SPECIAL RULES FOR TRANSFERS OF INTANGI-
23 BLES.—Subsection (d) of section 367 (relating to special rule
24 for transfer of intangibles by possession corporations) is
25 amended to read as follows:

1 “(d) SPECIAL RULES RELATING TO TRANSFERS OF
2 INTANGIBLES.—

3 “(1) IN GENERAL.—Except as provided in regula-
4 tions prescribed by the Secretary, if a United States
5 person transfers any intangible property (within the
6 meaning of section 936(h)(3)(B)) to a foreign corpora-
7 tion in an exchange described in section 351 or 361—

8 “(A) subsection (a) shall not apply to the
9 transfer of such property, and

10 “(B) the provisions of this subsection shall
11 apply to such transfer.

12 “(2) TRANSFER OF INTANGIBLES TREATED AS
13 TRANSFER PURSUANT TO SALE FOR CONTINGENT
14 PAYMENTS.—

15 “(A) IN GENERAL.—If paragraph (1) applies
16 to any transfer, the United States person transfer-
17 ring such property shall be treated as—

18 “(i) having sold such property in ex-
19 change for payments which are contingent
20 upon the productivity, use, or disposition of
21 such property, and

22 “(ii) receiving over the useful life of
23 such property amounts which reasonably re-
24 flect the amounts which would have been re-
25 ceived—

1 “(I) annually in the form of such
2 payments, or

3 “(II) or in the case of a disposition
4 following such transfer (whether direct
5 or indirect), at the time of the disposi-
6 tion.

7 “(B) EFFECT ON EARNINGS AND PROF-
8 ITS.—For purposes of this chapter, the earnings
9 and profits of a foreign corporation to which the
10 intangible property was transferred shall be re-
11 duced by the amount of income required to be in-
12 cluded in income under subparagraph (A).

13 “(C) AMOUNTS RECEIVED TREATED AS
14 UNITED STATES SOURCE ORDINARY INCOME.—
15 For purposes of this chapter, any amount included
16 in gross income by reason of this subsection shall
17 be treated as ordinary income from sources within
18 the United States.”

19 (c) SECRETARY MUST BE NOTIFIED OF TRANSAC-
20 TIONS DESCRIBED IN SECTION 367(a).—

21 (1) NOTIFICATION REQUIREMENT.—Subpart A of
22 part III of subchapter A of chapter 61 is amended by
23 adding after section 6038A the following new section:

1 "SEC. 6038B. NOTICE OF TRANSFERS DESCRIBED IN SECTION
2 367(a).

3 "(a) IN GENERAL.—Each United States person who
4 transfers property to a foreign corporation in an exchange
5 described in section 332, 351, 354, 355, 356, or 361 shall
6 furnish to the Secretary, at such time and in such manner as
7 the Secretary shall by regulations prescribe, such information
8 with respect to such exchange as the Secretary may require
9 in such regulations.

10 "(b) PENALTY FOR FAILURE TO FURNISH INFORMA-
11 TION.—

12 "(1) IN GENERAL.—If any United States person
13 fails to furnish the information described in subsection
14 (a) at the time and in the manner required by regula-
15 tions, such person shall pay a penalty equal to 25 per-
16 cent of the amount of gain realized on such exchange.

17 "(2) REASONABLE CAUSE EXCEPTION.—Para-
18 graph (1) shall not apply to any failure if the United
19 States person shows such failure is due to reasonable
20 cause and not to willful neglect."

21 (2) EXTENSION OF PERIOD FOR ASSESSMENT
22 AND COLLECTION WHERE SECRETARY NOT NOTI-
23 FIED.—Subsection (c) of section 6501 (relating to ex-
24 ceptions to limitations on assessment and collection) is
25 amended by adding at the end thereof the following
26 new paragraph:

1 “(8) FAILURE TO NOTIFY SECRETARY UNDER
2 SECTION 6038B.—In the case of any tax imposed on
3 any exchange by reason of section 367(a), the time for
4 assessment of such tax shall not expire before the date
5 which is 3 years after the date on which the Secretary
6 is notified of such exchange under section 6038B(a).”

7 (3) CONFORMING AMENDMENT.—The table of
8 sections for subpart A of part III of subchapter A of
9 chapter 61 is amended by adding after the item relat-
10 ing to section 6038A the following new item:

 “Sec. 6038B. Notice of transfers described in section 367(a).”.

11 (d) REPEAL OF DECLARATORY JUDGMENT PROVI-
12 SIONS INVOLVING TRANSFERS OF PROPERTY FROM THE
13 UNITED STATES.—

14 (1) IN GENERAL.—Section 7477 is hereby
15 repealed.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 7482(b)(1) (relating to venue for
18 review of Tax Court decisions) is amended by
19 striking out subparagraph (D) and by redesi-
20 gnating subparagraphs (E) and (F) as subpara-
21 graphs (D) and (E), respectively.

22 (B) The table of sections for part IV of sub-
23 chapter C of chapter 76 is amended by striking
24 out the item relating to section 7477.

25 (e) TRANSFERS TO AVOID INCOME TAX.—

1 (1) IN GENERAL.—Section 1492 (relating to non-
2 taxable transfers) is amended—

3 (A) by striking out paragraphs (2) and (3)
4 and by inserting in lieu thereof—

5 “(2) To a transfer—

6 “(A) described in section 367, or

7 “(B) not described in section 367 but with
8 respect to which the taxpayer establishes to the
9 satisfaction of the Secretary that no gain should
10 be recognized under principles similar to the prin-
11 ciples of section 367.”, and

12 (B) by redesignating paragraph (4) as para-
13 graph (3).

14 (2) CONFORMING AMENDMENT.—Section 1494(b)
15 (relating to abatement or refund) is amended by strik-
16 ing out all that follows “that” and inserting in lieu
17 thereof “no gain should be recognized on such transfer
18 under principles similar to the principles of section
19 367”.

20 (f) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section shall
23 apply to transfers or exchanges after December 31,
24 1984, in taxable years ending after such date.

1 (2) RULING REQUESTS BEFORE MARCH 1,
2 1984.—The amendments made by this section shall
3 not apply to any transfer or exchange after December
4 31, 1984, made pursuant to a request filed under sec-
5 tion 367(a) of the Internal Revenue Code of 1954 (as
6 in effect before such amendments) before March 1,
7 1984.

8 SEC. 123. SECTION 1248 TO APPLY TO CERTAIN INDIRECT
9 TRANSFERS OF STOCK IN A FOREIGN CORPO-
10 RATION.

11 (a) GENERAL RULE.—Section 1248 (relating to gain
12 from certain sales or exchanges of stock in foreign corpora-
13 tions) is amended by adding at the end thereof the following
14 new subsection:

15 “(i) TREATMENT OF CERTAIN INDIRECT TRANS-
16 FERS.—

17 “(1) IN GENERAL.—If any shareholder of a 10-
18 percent corporate shareholder of a foreign corporation
19 exchanges stock of the 10-percent corporate sharehold-
20 er for stock of the foreign corporation, for purposes of
21 this section, the stock of the foreign corporation re-
22 ceived in such exchange shall be treated as if it had
23 been—

24 “(A) issued to the 10-percent corporate
25 shareholder, and

1 “(B) then distributed by the 10-percent cor-
 2 porate shareholder to such shareholder in redemp-
 3 tion of his stock.

4 “(2) 10-PERCENT CORPORATE SHAREHOLDER
 5 DEFINED.—For purposes of this subsection, the term
 6 ‘10-percent corporate shareholder’ means any domestic
 7 corporation which, as of the day before the exchange
 8 referred to in paragraph (1), satisfies the stock owner-
 9 ship requirements of subsection (a)(2) with respect to
 10 the foreign corporation.”.

11 (b) EFFECTIVE DATE.—The amendment made by sub-
 12 section (a) shall apply to exchanges after the date of the en-
 13 actment of this Act in taxable years ending after such date.

14 **SEC. 124. TREATMENT OF UNITED STATES SOURCE ORIGINAL**
 15 **ISSUE DISCOUNT IN CASE OF FOREIGN PER-**
 16 **SONS.**

17 (a) NONRESIDENT ALIEN INDIVIDUALS.—

18 (1) IN GENERAL.—Subparagraph (C) of section
 19 871(a)(1) (relating to income not connected with United
 20 States business) is amended to read as follows:

21 “(C) in the case of—

22 “(i) a sale, exchange, or retirement of
 23 an original issue discount obligation, the
 24 amount of any gain not in excess of the
 25 original issue discount accruing while such

1 obligation was held by the nonresident alien
2 individual (to the extent such discount was
3 not theretofore taken into account under
4 clause (ii)), and

5 “(ii) the payment of interest on an origi-
6 nal issue discount obligation, an amount
7 equal to the original issue discount accrued
8 on such obligation since the last payment of
9 interest thereon (except that such original
10 issue discount shall be taken into account
11 under this clause only to the extent that the
12 tax thereon does not exceed the interest pay-
13 ment less the tax imposed by subparagraph
14 (A) thereon), and ”.

15 (2) DEFINITIONS AND SPECIAL RULES.—Section
16 871, as amended by this Act, is amended by redес-
17 ignating subsection (h) as subsection (i) and by insert-
18 ing after subsection (g) the following new subsection:
19 “(h) SPECIAL RULES FOR ORIGINAL ISSUE DIS-
20 COUNT.—For purposes of this section and section 881—

21 “(1) ORIGINAL ISSUE DISCOUNT OBLIGATION.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), the term ‘original issue discount
24 obligation’ means any bond or other evidence of

1 indebtedness having original issue discount (within
2 the meaning of section 1273).

3 “(B) EXCEPTIONS.—The term ‘original issue
4 discount obligation’ shall not include—

5 “(i) CERTAIN SHORT-TERM OBLIGA-
6 TIONS.—Any obligation payable 183 days or
7 less from the date of original issue (without
8 regard to the period held by the taxpayer).

9 “(ii) TAX-EXEMPT OBLIGATIONS.—
10 Any obligation the interest on which is
11 exempt from tax under section 103 or under
12 any other provision of law without regard to
13 the identity of the holder.

14 “(2) DETERMINATION OF PORTION OF ORIGINAL
15 ISSUE DISCOUNT ACCRUING DURING ANY PERIOD.—
16 The determination of the amount of the original issue
17 discount which accrues during any period shall be
18 made under the rules of section 1272 (or the corre-
19 sponding provisions of prior law).

20 “(3) SOURCE OF ORIGINAL ISSUE DISCOUNT.—
21 Except to the extent provided in regulations prescribed
22 by the Secretary, the determination of whether any
23 amount described in subsection (a)(1)(C) is from sources
24 within the United States shall be made at the time of
25 the payment, sale, exchange, or retirement as if such

1 payment, sale, exchange, or retirement involved the
2 payment of interest.

3 “(4) STRIPPED BONDS.—The provisions of section
4 1286 (relating to the treatment of stripped bonds and
5 stripped coupons as obligations with original issue dis-
6 count) shall apply for purposes of this section.”.

7 (b) FOREIGN CORPORATIONS.—

8 (1) IN GENERAL.—Paragraph (3) of section 881(a)
9 (relating to tax on income of foreign corporations not
10 connected with United States business) is amended to
11 read as follows:

12 “(3) in the case of—

13 “(A) a sale, exchange, or retirement of an
14 original issue discount obligation, the amount of
15 any gain not in excess of the original issue dis-
16 count accruing while such obligation was held by
17 the foreign corporation (to the extent such dis-
18 count was not theretofore taken into account
19 under subparagraph (B)), and

20 “(B) the payment of interest on an original
21 issue discount obligation, an amount equal to the
22 original issue discount accrued on such obligation
23 since the last payment of interest thereon (except
24 that such original issue discount shall be taken
25 into account under this subparagraph only to the

1 extent that the tax thereon does not exceed the
2 interest payment less the tax imposed by para-
3 graph (1) thereon), and”.

4 (2) **CROSS REFERENCE.**—Subsection (c) of section
5 881 (relating to doubling of tax) is amended to read as
6 follows:

7 “(c) **CROSS REFERENCES.**—

“For doubling of tax on corporations of certain foreign
countries, see section 891.

“For special rules for original issue discount, see sec-
tion 871(h).”.

8 (c) **EFFECTIVE DATE.**—The amendments made by this
9 section shall apply to the payments, sales, exchanges, or re-
10 tirement made on or after the 60th day after the date of the
11 enactment of this Act with respect to obligations issued after
12 March 31, 1972.

13 **SEC. 125. TREATMENT OF CERTAIN TRANSPORTATION**
14 **INCOME.**

15 (a) **GENERAL RULE.**—Section 863 (relating to items
16 not specified in section 861 or 862) is amended by adding at
17 the end thereof the following new subsection:

18 “(c) **SOURCE RULE FOR CERTAIN TRANSPORTATION**
19 **INCOME.**—

20 “(1) **IN GENERAL.**—Under regulations prescribed
21 by the Secretary, all transportation income attributable
22 to transportation which begins and ends in the United
23 States (or in any possession of the United States) shall

1 be treated as derived from sources within the United
2 States.

3 “(2) **TRANSPORTATION INCOME.**—For purposes
4 of this subsection, the term ‘transportation income’
5 means any income derived from, or in connection
6 with—

7 “(A) the use (or hiring or leasing for use) of
8 a vessel or aircraft, or

9 “(B) the performance of services directly re-
10 lated to the use of a vessel or aircraft.

11 For purposes of the preceding sentence, the term
12 ‘vessel or aircraft’ includes any container used in con-
13 nection with a vessel or aircraft.”.

14 (b) **EFFECTIVE DATE.**—The amendment made by sub-
15 section (a) shall apply with respect to transportation begin-
16 ning after the date of the enactment of this Act in taxable
17 years ending after such date.

18 **SEC. 126. APPLICATION OF COLLAPSIBLE CORPORATION**
19 **RULES TO FOREIGN CORPORATIONS.**

20 (a) **IN GENERAL.**—Subsection (f) of section 341 (relat-
21 ing to collapsible corporations) is amended by adding at the
22 end thereof the following new paragraph:

23 “(8) **SPECIAL RULE FOR FOREIGN CORPORA-**
24 **TIONS.**—To the extent provided in regulations pre-
25 scribed by the Secretary—

1 “(A) any consent given by a foreign corpora-
2 tion under paragraph (1) shall not be effective,
3 and

4 “(B) paragraph (3) shall not apply if the
5 transferee is a foreign corporation.”.

6 (b) **EFFECTIVE DATE.**—The amendment made by sub-
7 section (a) shall take effect on the date of enactment of this
8 Act.

9 **SEC. 127. DEFINITION OF FOREIGN INVESTMENT COMPANY.**

10 (a) **GENERAL RULE.**—Paragraph (2) of section 1246(b)
11 (defining foreign investment company) is amended to read as
12 follows:

13 “(2) engaged (or holding itself out as being en-
14 gaged) primarily in the business of investing, reinvest-
15 ing, or trading in—

16 “(A) securities (as defined in section 2(a)(36)
17 of the Investment Company Act of 1940, as
18 amended),

19 “(B) commodities, or

20 “(C) any interest (including a futures or for-
21 ward contract or option) in property described in
22 subparagraph (A) or (B),

23 at a time when 50 percent or more of the total com-
24 bined voting power of all classes of stock entitled to
25 vote, or the total value of all classes of stock, was held

1 directly (or indirectly through applying paragraphs (2)
2 and (3) of section 958(a) and paragraph (4) of section
3 318(a)) by United States persons (as defined in section
4 7701(a)(30)).”.

5 (b) EFFECTIVE DATES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the amendment made by subsection (a) shall
8 apply to sales and exchanges (and distributions) on or
9 after October 31, 1983, in taxable years ending on or
10 after such date.

11 (2) STOCK HELD ON OCTOBER 31, 1983.—In the
12 case of a sale or exchange (or distribution) not later
13 than the date which is 1 year after the date of the en-
14 actment of this Act, the amendment made by subsec-
15 tion (a) shall not apply with respect to stock held by
16 the taxpayer continuously from October 31, 1983, to
17 the date of such sale or exchange (or distribution).

18 **SEC. 128. DISTRIBUTIONS AND INTEREST PAYMENTS BY CER-**
19 **TAIN UNITED STATES-OWNED FOREIGN CORPO-**
20 **RATIONS TREATED AS DERIVED FROM UNITED**
21 **STATES SOURCES FOR PURPOSES OF LIMITA-**
22 **TION ON FOREIGN TAX CREDIT.**

23 (a) IN GENERAL.—Section 904 (relating to limitation
24 on foreign tax credit) is amended by redesignating subsection

1 (h) as subsection (i) and by inserting after subsection (g) the
2 following new subsection:

3 “(h) DISTRIBUTIONS AND INTEREST PAYMENTS BY
4 CERTAIN UNITED STATES-OWNED FOREIGN CORPORA-
5 TIONS TREATED AS DERIVED FROM UNITED STATES
6 SOURCES.—

7 “(1) IN GENERAL.—For purposes of this section,
8 the United States-connected percentage of any distribu-
9 tion or interest payment made by a United States-
10 owned foreign corporation shall be treated as derived
11 from sources within the United States.

12 “(2) UNITED STATES-CONNECTED PERCENT-
13 AGE.—For purposes of this subsection—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), the term ‘United States-con-
16 nected percentage’ means, with respect to any
17 distribution or interest payment made by any for-
18 eign corporation during any taxable year, the per-
19 centage of the gross income of such corporation
20 for the base period which is—

21 “(i) derived from sources within the
22 United States, or

23 “(ii) effectively connected with the con-
24 duct of a trade or business within the United
25 States.

1 “(B) EXCEPTION WHERE UNITED STATES-
2 CONNECTED PERCENTAGE LESS THAN 10 PER-
3 CENT.—The United States-connected percentage
4 shall be zero in any case in which the percentage
5 determined under subparagraph (A) is less than
6 10 percent.

7 “(C) BASE PERIOD.—The term ‘base period’
8 has the meaning given such term by section
9 904(d)(3)(C)(ii).

10 “(D) DISTRIBUTIONS THROUGH OTHER EN-
11 TITIES.—The Secretary shall prescribe regula-
12 tions for the application of this paragraph in cases
13 of distributions or payments made through 1 or
14 more entities.

15 “(3) UNITED STATES-OWNED FOREIGN CORPO-
16 RATION.—For purposes of paragraph (1), the term
17 ‘United States-owned foreign corporation’ means any
18 foreign corporation if 50 percent or more of—

19 “(A) the total combined voting power of all
20 classes of stock of such corporation entitled to
21 vote, or

22 “(B) the total value of all classes of stock of
23 such corporation,

24 is held directly (or indirectly through applying para-
25 graphs (2) and (3) of section 958(a) and paragraph (4)

1 of section 318(a)) by United States persons (as defined
2 in section 7701(a)(30)).

3 “(4) DISTRIBUTION.—For purposes of this sub-
4 section, the term ‘distribution’ includes any amount re-
5 quired to be included in income under section 951.”.

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as otherwise provided
8 in this subsection, the amendments made by subsection
9 (a) shall apply to distributions and interest payments
10 made by a United States-owned foreign corporation
11 after the date of the enactment of this Act, in taxable
12 years of such corporation ending after such date, to the
13 extent attributable to income received or accrued by
14 such corporation after such date.

15 (2) SPECIAL RULE FOR APPLICABLE CFC.—

16 (A) IN GENERAL.—In the case of qualified
17 interest received or accrued by an applicable CFC
18 before January 1, 1992—

19 (i) such interest shall not be treated as
20 income described in clause (i) or (ii) of sec-
21 tion 904(h)(2)(A) of the Internal Revenue
22 Code of 1954 (as added by subsection (a)) for
23 purposes of computing the United States-
24 connected percentage, except that

1 (ii) clause (i) shall not apply for pur-
2 poses of applying section 904(h)(2)(B) of
3 such Code (relating to exception where
4 United States-connected percentage is less
5 than 10 percent).

6 (B) QUALIFIED INTEREST.—For purposes of
7 subparagraph (A), the term “qualified interest”
8 means—

9 (i) the aggregate amount of interest re-
10 ceived or accrued during any taxable year by
11 an applicable CFC on United States affiliate
12 obligations held by such applicable CFC,
13 multiplied by,

14 (ii) a fraction (not in excess of 1)—

15 (I) the numerator of which is the
16 sum of the aggregate principal amount
17 of United States affiliate obligations
18 held by the applicable CFC on March
19 31, 1984, but not in excess of the appli-
20 cable limit, and

21 (II) the denominator of which is
22 the average daily balance of United
23 States affiliate obligations held by such
24 applicable CFC during the taxable year.

1 (C) ADJUSTMENT FOR RETIREMENT OF CFC
2 OBLIGATIONS.—The amount described in subpar-
3 agraph (B)(ii)(I) for any taxable year shall be re-
4 duced by the sum of—

5 (i) the excess of (I) the aggregate princi-
6 pal amount of CFC obligations which are
7 outstanding on March 31, 1984, but only
8 with respect to obligations issued before
9 March 8, 1984, or issued after March 7,
10 1984, by the applicable CFC pursuant to a
11 binding commitment in effect on March 7,
12 1984, over (II) the average daily outstanding
13 principal amount during the taxable year of
14 the CFC obligations described in subclause
15 (I), and

16 (ii) the portion of the equity of such ap-
17 plicable CFC allocable to the excess de-
18 scribed in clause (i) (determined on the basis
19 of the debt-equity ratio of such applicable
20 CFC on March 31, 1984).

21 (D) APPLICABLE CFC.—For purposes of this
22 paragraph, the term “applicable CFC” means any
23 controlled foreign corporation (within the meaning
24 of section 957)—

1 (i) which was in existence on March 31,
2 1984, and

3 (ii) substantially all the activities of
4 which consist of the issuing of CFC obliga-
5 tions and lending the proceeds from the issu-
6 ance of such bonds to affiliates.

7 (E) UNITED STATES AFFILIATE.—For pur-
8 poses of this paragraph—

9 (i) IN GENERAL.—The term “United
10 States affiliate” means any United States
11 person which is an affiliate of the applicable
12 CFC.

13 (ii) AFFILIATE.—The term ‘affiliate’
14 means any person who is a related person
15 (within the meaning of section 482 of the In-
16 ternal Revenue Code of 1954) to the applica-
17 ble CFC.

18 (F) UNITED STATES AFFILIATE OBLIGA-
19 TIONS.—For purposes of this paragraph, the term
20 “United States affiliate obligations” means any
21 obligation of (and payable by) a United States af-
22 filiate.

23 (G) CFC OBLIGATION.—For purposes of this
24 paragraph, the term “CFC obligation” means any
25 obligation of (and issued by) a CFC and which is

1 described in section 163(f)(2)(B) of the Internal
2 Revenue Code of 1954 (without regard to clause
3 (ii)(II) thereof).

4 (H) TREATMENT OF OBLIGATIONS WITH
5 ORIGINAL ISSUE DISCOUNT.—For purposes of
6 this paragraph, in the case of any obligation with
7 original issue discount, the issue price of such ob-
8 ligation shall be treated as its principal amount.

9 (I) APPLICABLE LIMIT.—For purposes of
10 subparagraph (B)(ii)(I), the term “applicable
11 limit” means the sum of—

12 (i) the equity of the applicable CFC on
13 March 31, 1984, and

14 (ii) the aggregate principal amount of
15 CFC obligations outstanding on March 31,
16 1984, which were issued by an applicable
17 CFC—

18 (I) before March 8, 1984, or

19 (II) after March 7, 1984, pursuant
20 to a binding commitment in effect on
21 March 7, 1984.

22 (3) SPECIAL RULE FOR CERTAIN OBLIGATIONS
23 HELD ON MARCH 17, 1984, BY CORPORATIONS
24 OTHER THAN APPLICABLE CFC.—In the case of any
25 foreign corporation which is not an applicable CFC (as

1 defined in paragraph (2)), the amendments made by
2 subsection (a) shall not apply to interest on any term
3 obligation held by such corporation on March 7, 1984.

4 (4) DEFINITIONS.—Any term used in this subsec-
5 tion which is also used in section 904(h) of the Internal
6 Revenue Code of 1954 (as added by subsection (a))
7 shall have the meaning given such term by such sec-
8 tion 904(h).

9 **SEC. 129. CERTAIN DISTRIBUTIONS TREATED AS INTEREST**
10 **FOR PURPOSES OF LIMITATION ON THE FOR-**
11 **EIGN TAX CREDIT.**

12 (a) IN GENERAL.—Subsection (d) of section 904 (relat-
13 ing to limitation on foreign tax credit) is amended by adding
14 at the end thereof the following new paragraph:

15 “(3) CERTAIN DISTRIBUTIONS BY CORPORATIONS
16 TREATED AS INTEREST.—

17 “(A) IN GENERAL.—Any distribution made
18 by a corporation to which this paragraph applies
19 out of that portion of the earnings and profits of
20 such corporation which is attributable to interest
21 described in paragraph (2) (including amounts
22 treated as interest described in paragraph (2) by
23 reason of this paragraph) shall be treated for pur-
24 poses of this subsection as interest income de-
25 scribed in paragraph (2).

1 “(B) CORPORATIONS TO WHICH PARA-
2 GRAPH APPLIES.—This paragraph shall apply
3 to—

4 “(i) any United States-owned foreign
5 corporation (within the meaning of subsection
6 (h)(3)), and

7 “(ii) any regulated investment company.

8 “(C) EXCEPTION FOR DISTRIBUTIONS BY
9 CORPORATIONS HAVING SMALL PERCENTAGES
10 OF INTEREST INCOME.—

11 “(i) IN GENERAL.—Subparagraph (A)
12 shall not apply to any distribution made by a
13 corporation during a taxable year if less than
14 10 percent of the earnings and profits of
15 such corporation for the base period with re-
16 spect to such taxable year is attributable to
17 interest income described in paragraph (2)
18 (including amounts treated as interest de-
19 scribed in paragraph (2) by reason of this
20 paragraph).

21 “(ii) BASE PERIOD.—For purposes of
22 clause (i), the term ‘base period’ means, with
23 respect to any taxable year—

24 “(I) the period of 3 taxable years
25 preceding such taxable year,

1 “(II) if a corporation has not been
2 in existence during such 3-taxable year
3 period, so much of such period as the
4 corporation is in existence, or

5 “(III) if such taxable year is the
6 first taxable year of existence, such tax-
7 able year.

8 “(D) DISTRIBUTION.—For purposes of this
9 paragraph, the term ‘distribution’ includes any
10 amount required to be included in income under
11 section 951.

12 “(E) DISTRIBUTIONS THROUGH OTHER EN-
13 TITIES.—The Secretary shall prescribe regula-
14 tions for the application of this paragraph in cases
15 of distributions made through 1 or more entities.”.

16 (b) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendment made by sub-
18 section (a) shall apply to distributions by a corporation
19 to which section 904(d)(3) of the Internal Revenue
20 Code of 1954 (as added by this section) applies which
21 are made after the date of the enactment of this Act,
22 in taxable years of such corporation ending after such
23 date, to the extent attributable to interest income re-
24 ceived or accrued by such corporation in taxable years
25 beginning after such date.

1 (2) **TERM OBLIGATIONS OF FOREIGN CORPORA-**
2 **TIONS WHICH ARE NOT APPLICABLE CFC.**—The
3 amendment made by subsection (a) shall not apply to
4 any distribution by a corporation to which section
5 904(d)(3) of the Internal Revenue Code of 1954 ap-
6 plies and which is not an applicable CFC (as defined in
7 section 128(c)(2)) to the extent such distribution is at-
8 tributable to interest on any term obligation held by
9 such corporation on March 7, 1984.

10 (3) **BASE PERIOD.**—For purposes of computing
11 any base period under section 904(d)(3)(C)(ii) of the
12 Internal Revenue Code of 1954 (as added by this sec-
13 tion) for purposes of applying the amendments made by
14 this section, a corporation shall not be treated as being
15 in existence for any taxable year beginning before the
16 date of the enactment of this Act.

17 **SEC. 130. TREATMENT OF CERTAIN DISTRIBUTIONS AND IN-**
18 **TEREST RECEIVED BY UNITED STATES-OWNED**
19 **FOREIGN CORPORATIONS.**

20 (a) **GENERAL RULE.**—Section 535 (defining accumulat-
21 ed taxable income) is amended by adding at the end thereof
22 the following new subsection:

23 “(d) **UNITED STATES INCOME RETAINS SOURCE EVEN**
24 **THOUGH DISTRIBUTED TO UNITED STATES OWNED FOR-**
25 **EIGN CORPORATION.**—

1 “(1) IN GENERAL.—For purposes of this part, if
2 more than 10 percent of the earnings and profits of
3 any foreign corporation for any taxable year—

4 “(A) is derived from sources within the
5 United States, or

6 “(B) is effectively connected with the con-
7 duct of a trade or business within the United
8 States,

9 any distribution out of such earnings and profits (and
10 any interest payment) received (directly or through 1
11 or more other entities) by a United States-owned for-
12 eign corporation out of such earnings and profits shall
13 be treated as derived by such corporation from sources
14 within the United States.

15 “(2) UNITED STATES-OWNED FOREIGN CORPORA-
16 TION.—For purposes of paragraph (1), the term
17 ‘United States-owned foreign corporation’ has the
18 meaning given such term by section 904(h).”.

19 (b) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendment made by subsection (a) shall
22 apply to distributions and interest received by a United
23 States-owned foreign corporation on or after May 23,
24 1983, in taxable years ending on or after such date.

1 (2) CORPORATIONS IN EXISTENCE ON MAY 23,
2 1983.—In the case of a United States-owned foreign
3 corporation in existence on May 23, 1983, the amend-
4 ment made by subsection (a) shall apply to taxable
5 years beginning after December 31, 1984.

6 (3) DEFINITIONS.—For purposes of this subsec-
7 tion, the terms “distribution” and “United States-
8 owned foreign corporation” have the respective mean-
9 ings given such terms by section 904(h) of the Internal
10 Revenue Code of 1954.

11 **SEC. 131. AMENDMENTS RELATED TO FOREIGN PERSONAL**
12 **HOLDING COMPANIES.**

13 (a) **ATTRIBUTION FROM FAMILY MEMBERS AND**
14 **PARTNERSHIPS.**—Section 554 (relating to stock ownership)
15 is amended by adding at the end thereof the following new
16 subsection:

17 “(c) **SPECIAL RULES FOR APPLICATION OF SUBSEC-**
18 **TION (A)(2).**—For purposes of the stock ownership require-
19 ment provided in section 552(a)(2)—

20 “(1) stock owned by a nonresident alien individual
21 (other than a foreign trust or foreign estate) shall not
22 be considered by reason of so much of subsection (a)(2)
23 as relates to attribution through family membership as
24 owned by a citizen or by a resident alien individual

1 who is not the spouse of the nonresident individual,
2 and

3 “(2) stock of a corporation owned by any foreign
4 person shall not be considered by reason of so much of
5 subsection (a)(2) as relates to attribution through part-
6 ners as owned by a citizen or resident of the United
7 States who does not otherwise own stock in such cor-
8 poration (determined after application of subsection (a)
9 and paragraph (1), other than attribution through part-
10 ners).”.

11 (b) INCLUSION IN INCOME OF UNITED STATES PER-
12 SONS HOLDING INTEREST THROUGH FOREIGN ENTITY.--

13 Section 551 (relating to foreign personal holding company
14 income taxed to United States shareholders) is amended by
15 redesignating subsection (f) as subsection (g) and by inserting
16 after subsection (e) the following new subsection:

17 “(f) STOCK HELD THROUGH FOREIGN ENTITY.—For
18 purposes of this section, stock of a foreign personal holding
19 company owned (directly or through the application of this
20 subsection) by—

21 “(1) a partnership, estate, or trust which is not a
22 United States shareholder, or

23 “(2) a foreign corporation which is not a foreign
24 personal holding company,

1 shall be considered as being owned proportionately by its
2 partners, beneficiaries, or shareholders. In any case to which
3 the preceding sentence applies, the Secretary may by regula-
4 tions provide for such adjustments in the application of this
5 part as may be necessary to carry out the purposes of the
6 preceding sentence.”.

7 (c) CERTAIN DIVIDENDS AND INTEREST NOT TAKEN
8 INTO ACCOUNT FOR FOREIGN PERSONAL HOLDING COM-
9 PANY DETERMINATION.—

10 (1) IN GENERAL.—Paragraph (1) of section
11 553(a) (defining foreign personal holding income) is
12 amended by inserting “, other than dividends and in-
13 terest described in section 954(c)(4)(A)” after “annu-
14 ities”.

15 (2) CONFORMING AMENDMENT.—Paragraph (1) of
16 section 552(a) (defining foreign personal holding com-
17 pany) is amended by striking out “; and” at the end
18 thereof and inserting in lieu thereof a period and “For
19 purposes of this paragraph, there shall not be included
20 in gross income dividends and interest described in sec-
21 tion 954(c)(4)(A).”.

22 (d) COORDINATION OF SUBPART F WITH FOREIGN
23 PERSONAL HOLDING COMPANY PROVISIONS.—Subsection
24 (d) of section 951 (relating to coordination with foreign per-

1 sonal holding company provisions) is amended to read as fol-
2 lows:

3 “(d) COORDINATION WITH FOREIGN PERSONAL
4 HOLDING COMPANY PROVISIONS.—If, but for this subsec-
5 tion, an amount would be included in the gross income of a
6 United States shareholder for any taxable year both under
7 subsection (a)(1)(A)(i) and under section 551(b) (relating to
8 foreign personal holding company income included in gross
9 income of United States shareholder), such amount shall be
10 included in the gross income of such shareholder only under
11 subsection (a)(1)(A).”

12 (e) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section shall
15 apply to taxable years of foreign corporations beginning
16 after March 15, 1984.

17 (2) SUBSECTION (D).—The amendment made by
18 subsection (d) shall apply to taxable years of United
19 States shareholders beginning after the date of the en-
20 actment of this Act.

1 **PART II—FOREIGN INSURANCE**

2 **SEC. 135. PROVISIONS RELATING TO AMOUNT AND WITH-**
 3 **HOLDING OF EXCISE TAXES ON POLICIES**
 4 **ISSUED BY FOREIGN INSURERS.**

5 (a) **UNIFORM RATE OF TAX ON INSURANCE AND RE-**
 6 **INSURANCE POLICIES.**—Section 4371 (relating to excise tax
 7 on policies issued by foreign insurers) is amended to read as
 8 follows:

9 **“SEC. 4371. IMPOSITION OF TAX.**

10 **“(a) IN GENERAL.**—If any foreign insurer or reinsurer
 11 issues a policy of insurance, indemnity bond, annuity con-
 12 tract, or policy of reinsurance, there is hereby imposed on
 13 such policy, bond, contract, or policy of reinsurance a tax
 14 equal to—

15 **“(1) in the case of—**

16 **“(A) a policy of casualty insurance or an in-**
 17 **demnity bond which is issued to or for, or in the**
 18 **name of, an insured (within the meaning of sec-**
 19 **tion 4372(d)), or**

20 **“(B) a policy of reinsurance covering any**
 21 **such contract or bond,**

22 **4 percent of the amount of the premium retained by**
 23 **the foreign insurer or reinsurer on such policy, or bond,**
 24 **or on such policy of reinsurance; and**

25 **“(2) in the case of—**

1 “(A) a policy of life, sickness, or accident in-
2 surance or an annuity contract, or

3 “(B) a policy of reinsurance covering any
4 such policy or contract,

5 1 percent of the amount of the premium retained by
6 the foreign issuer or reinsurer on such policy or con-
7 tract, or on such policy of reinsurance.

8 No tax shall be imposed under paragraph (2) on any policy or
9 contract with respect to which the insurer is subject to tax
10 under section 819.

11 “(b) AMOUNT OF PREMIUM RETAINED.—For purposes
12 of subsection (a), the term ‘amount of the premium retained’
13 means, with respect to any policy, bond, or contract de-
14 scribed in subsection (a), the excess of—

15 “(1) the gross premium (and other consideration)
16 received by a foreign insurer, over

17 “(2) the premiums (and other consideration) paid
18 by such insurer with respect to reinsurance ceded with
19 respect to such policy, bond, or contract.”.

20 (b) LIABILITY FOR TAX.—Section 4374 (relating to lia-
21 bility for tax) is amended—

22 (1) by striking out “or for whose use or benefit
23 the same are made, signed, issued, or sold”, and

24 (2) by striking out the last sentence.

1 (c) WITHHOLDING OF EXCISE TAX ON FOREIGN IN-
2 SURERS.—

3 (1) IN GENERAL.—Chapter 34 (relating to poli-
4 cies issued by foreign insurers) is amended by adding at
5 the end thereof the following new section:

6 "SEC. 4375. WITHHOLDING OF EXCISE TAX ON FOREIGN IN-
7 SURERS.

8 "(a) IN GENERAL.—In any case in which—

9 "(1) a foreign insurer issues a contract to which
10 this section applies, or

11 "(2) a foreign reinsurer issues a policy of reinsur-
12 ance covering any contract to which this section ap-
13 plies,

14 the insured or any withholding agent shall deduct and with-
15 hold from the gross premium (and other consideration) paid
16 an amount equal to the amount determined under subsection
17 (b).

18 "(b) AMOUNT TO BE WITHHELD.—The amount to be
19 deducted and withheld under subsection (a) shall be equal
20 to—

21 "(1) in the case of any contract described in sub-
22 section (d)(1)(A) or any policy of reinsurance subse-
23 quently issued with respect to the risks covered by
24 such contract, 4 percent of the gross premium (and
25 other consideration) paid,

1 “(2) in the case of any contract described in sub-
2 section (d)(1)(B) or any policy of reinsurance subse-
3 quently issued with respect to the risks covered by
4 such contract, 1 percent of the gross premium (and
5 other consideration) paid.

6 “(c) EXCEPTIONS.—Subsection (a) shall not apply to
7 any contract or policy of reinsurance—

8 “(1) the premium on which is exempt from tax
9 under section 4373, or

10 “(2) with respect to which the Secretary by regu-
11 lations provides for an exemption from the requirement
12 to deduct and withhold under subsection (a).

13 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
14 poses of this section—

15 “(1) CONTRACT TO WHICH THIS SECTION AP-
16 PLIES.—This section shall apply to any contract
17 which—

18 “(A) is a policy of casualty insurance or an
19 indemnity bond with respect to an insured, or

20 “(B) any policy of life, sickness, or accident
21 insurance or an annuity contract (within the
22 meaning of section 4372(e)) with respect to which
23 the issuer is not subject to tax under section 819.

24 “(2) INSURED.—The term ‘insured’ has the mean-
25 ing given such term by section 4372(d).

1 “(3) WITHHOLDING AGENT.—Except as provided
2 in regulations prescribed by the Secretary, the term
3 ‘withholding agent’ means, with respect to any premi-
4 um paid by an insured to a foreign insurer or reinsurer
5 (or to any nonresident agent, solicitor, or broker), the
6 person who controls, receives, has custody of, disposes
7 of, or pays such premium.

8 “(4) PROCEDURAL RULES.—Under regulations
9 prescribed by the Secretary, rules similar to the rules
10 of subchapter C of chapter 3 shall apply to any amount
11 required to be deducted and withheld under this sub-
12 section.”.

13 (2) CONFORMING AMENDMENT.—The table of
14 sections for chapter 34 is amended by adding at the
15 end thereof the following new item:

“Sec. 4375. Withholding on excise tax on foreign insurers.”.

16 (d) EFFECTIVE DATE.—The amendments made by this
17 section shall apply to premiums paid after the date of the
18 enactment of this Act.

19 **SEC. 136. SERVICES RELATING TO INSURANCE POLICIES ARE**
20 **TREATED AS PERFORMED IN COUNTRY OF**
21 **RISK.**

22 (a) IN GENERAL.—Subsection (e) of section 954 (defin-
23 ing foreign base company services income) is amended by
24 adding at the end thereof the following new sentence: “For
25 purposes of paragraph (2), any services performed with re-

1 spect to any policy of insurance or reinsurance with respect
2 to which the primary insured is a related person (within the
3 meaning of section 267(b)) shall be treated as having been
4 performed in the country within which the insured hazards,
5 risks, losses, or liabilities occur, and except as provided in
6 regulations prescribed by the Secretary, rules similar to the
7 rules of section 953(e) shall be applied in determining the
8 income from such services.”.

9 (b) **EFFECTIVE DATE.**—The amendments made by sub-
10 section (a) shall apply to taxable years of controlled foreign
11 corporations beginning after the date of the enactment of this
12 Act.

13 **PART III—WITHHOLDING OF CERTAIN**
14 **FOREIGN TAXES**

15 **SEC. 141. WITHHOLDING OF TAX ON DISPOSITIONS OF UNITED**
16 **STATES REAL PROPERTY INTERESTS BY CER-**
17 **TAIN FOREIGN PERSONS REQUIRED.**

18 (a) **WITHHOLDING OF TAX.**—

19 (1) **IN GENERAL.**—Subchapter A of chapter 3 (re-
20 lating to withholding of tax on nonresident aliens and
21 foreign corporations) is amended by adding at the end
22 thereof the following new section:

1 "SEC. 1444. WITHHOLDING OF TAX ON DISPOSITIONS OF
2 UNITED STATES REAL PROPERTY INTERESTS.

3 "(a) GENERAL RULE.—Except as otherwise provided
4 in this section, in the case of any acquisition of a United
5 States real property interest (as defined in section 897(c))
6 from a foreign person, the transferee, any transferee's agent,
7 or any settlement officer shall be required to deduct and with-
8 hold a tax equal to whichever of the following is the smallest:

9 "(1)(A) in the case of a corporate transferor, 28
10 percent of the amount realized on the disposition, or
11 (B) in the case of a transferor who is an individual,
12 partnership, estate, or trust, 20 percent of the amount
13 realized on the disposition,

14 "(2) the portion of the transferee's consideration
15 (as defined in subsection (h)(4)) which is at any time
16 within the withholding agent's custody or control, or

17 "(3) if there is a transferor's maximum tax liability
18 (as defined in subsection (h)(5)), the amount of such
19 liability.

20 "(b) TRANSFEREE OR SETTLEMENT OFFICER MUST
21 KNOW OR HAVE NOTICE THAT TRANSFEROR WAS A FOR-
22 EIGN PERSON.—

23 "(1) IN GENERAL.—The transferee, any transfer-
24 ee's agent, or any settlement officer shall not be re-
25 quired to deduct and withhold a tax under subsection

1 (a) with respect to any acquisition unless the transfer-
2 ee, transferee's agent, or the settlement officer—

3 “(A) knows that the transferor is a foreign
4 person, or

5 “(B) has received a notice provided for in
6 subsection (c).

7 “(2) TIME FOR APPLYING PARAGRAPH (1).—

8 Paragraph (1) shall be applied immediately before each
9 payment of the consideration with respect to the acqui-
10 sition of the United States real property interest.

11 “(c) REQUIREMENTS TO FURNISH NOTICE.—

12 “(1) TRANSFEROR MUST FURNISH NOTICE TO
13 TRANSFEREE AND TO SETTLEMENT OFFICER.—If the
14 transferor is a foreign person, he shall so notify the
15 transferee, any agent of the transferee, and any settle-
16 ment officer at such time or times and in such manner
17 as may be prescribed by regulations.

18 “(2) TRANSFEROR'S AGENT.—

19 “(A) IN GENERAL.—

20 “(i) TRANSFEROR'S AGENT TO FUR-
21 NISH NOTICE.—If any transferor's agent has
22 at any time before the time specified in sub-
23 section (b)(2) reason to believe that the
24 transferor may be a foreign person, he shall
25 so notify the transferee, any transferee's

1 agent, and any settlement officer at such
2 time or times and in such manner as may be
3 prescribed by regulations.

4 “(ii) REQUIREMENT OF REASONABLE
5 INQUIRY.—For purposes of this subsection, a
6 transferor’s agent who fails to make reason-
7 able inquiry into whether the transferor is a
8 foreign person shall be treated as having
9 reason to believe that the transferor may be
10 a foreign person.

11 “(iii) TRANSFEROR’S AGENT MAY RELY
12 IN GOOD FAITH ON TRANSFEROR’S WRIT-
13 TEN STATEMENT.—A transferor’s agent will
14 not be treated as having reason to believe
15 that a transferor may be a foreign person if
16 the transferor’s agent relies in good faith on
17 a written statement of the transferor (or, in
18 the case of a transferor’s agent retained by
19 another agent of the transferor, a written
20 statement by such other transferor’s agent)
21 that the transferor is a United States person.

22 “(B) ONLY 1 NOTICE TO EACH PERSON.—
23 Under regulations, the requirements of paragraph
24 (1) and of subparagraph (A) of this paragraph
25 shall be treated as met with respect to the trans-

1 feree, any transferee's agent, and any settlement
2 officer if at least 1 notice which meets the re-
3 quirements of paragraph (1) or such subparagraph
4 (A) is furnished to such transferee, transferee's
5 agent, and settlement officer.

6 “(C) TRANSFEROR'S AGENT.—Except as
7 provided in subparagraph (D), for purposes of this
8 subsection, the term ‘transferor's agent’ means
9 any person who represents the transferor (or an-
10 other agent of the transferor)—

11 “(i) in any negotiation with the transfer-
12 ee or any transferee's agent relating to the
13 transaction, or

14 “(ii) in settling the transaction.

15 A person will be considered to represent the
16 transferor (or another agent of the transferor) if
17 such person retains another person to represent
18 the transferor (or such other agent) in any negoti-
19 ations with the transferee or transferee's agent re-
20 lating to the transaction or in settling the transac-
21 tion.

22 “(D) SETTLEMENT OFFICER NOT TREATED
23 AS TRANSFEROR'S AGENT.—For purposes of this
24 paragraph, a person shall not be treated as a
25 transferor's agent with respect to any transaction

1 merely because such person performs 1 or more of
2 the following acts:

3 “(i) the receipt and the disbursement of
4 any portion of the consideration for the
5 transaction, or

6 “(ii) the recording of any document in
7 connection with the transaction.

8 “(3) FAILURE TO FURNISH NOTICE.—

9 “(A) DUTY TO WITHHOLD.—If any transfer-
10 or’s agent—

11 “(i) is required by paragraph (2) to fur-
12 nish notice, but

13 “(ii) fails to notify the transferee and
14 the transferee’s agent and the settlement of-
15 ficer at such time or times and in such
16 manner as may be prescribed by regulations,
17 such agent shall have the same duty to deduct
18 and withhold (with respect to the transferee’s con-
19 sideration within the transferor’s agent’s custody
20 and control) that the transferee would have if the
21 transferor’s agent had complied with paragraph
22 (2).

23 “(B) TREATMENT OF COMPENSATION.—In
24 any case to which subparagraph (A) applies, the
25 transferee’s consideration shall be treated as in-

1 cluding the compensation received by the transfer-
2 or's agent in connection with the transaction.

3 “(d) EXEMPTIONS.—

4 “(1) IN GENERAL.—No person shall be required
5 to deduct and withhold any amount under subsection
6 (a) with respect to a transaction if paragraph (2), (3),
7 or (4) applies to the transaction.

8 “(2) TRANSFEROR FURNISHES QUALIFYING
9 STATEMENT.—

10 “(A) IN GENERAL.—This paragraph applies
11 to the transaction if the transferor (at such time,
12 in such manner, and subject to such terms and
13 conditions as the Secretary may by regulations
14 prescribe) furnishes a qualifying statement to the
15 person who (but for this paragraph) would be re-
16 quired to withhold.

17 “(B) QUALIFYING STATEMENT.—For pur-
18 poses of subparagraph (A), the term ‘qualifying
19 statement’ means a statement by the Secretary
20 that—

21 “(i) the transferor either—

22 “(I) has reached agreement with
23 the Secretary for the payment of any
24 tax imposed by section 871(b)(1) or
25 882(a)(1) or any gain recognized by the

1 transferor on the disposition of the
2 United States real property interest, or

3 “(II) is exempt from any tax im-
4 posed by section 871(b)(1) or 882(a)(1)
5 on any gain recognized by the transfer-
6 or on the disposition of United States
7 real property interest, and

8 “(ii) the transferor has satisfied any
9 transferor’s unsatisfied withholding liability
10 or has provided adequate security to cover
11 such liability.

12 “(3) **PRINCIPAL RESIDENCE WHERE AMOUNT RE-**
13 **ALIZED IS NOT MORE THAN \$200,000.**—This para-
14 graph applies to the transaction if—

15 “(A) the amount realized by the transferor
16 does not exceed \$200,000, and

17 “(B) the property is acquired by the transfer-
18 ee for use as his principal residence.

19 “(4) **STOCK TRANSFERRED ON ESTABLISHED SE-**
20 **CURITIES MARKET.**—This paragraph applies to a dis-
21 position of stock in a corporation if the transaction
22 takes place on an established United States securities
23 market.

24 “(e) **ADJUSTMENTS IN AMOUNT REQUIRED TO BE**
25 **WITHHELD.**—

1 “(1) CANNOT EXCEED TRANSFEROR’S MAXIMUM
2 TAX LIABILITY.—

3 “(A) REQUEST.—At the request of the
4 transferor or of any withholding agent, the Secre-
5 tary shall establish, with respect to any disposi-
6 tion, the transferor’s maximum tax liability.

7 “(B) LIMIT ON WITHHOLDING REQUIRE-
8 MENT.—The amount required to be withheld
9 under subsection (a) with respect to any disposi-
10 tion shall not exceed the amount (if any) estab-
11 lished with respect to such disposition under sub-
12 paragraph (A).

13 “(2) AUTHORITY OF SECRETARY TO PRESCRIBE
14 REDUCED AMOUNT.—At the request of the transferor
15 or of any withholding agent, the Secretary may pre-
16 scribe a reduced amount to be withheld under this sec-
17 tion if the Secretary determines that to substitute such
18 reduced amount will not jeopardize the collection of the
19 tax imposed by this section or section 871(b)(1) or
20 882(a)(1).

21 “(3) PROCEDURAL RULES.—

22 “(A) REGULATIONS.—Requests for—

23 “(i) qualifying statements under subsec-
24 tion (d)(2),

1 “(ii) determinations of transferor’s maxi-
2 mum tax liability under paragraph (1) of this
3 subsection, and

4 “(iii) reductions under paragraph (2) of
5 this subsection in the amount required to be
6 withheld,

7 shall be made at the time and manner, and shall
8 include such information, as the Secretary shall
9 prescribe in regulations.

10 “(B) REQUESTS TO BE HANDLED WITHIN
11 30 DAYS.—The Secretary shall take action with
12 respect to any request described in subparagraph
13 (A) within 30 days after the Secretary receives
14 the request.

15 “(f) RULES RELATING TO CERTAIN PARTNERSHIPS,
16 TRUSTS, AND ESTATES.—Pursuant to such terms and con-
17 ditions as may be provided by regulations, a domestic part-
18 nership, the trustee of a domestic trust, or the executor of a
19 domestic estate shall be required under subsection (a) to
20 deduct and withhold tax from amounts of which such partner-
21 ship, trustee, or executor has custody which are—

22 “(1) attributable to the disposition of a United
23 States real property interest (as defined in section
24 897(c)(1)), and

25 “(2) either—

1 “(A) includible in the distributive share of a
2 partner of the partnership who is a nonresident
3 alien individual or a foreign corporation, partner-
4 ship, trust, or estate;

5 “(B) includible in the income of a beneficiary
6 of the trust or estate who is a nonresident alien
7 individual or a foreign corporation, partnership,
8 trust, or estate; or

9 “(C) includible in the income of a nonresident
10 alien individual, foreign corporation, partnership,
11 trust, or estate under the provisions of section
12 671.

13 “(g) WITHHOLDING TO BE REQUIRED FOR DISTRIBUTIONS BY FOREIGN CORPORATIONS IN THE CASE OF CERTAIN OTHER TRANSACTIONS.—Except as otherwise provided in this section, in the case of any transaction involving
14 a United States real property interest on which gain is recognized under section 897 (d) or (e), a corporation shall be required to deduct and withhold under subsection (a) a tax
15 equal to 28 percent of an amount equal to the fair market
16 value of such interest (as of the time of the transaction) reduced by its adjusted basis.
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23 “(h) DEFINITIONS.—For purposes of this section—

1 “(1) TRANSFEROR.—The term ‘transferor’ means
2 the person disposing of the United States real property
3 interest.

4 “(2) TRANSFEREE.—The term ‘transferee’ means
5 the person acquiring the United States real property
6 interest.

7 “(3) SETTLEMENT OFFICER.—The term ‘settle-
8 ment officer’ means the person who, in connection with
9 the settlement, receives and disburses any portion of
10 the consideration for the transaction.

11 “(4) TRANSFEREE’S CONSIDERATION.—

12 “(A) IN GENERAL.—The term ‘transferee’s
13 consideration’ means the cash and the fair market
14 value of the other property which is consideration
15 in connection with the transaction.

16 “(B) INDEBTEDNESS.—Except to the extent
17 provided in regulations, if—

18 “(i) the transferee assumes indebtedness
19 of the transferor or indebtedness to which
20 the property is subject, or the transferee ac-
21 quires the property subject to an indebted-
22 ness, and

23 “(ii) such indebtedness was incurred
24 within 2 years of the transaction,

1 then, for purposes of applying subsection (a)(2)
2 with respect to the transferee, the transferee's
3 consideration shall include the amount of such in-
4 debtedness and the amount of such indebtedness
5 shall be deemed to be within the withholding
6 agent's custody or control.

7 “(5) TRANSFEROR'S MAXIMUM TAX LIABILITY.
8 TY.—The term ‘transferor's maximum tax liability’
9 means, with respect to the disposition of any interest,
10 the maximum amount which the Secretary determines
11 the transferor could owe—

12 “(A) as tax under section 871(b)(1) or
13 882(a)(1) by reason of such disposition, plus

14 “(B) the transferor's unsatisfied withholding
15 liability with respect to such interest.

16 “(6) TRANSFEROR'S UNSATISFIED WITHHOLDING
17 LIABILITY.—The term ‘transferor's unsatisfied with-
18 holding liability’ means the withholding obligation im-
19 posed under this section on the transferor's acquisition
20 of the United States real property interest or on the
21 acquisition of a predecessor interest, to the extent such
22 obligation has not been satisfied.”.

23 (2) CONFORMING AMENDMENT.—The table of
24 sections for subchapter A of chapter 3 is amended by
25 adding at the end thereof the following new item:

“Sec. 1444. Withholding of tax on dispositions of United States real property interests.”.

1 (b) DISCRETION TO CURTAIL REPORTING WHERE
2 WITHHOLDING REQUIRED.—Subsection (e)(2) of section
3 6039C (relating to returns with respect to United States real
4 property interests) is amended to read as follows:

5 “(2) RETURNS, ETC.—

6 “(A) GENERAL RULE.—All returns, state-
7 ments, and information required to be made or
8 furnished under this section shall be made or fur-
9 nished at such time and in such manner as the
10 Secretary shall by regulations prescribe.

11 “(B) CASES IN WHICH WITHHOLDING IS
12 REQUIRED.—Except when required by the Secre-
13 tary, the returns, statements, and information oth-
14 erwise required to be made or furnished under this
15 section shall not be required if a transferee, a
16 transferee’s agent, or any other person is required
17 under section 1444 to deduct and withhold tax on
18 the acquisition of the property.”.

19 (c) EFFECTIVE DATE.—The amendments made by this
20 section shall apply to any payment of consideration with re-
21 spect to the acquisition of a United States real property inter-
22 est made more than 30 days after the date of the enactment
23 of this Act.

1 SEC. 142. REPEAL OF THE 30 PERCENT TAX ON INTEREST RE-
 2 CEIVED BY FOREIGNERS ON CERTAIN PORTFO-
 3 LIO INVESTMENTS.

4 (a) REPEAL OF TAX ON NONRESIDENT INDIVID-
 5 UALS.—

6 (1) IN GENERAL.—Section 871 (relating to 30
 7 percent tax on income not connected with United
 8 States business), as amended by this Act, is amended
 9 by redesignating subsection (h) as subsection (i) and by
 10 adding at the end thereof the following new subsection:

11 “(h) PHASE-OUT OF TAX ON INTEREST OF NONRESI-
 12 DENT ALIEN INDIVIDUALS RECEIVED FROM CERTAIN
 13 PORTFOLIO DEBT INVESTMENTS.—

14 “(1) IN GENERAL.—In the case of any portfolio
 15 interest received by a nonresident individual from
 16 sources within the United States, paragraph (1)(A) of
 17 subsection (a) shall be applied by substituting the appli-
 18 cable percentage for ‘30 percent’.

19 “(2) APPLICABLE PERCENTAGE DEFINED.—For
 20 purposes of this subsection, the applicable percentage
 21 shall be determined in accordance with the following
 22 table:

“In the case of portfolio interest re- ceived:	The applicable percentage is:
After the date of enactment of this subsection and before Janu- ary 1, 1985.	5 percent.
During 1985	5 percent.
During 1986	3 percent.
During 1987	2 percent.
After December 31, 1987 and before July 1, 1988.....	1 percent.

"In the case of portfolio interest received: **The applicable percentage is:**
 After June 30, 1988 zero.

1 **"(3) PORTFOLIO INTEREST.—**For purposes of
 2 this subsection, the term 'portfolio interest' means any
 3 interest (including original issue discount) which is de-
 4 scribed in any of the following subparagraphs:

5 **"(A) CERTAIN OBLIGATIONS WHICH ARE**
 6 **NOT REGISTERED.—**Interest which is paid on any
 7 obligation which—

8 **"(i) is not in registered form, and**

9 **"(ii) is described in section 163(f)(2)(B).**

10 **"(B) CERTAIN REGISTERED OBLIGA-**
 11 **TIONS.—**Interest which is paid on an obligation—

12 **"(i) which is in registered form, and**

13 **"(ii) with respect to which the United**
 14 States person who is, or would otherwise be,
 15 required to deduct and withhold tax from
 16 such interest under section 1441(a) has re-
 17 ceived a statement (which meets the require-
 18 ments of paragraph (5)) that the beneficial
 19 owner of the obligation is not a United
 20 States person.

21 **"(C) CERTAIN ASSUMED OBLIGATIONS.—**

22 Interest which is paid on an obligation which re-
 23 sulted from the assumption after the date of en-

1 actment of this subsection by a domestic corpora-
2 tion of an obligation—

3 “(i) which was issued on or before such
4 date,

5 “(ii) which was guaranteed by a domes-
6 tic corporation at the time of its issuance,

7 “(iii) which was issued pursuant to ar-
8 rangements described in section
9 163(f)((2)(B)(i), and

10 “(iv) with respect to which the domestic
11 corporation meets, under regulations pre-
12 scribed by the Secretary, reporting and simi-
13 lar requirements of this title which would be
14 imposed on the person from whom such obli-
15 gation was assumed.

16 “(4) PORTFOLIO INTEREST NOT TO INCLUDE IN-
17 TEREST RECEIVED BY 10-PERCENT SHAREHOLD-
18 ERS.—For purposes of this subsection—

19 “(A) IN GENERAL.—The term ‘portfolio in-
20 terest’ shall not include any interest described in
21 subparagraph (A) or (B) of paragraph (2) which is
22 received by a 10-percent shareholder.

23 “(B) 10 PERCENT SHAREHOLDER.—The
24 term ‘10-percent shareholder’ means—

1 “(i) in the case of an obligation issued
2 by a corporation, any person who owns 10
3 percent or more of the total combined voting
4 power of all classes of stock of such corpora-
5 tion entitled to vote, or

6 “(ii) in the case of an obligation issued
7 by a partnership, any person who owns 10
8 percent or more of the capital or profits in-
9 terest in such partnership.

10 “(C) **ATTRIBUTION RULES.**—For purposes
11 of determining ownership of stock under subpara-
12 graph (B)(i), the rules of section 318(a) shall
13 apply, except that—

14 “(i) section 318(a)(2)(C) shall be applied
15 without regard to the 50-percent limitation
16 therein, and

17 “(ii) any stock which a person is treated
18 as owning after application of section
19 318(a)(4) shall not, for purposes of applying
20 paragraphs (2) and (3) of section 318(a), be
21 treated as actually owned by such person.

22 Under regulations prescribed by the Secretary,
23 rules similar to the rules of the preceding sen-
24 tence shall be applied in determining the owner-

1 ship of the capital or profits interest in a partner-
2 ship for purposes of subparagraph (B)(ii).

3 “(5) CERTAIN STATEMENTS.—A statement with
4 respect to any obligation meets the requirements of this
5 paragraph if such statement is made by—

6 “(A) the beneficial owner of such obligation,
7 or

8 “(B) a securities clearing organization, a
9 bank, or other financial institution that holds cus-
10 tomers’ securities in the ordinary course of its
11 trade or business.

12 The preceding sentence shall not apply to any state-
13 ment with respect to payment of interest on any obli-
14 gation by any person if, at least one month before such
15 payment, the Secretary has published a determination
16 that any statement from such person (or any class in-
17 cluding such person) does not meet the requirements of
18 this paragraph.

19 “(6) SECRETARY MAY PROVIDE SUBSECTION NOT
20 TO APPLY IN CASES OF INADEQUATE INFORMATION
21 EXCHANGE.—

22 “(A) IN GENERAL.—If the Secretary deter-
23 mines that the exchange of information between
24 the United States and a foreign country is inad-
25 equate to prevent evasion of the United States

1 income tax by United States persons, the Secre-
2 tary may provide in writing (and publish a state-
3 ment) that the provisions of this subsection shall
4 not apply to payments of interest to any person
5 within such foreign country (or payments ad-
6 dressed to, or for the account of, persons within
7 such foreign country) during the period—

8 “(i) beginning on the date specified by
9 the Secretary, and

10 “(ii) ending on the date that the Secre-
11 tary determines that the exchange of infor-
12 mation between the United States and the
13 foreign country is adequate to prevent the
14 evasion of United States income tax by
15 United States persons.

16 “(B) EXCEPTION FOR CERTAIN OBLIGA-
17 TIONS.—Subparagraph (A) shall not apply to the
18 payment of interest on any obligation which is
19 issued on or before the date of the publication of
20 the Secretary’s determination under such subpara-
21 graph.

22 “(7) REGISTERED FORM.—For purposes of this
23 subsection, the term ‘registered form’ has the same
24 meaning given such term by section 163(f).”

1 (2) CONFORMING AMENDMENT.—Paragraph (1) of
2 section 871(a) (relating to tax on income other than
3 capital gains) is amended by striking out “There” and
4 inserting in lieu thereof “Except as provided in subsec-
5 tion (g), there”.

6 (b) FOREIGN CORPORATIONS.—

7 (1) IN GENERAL.—Section 881 (relating to tax on
8 income of foreign corporations not connected with
9 United States business), as amended by this Act, is
10 amended by redesignating subsection (c) as subsection
11 (d) and by adding after subsection (b) the following new
12 subsection:

13 “(c) PHASE-OUT OF TAX ON INTEREST OF FOREIGN
14 CORPORATIONS RECEIVED FROM CERTAIN PORTFOLIO
15 DEBT INVESTMENTS.—

16 “(1) IN GENERAL.—In the case of any portfolio
17 interest received by a foreign corporation from sources
18 within the United States, paragraph (1) of subsection
19 (a) shall be applied by substituting the applicable per-
20 centage (within the meaning of section 871(g)(2)) for
21 ‘30 percent’.

22 “(2) PORTFOLIO INTEREST.—For purposes of
23 this subsection, the term ‘portfolio interest’ means any
24 interest (including original issue discount) which is de-
25 scribed in any of the following subparagraphs:

1 “(A) CERTAIN OBLIGATIONS WHICH ARE
2 NOT REGISTERED.—Interest which is paid on any
3 obligation which is described in section
4 871(g)(3)(A).

5 “(B) CERTAIN ASSUMED OBLIGATIONS.—
6 Interest which is paid on an obligation which is
7 described in section 871(g)(3)(C).

8 “(C) CERTAIN REGISTERED OBLIGA-
9 TIONS.—Interest which is paid on an obligation—

10 “(i) which is in registered form, and

11 “(ii) with respect to which the person
12 who is, or would otherwise be, required to
13 deduct and withhold tax from such interest
14 under section 1442(a) has received a state-
15 ment which meets the requirements of sec-
16 tion 871(g)(5) that the beneficial owner of
17 the obligation is not a United States person.

18 “(3) PORTFOLIO INTEREST SHALL NOT INCLUDE
19 INTEREST RECEIVED BY CERTAIN PERSONS.—For
20 purposes of this subsection, the term ‘portfolio interest’
21 shall not include any interest described in subparagraph
22 (A) or (C) of paragraph (2) which—

23 “(A) is received by a controlled foreign cor-
24 poration (within the meaning of section 957(a)),

1 “(B) except in the case of interest paid on an
2 obligation of the United States, is received by a
3 bank on an extension of credit made pursuant to a
4 loan agreement entered into in the ordinary
5 course of its trade or business, or

6 “(C) is received by a 10-percent shareholder
7 (within the meaning of section 871(g)(4)(B)).

8 “(4) SECRETARY MAY CEASE APPLICATION OF
9 THIS SUBSECTION.—Under rules similar to the rules of
10 section 871(g)(6), the Secretary may provide that this
11 subsection shall not apply to payments of interest de-
12 scribed in section 871(g)(6).

13 “(5) REGISTERED FORM.—For purposes of this
14 subsection, the term ‘registered form’ has the meaning
15 given such term by section 163(f).”.

16 (2) CONFORMING AMENDMENTS.—Subsection (a)
17 of section 881 (relating to imposition of tax) is amend-
18 ed by striking out “There” and inserting in lieu thereof
19 “Except as provided in subsection (c), there”.

20 (c) AMENDMENT OF SECTION 864(c)(2).—Paragraph
21 (2) of section 864(c) (relating to effectively connected income,
22 etc.) is amended by striking out “section 871(a)(1) or section
23 881(a)” and inserting in lieu thereof “section 871(a)(1), sec-
24 tion 871(g), section 881(a), or section 881(c)”.

1 (d) AMENDMENT OF SECTION 2105.—Subsection (b) of
2 section 2105 (relating to property without the United States)
3 is amended to read as follows:

4 “(b) BANK DEPOSITS AND CERTAIN OTHER DEBT OB-
5 LIGATIONS.—For purposes of this subchapter—

6 “(1) amounts described in section 861(c), if any
7 interest thereon would be treated by reason of section
8 861(a)(1)(A) as income from sources without the
9 United States were such interest received by the dece-
10 dent at the time of his death,

11 “(2) deposits with a foreign branch of a domestic
12 corporation or domestic partnership, if such branch is
13 engaged in the commercial banking business, and

14 “(3) debt obligations, if, without regard to wheth-
15 er a statement meeting the requirements of section
16 871(g)(5) has been received, any interest thereon
17 would be eligible for the phase-out of tax under section
18 871(g)(1) were such interest received by the decedent
19 at the time of his death,

20 shall not be deemed property within the United States.”.

21 (e) WITHHOLDING.—

22 (1) NONRESIDENT ALIENS.—Subsection (c) of
23 section 1441 (relating to withholding of tax on nonresi-
24 dent aliens) is amended by adding at the end thereof
25 the following new paragraph:

1 “(9) INTEREST INCOME FROM CERTAIN PORTFO-
2 LIO DEBT INVESTMENTS.—In the case of portfolio in-
3 terest (within the meaning of 871(g)(3), the amount of
4 tax required to be deducted and withheld from such in-
5 terest shall be reduced as provided in section 871(g)(1)
6 unless the person required to deduct and withhold tax
7 from such interest knows, or has reason to know, that
8 such interest is not portfolio interest by reason of sec-
9 tion 871(g)(4).”.

10 (2) FOREIGN CORPORATIONS.—The last sentence
11 of section 1442(a) is amended—

12 (A) by striking out “and” after “section
13 881(a)(4),”, and

14 (B) by inserting “, and the references in sec-
15 tion 1441(c)(9) to section 871(g)(1) and 871(g)(4)
16 shall be treated as referring to sections 881(c)(1)
17 and 881(c)(3)”.

18 (f) EFFECTIVE DATES.—

19 (1) The amendments made by this section (other
20 than subsection (d)) shall apply to portfolio interest re-
21 ceived after the date of the enactment of this Act, in
22 taxable years ending after such date.

23 (2) The amendment made by subsection (d) shall
24 apply to the estates of decedents dying after the date
25 of enactment of this section.

1 **SUBTITLE K—REPORTING, PENALTY, AND OTHER**

2 **PROVISIONS**

3 **SEC. 145. ORGANIZERS AND SELLERS OF INVESTMENT PLANS,**

4 **ETC., MUST KEEP LISTS OF INVESTORS.**

5 **(a) IN GENERAL.**—Subchapter B of chapter 61 (relating
6 to miscellaneous provisions involving information and re-
7 turns) is amended by redesignating section 6111 as section
8 6112 and by inserting after section 6110 the following new
9 section:

10 **“SEC. 6111. ORGANIZERS AND SELLERS OF INVESTMENT**

11 **PLANS, ETC. MUST KEEP LISTS OF INVESTORS.**

12 **“(a) IN GENERAL.**—Any person—

13 **“(1) who—**

14 **“(A) organizes, or engages in the operation**
15 **of, any entity, investment plan or arrangement, or**
16 **other plan or arrangement described in section**
17 **6700(a)(1)(A), or**

18 **“(B) sells any interest in an entity, invest-**
19 **ment plan, or arrangement described in subpara-**
20 **graph (A), and**

21 **“(2) who makes or furnishes (in connection with**
22 **such organization or sale) a statement with respect**
23 **to—**

24 **“(A) the allowance of any deduction or**
25 **credit,**

1 “(B) the exclusion of any income, or

2 “(C) the securing of any other tax benefit,

3 by reason of holding an interest in the entity or partici-
4 pating in the plan or arrangement,

5 shall maintain a list of each person who was sold an interest
6 in such entity, plan, or arrangement.

7 “(b) FORM OF LIST.—Any list required under subsec-
8 tion (a)—

9 “(1) shall be maintained separately for each
10 entity, plan, or arrangement, and

11 “(2) shall include—

12 “(A) the name, address, and TIN of each
13 person to whom an interest in the entity, plan, or
14 arrangement was sold, and

15 “(B) such other information as the Secretary
16 may by regulations prescribe.

17 “(c) SPECIAL RULES.—

18 “(1) EXCEPTIONS.—Subsection (a) shall not
19 apply to—

20 “(A) any organization of, or sale of an inter-
21 est in, a partnership or S corporation, or

22 “(B) any person whom the Secretary deter-
23 mines is otherwise required to maintain the infor-
24 mation described in subsection (b)(2).

1 “(2) AVAILABILITY FOR INSPECTION; RETEN-
2 TION OF INFORMATION ON LIST.—Any person who is
3 required to maintain a list under subsection (a)—

4 “(A) shall make such list available for in-
5 spection upon request by the Secretary, and

6 “(B) except as otherwise provided under reg-
7 ulations prescribed by the Secretary, shall retain
8 any information which is required to be included
9 on such list for 7 years.

10 “(3) LISTS WHICH WOULD BE REQUIRED TO BE
11 MAINTAINED BY 2 OR MORE PERSONS.—The Secre-
12 tary shall prescribe regulations which provide that, in
13 cases in which 2 or more persons are required under
14 subsection (a) to maintain the same list, the mainte-
15 nance of such list by one of such persons shall be treat-
16 ed as the maintenance of such list by the other
17 person.”.

18 (b) PENALTY FOR FAILURE TO MAINTAIN LIST.—Sub-
19 chapter B of chapter 68 (relating to assessable penalties) is
20 amended by adding at the end thereof the following new sec-
21 tion:

22 “SEC. 6706. FAILURE TO MAINTAIN LISTS OF INVESTORS.

23 “(a) IN GENERAL.—Any person who is required to
24 maintain a list under section 6111 with respect to any person
25 who was sold an interest in an entity, plan, or arrangement

1 described in section 6111(a)(1) shall pay a penalty of \$50 for
 2 a failure to include such person on such list, unless it is
 3 shown that such failure is due to reasonable cause and not
 4 due to willful neglect. The maximum penalty imposed under
 5 this subsection for any calendar year shall not exceed
 6 \$50,000.

7 “(b) PENALTY IN ADDITION TO OTHER PENALTIES.—
 8 The penalty imposed by this section shall be in addition to
 9 any other penalty provided by law.”.

10 (c) CONFORMING AMENDMENTS.—

11 (1) The table of sections for subchapter B of chap-
 12 ter 61 is amended by striking out the item relating to
 13 section 6111 and inserting in lieu thereof the following
 14 new items:

“Sec. 6111. Organizers and sellers of investment plans, etc. must
 keep lists of investors.

“Sec. 6112. Cross reference.”.

15 (2) The table of sections for subchapter B of chap-
 16 ter 68 is amended by adding at the end thereof the fol-
 17 lowing new item:

“Sec. 6706. Failure to maintain lists of investors.”.

18 (d) EFFECTIVE DATE.—The amendments made by this
 19 section shall apply with respect to sales and organizations
 20 made after December 31, 1984.

21 SEC. 146. REGISTRATION OF TAX SHELTERS.

22 (a) IN GENERAL.—Subchapter B of chapter 61 (relating
 23 to miscellaneous provisions involving information and re-

1 turns) is amended by redesignating section 6112 as section
2 6113 and by inserting after section 6111 the following new
3 section:

4 **“SEC. 6112. REGISTRATION OF TAX SHELTERS.**

5 **“(a) REGISTRATION.—**

6 **“(1) IN GENERAL.—**Any person who organizes a
7 tax shelter shall register such tax shelter with the Sec-
8 retary (in such form and in such manner as the Secre-
9 tary may prescribe) by the earlier of—

10 **“(A)** the day which is 15 days after the date
11 such tax shelter is first offered for sale, or

12 **“(B)** December 31 of the calendar year in
13 which such tax shelter is first offered for sale.

14 **“(2) INFORMATION INCLUDED IN REGISTRA-**
15 **TION.—**Any person registering a tax shelter under sub-
16 section (a) shall provide the Secretary with—

17 **“(A)** information identifying and describing
18 the tax shelter,

19 **“(B)** information describing the potential tax
20 benefits of the tax shelter to investors, and

21 **“(C)** such other information as the Secretary
22 may prescribe.

23 **“(b) FURNISHING OF TAX SHELTER IDENTIFICATION**
24 **NUMBER.—**

1 “(1) PROMOTERS.—Any person who sells an in-
2 terest in a tax shelter shall (at such times as the Sec-
3 retary shall prescribe) furnish to each investor who
4 purchases an interest in such tax shelter from such
5 person the identification number assigned by the Secre-
6 tary to such tax shelter. Such identification number
7 shall be furnished by such person to such other persons
8 under such other circumstances as the Secretary may
9 prescribe by regulations.

10 “(2) INVESTORS.—Any investor in a tax shelter
11 shall furnish the identification number assigned by the
12 Secretary to such tax shelter to such persons under
13 such circumstances as the Secretary may prescribe by
14 regulations.

15 “(c) TAX SHELTER.—For purposes of this section.—

16 “(1) IN GENERAL.—The term ‘tax shelter’ means
17 any investment—

18 “(A) with respect to which representations
19 are made in connection with the offering of that
20 investment that the investment will result, for any
21 of the taxable years ending within the 5-year
22 period that begins on the date the investment is
23 made, in—

24 “(i) deductions in excess of the income
25 attributable to the investment, or

1 “(ii) credits against tax in excess of 50
2 percent of the income attributable to the in-
3 vestment, and

4 “(B) which—

5 “(i) is required to be registered under a
6 Federal or State law regulating securities, or

7 “(ii) is offered to sophisticated investors.

8 “(2) **SOPHISTICATED INVESTORS.**—An invest-
9 ment is offered to sophisticated investors if the aggre-
10 gate amount invested exceeds \$200,000 and such ag-
11 gregate investment is made by 10 or more investors.

12 “(d) **REGULATIONS.**—The Secretary may prescribe reg-
13 ulations which provide—

14 “(1) rules for the aggregation of similar invest-
15 ments for purposes of applying subsection (c), and

16 “(2) exemptions from the requirements of this sec-
17 tion.”.

18 (b) **PENALTIES.**—Subchapter B of chapter 68 (relating
19 to assessable penalties) is amended by adding at the end
20 thereof the following new section:

21 “**SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING**
22 **TAX SHELTERS.**

23 “(a) **FAILURE TO REGISTER TAX SHELTER.**—

1 “(1) IMPOSITION OF PENALTY.—If a person who
2 is required to register a tax shelter under section
3 6112(a)—

4 “(A) fails to register such tax shelter on or
5 before the date described in section 6112(a)(1), or

6 “(B) files false or incomplete information
7 with the Secretary with respect to such registra-
8 tion,

9 such person shall pay a penalty with respect to such
10 registration.

11 “(2) AMOUNT OF PENALTY.—The penalty im-
12 posed under paragraph (1) with respect to any registra-
13 tion of a tax shelter shall be an amount equal to the
14 sum of—

15 “(A) \$500, plus

16 “(B) 1 percent of the portion of the aggre-
17 gate amount invested in such tax shelter that ex-
18 ceeds \$1,000,000.

19 “(b) FAILURE TO FURNISH TAX SHELTER IDENTIFI-
20 CATION NUMBER.—

21 “(1) PROMOTERS.—Any person who fails to fur-
22 nish the identification number of a tax shelter to a
23 person who is required to be furnished with such
24 number under section 6112(b)(1) shall pay a penalty of
25 \$100 for each such failure.

1 “(2) INVESTORS.—Any person who fails to fur-
2 nish the identification number of a tax shelter which
3 such person is required to furnish under section
4 6112(b)(2) shall pay a penalty of \$50 for each of such
5 failures, unless such failure is due to reasonable
6 cause.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) The table of sections for subchapter B of chap-
9 ter 61 is amended by striking out the item relating to
10 section 6112 and inserting in lieu thereof the following
11 new items:

 “Sec. 6112. Registration of Tax Shelters.

 “Sec. 6113. Cross references.”.

12 (2) The table of sections for subchapter B of chapter 68
13 is amended by adding at the end thereof the following new
14 item:

 “Sec. 6707. Failure to furnish information regarding tax shelters.”.

15 (d) EFFECTIVE DATE.—The amendments made by this
16 section shall take effect on September 1, 1984, with respect
17 to interests sold on or after such date. The Secretary may by
18 regulations delay the date on which such amendments take
19 effect.

20 SEC. 147. RETURNS RELATING TO CASH AND MORTGAGE IN-
21 TEREST RECEIVED IN TRADE OR BUSINESS.

22 (a) IN GENERAL.—Subpart B of part III of subchapter
23 A of chapter 61 (relating to information concerning transac-

1 tions with other persons) is amended by adding at the end
2 thereof the following new section:

3 **"SEC. 6050H. RETURNS RELATING TO RECEIPT OF CASH OR**
4 **MORTGAGE INTEREST IN TRADE OR BUSINESS.**

5 **"(a) CASH RECEIPTS OF \$10,000 OR MORE.—Any**
6 **person—**

7 **"(1) who is engaged in a trade or business, and**

8 **"(2) who, in the course of such trade or business,**
9 **receives \$10,000 or more in cash or foreign currency**
10 **in 1 transaction (or 2 or more related transactions),**

11 **shall make the return described in subsection (c) with respect**
12 **to such transaction (or related transactions) at such time as**
13 **the Secretary may by regulations prescribe.**

14 **"(b) MORTGAGE INTEREST OF \$2,300 OR MORE.—Any**
15 **person—**

16 **"(1) who is engaged in a trade or business, and**

17 **"(2) who, in the course of such trade or business,**
18 **receives from any other person interest (including**
19 **amounts treated as interest under section 483)—**

20 **"(A) on 1 or more obligations which are se-**
21 **cured by the same real property, and**

22 **"(B) which is in excess of \$2,300 for any**
23 **calendar year,**

24 **shall make the return described in subsection (c) with**
25 **respect to each person from whom such interest was**

1 received at such time as the Secretary may by regula-
2 tions prescribe.

3 “(c) FORM AND MANNER OF RETURNS.—A return is
4 described in this subsection if such return—

5 “(1) is in such form as the Secretary may pre-
6 scribe,

7 “(2) contains—

8 “(A) the name, address, and TIN of the
9 person from whom the cash or interest was re-
10 ceived,

11 “(B) the amount of cash or interest received,

12 “(C) in the case of a return under subsection
13 (a), the date and nature of the transaction, and

14 “(D) such other information as the Secretary
15 may prescribe.

16 “(d) EXCEPTION WHERE CASH RECEIVED IS OTHER-
17 WISE REQUIRED TO BE REPORTED.—Subsection (a) shall
18 not apply to any transaction which is required to be reported
19 under subchapter II of chapter 53 of title 31, United States
20 Code.

21 “(e) APPLICATIONS TO GOVERNMENTAL UNITS.—For
22 purposes of subsection (b)—

23 “(1) TREATED AS PERSONS.—The term ‘person’
24 includes any governmental unit (and any agency or in-
25 strumentality thereof).

1 “(2) SPECIAL RULES.—In the case of a govern-
2 mental entity or any agency or instrumentality there-
3 of—

4 “(A) subsection (b) shall be applied without
5 regard to the trade or business requirement con-
6 tained therein, and

7 “(B) any return required under subsection (b)
8 shall be made by the officer or employee appropri-
9 ately designated for the purpose of making such
10 return.

11 “(f) STATEMENTS TO BE FURNISHED TO PERSONS
12 WITH RESPECT TO WHOM INFORMATION IS FUR-
13 NISHED.—Every person making a return under subsection
14 (a) or (b) shall furnish to each person whose name is set forth
15 in such return a written statement showing—

16 “(1) the name and address of the person making
17 such return, and

18 “(2) the aggregate amount of cash or interest re-
19 ceived by the person making such return.

20 The written statement required under the preceding sentence
21 shall be furnished to the person on or before January 31 of
22 the year following the calendar year for which the return
23 under subsection (a) or (b) was made.”.

24 (b) PENALTIES.—

1 (1) Subparagraph (B) of section 6652(a)(1) (relat-
2 ing to failure to file certain information returns, etc.) is
3 amended—

4 (A) by striking out “or” at the end of clause
5 (iii),

6 (B) by inserting “or” at the end of clause
7 (iv), and

8 (C) by inserting after clause (iv) the following
9 new clause:

10 “(v) subsection (a) or (b) of section
11 6050H (relating to cash and mortgage inter-
12 est received in trade or business),”.

13 (2) Clause (iii) of section 6652(a)(3)(A) (relating to
14 penalty in case of intentional disregard) is amended by
15 inserting “or subsection (a) or (b) of section 6050H”
16 after “section 6041A(b)”.

17 (3) Paragraph (1) of section 6678(a) (relating to
18 failure to furnish certain statements) is amended—

19 (A) by striking out “or 6052(b)” and insert-
20 ing in lieu thereof “6052(b), or 6050H(f)”, and

21 (B) by striking out “or 6052(a)” and insert-
22 ing in lieu thereof “6052(a), or 6050H (a) or (b)”.

23 (c) CONFORMING AMENDMENT.—The table of sections
24 for subpart B of part III of subchapter A of chapter 61 is

1 amended by adding at the end thereof the following new
2 item:

“Sec. 6050H. Returns relating to receipt of cash as mortgage interest in trade or business.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by this
4 section shall apply to amounts received after December 31,
5 1984.

6 **SEC. 148. RETURNS RELATING TO FORECLOSURES AND ABAN-**
7 **DONMENTS OF SECURITY.**

8 (a) **IN GENERAL.**—Subpart B of part III of subchapter
9 A of chapter 61 (relating to information concerning transac-
10 tions with other people) is amended by adding at the end
11 thereof the following new section:

12 **“SEC. 6050I. RETURNS RELATING TO FORECLOSURES AND**
13 **ABANDONMENTS OF SECURITY.**

14 **“(a) IN GENERAL.**—Any person who, in connection
15 with a trade or business conducted by such person, lends
16 money secured by property and who—

17 “(1) in full or partial satisfaction of any indebted-
18 ness, acquires an interest in any property which is se-
19 curity for such indebtedness,

20 “(2) determines that property in which such
21 person has a security interest has been abandoned, or

22 “(3) after, or in connection with, such acquisition
23 or abandonment, is allowed a deduction under section

1 166 (or is allowed any addition to a reserve for bad
2 debts) with respect to such indebtedness,
3 shall make a return described in subsection (b) with respect to
4 each of such acquisitions, abandonments, or allowances of de-
5 duction (or addition to reserve) at such time as the Secretary
6 may by regulations prescribe.

7 “(b) FORM AND MANNER OF RETURN.—The return re-
8 quired under subsection (a) with respect to any acquisition or
9 abandonment of property or allowance of deduction (or addi-
10 tion to reserve), as the case may be, shall—

11 “(1) be in such form as the Secretary may pre-
12 scribe,

13 “(2) contain—

14 “(A) the name and address of each person
15 who is a borrower with respect to the indebted-
16 ness which is secured or for which such deduction
17 (or addition to reserve) was allowed,

18 “(B) a general description of the nature of
19 such property and such indebtedness,

20 “(C) in the case of a return required under
21 subsection (a)(1)—

22 “(i) the amount of such indebtedness at
23 the time of such acquisition, and

24 “(ii) the manner in which such property
25 was acquired,

1 “(D) in the case of a return required under
2 subsection (a)(2), the amount of such indebtedness
3 at the time of such abandonment,

4 “(E) in the case of a return required under
5 subsection (a)(3), the amount of such deduction (or
6 addition to reserve) allowed, and

7 “(F) such other information as the Secretary
8 may prescribe.

9 “(c) APPLICATIONS TO GOVERNMENTAL UNITS.—For
10 purposes of this section—

11 “(1) TREATED AS PERSONS.—The term ‘person’
12 includes any governmental unit (and any agency or in-
13 strumentality thereof).

14 “(2) SPECIAL RULES.—In the case of a govern-
15 mental entity or any agency or instrumentality there-
16 of—

17 “(A) subsection (a) shall be applied without
18 regard to the trade or business requirement con-
19 tained therein, and

20 “(B) any return under this section shall be
21 made by the officer or employee appropriately
22 designated for the purpose of making such return.

23 “(d) STATEMENTS TO BE FURNISHED TO PERSONS
24 WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO
25 BE FURNISHED.—Every person required to make a return

1 under subsection (a) shall furnish to each person whose name
2 is required to be set forth in such return a written statement
3 showing the name and address of the person required to
4 make such return. The written statement required under the
5 preceding sentence shall be furnished to the person on or
6 before January 31 of the year following the calendar year for
7 which the return under subsection (a) was made.

8 “(e) RECIPIENT TO FURNISH NAME, ADDRESS, AND
9 IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

10 “(1) FURNISHING OF INFORMATION.—Any
11 person with respect to whom a return or statement is
12 required under this section to be made by another
13 person shall furnish to such other person his name, ad-
14 dress, and identification number at such time and in
15 such manner as the Secretary may prescribe by regula-
16 tions.

17 “(2) INCLUSION ON RETURN.—The person to
18 whom an identification number is furnished under para-
19 graph (1) shall include such number on any return
20 which such person is required to file under this section
21 and to which such identification number relates.”.

22 (b) PENALTIES.—

23 (1) Subparagraph (B) of section 6652(a)(1) (relat-
24 ing to failure to file certain information returns, etc.)

1 (as amended by section 147 of this Act) is further
2 amended—

3 (A) by striking out “or” at the end of clause
4 (iv),

5 (B) by adding “or” at the end of clause (v),
6 and

7 (C) by inserting after clause (v) the following
8 new clause:

9 “(vi) section 6050I (relating to foreclo-
10 sures),”.

11 (2) Clause (iii) of section 6652(a)(3)(A) (relating to
12 penalty in case of intentional disregard) is amended by
13 striking out “or subsection (a) or (b) of section 6050H”
14 and inserting in lieu thereof “, subsection (a) or (b) of
15 section 6050H, or section 6050I”.

16 (3) Paragraph (1) of section 6678(a) (relating to
17 failure to furnish certain statements) is amended—

18 (A) by striking out “or 6050H(f)” and insert-
19 ing in lieu thereof “6050H(f), or 6050I(d)”, and

20 (B) by striking out “or 6050H (a) or (b)” and
21 inserting in lieu thereof “6050H (a) or (b), or
22 6050I(a)”.

23 (c) CONFORMING AMENDMENT.—The table of sections
24 for subpart B of part III of subchapter A of chapter 61 is

1 amended by adding at the end thereof the following new
2 item:

“Sec. 6050I. Returns relating to foreclosures and abandonments of security.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by this
4 section shall apply with respect to acquisitions of property
5 and determinations of abandonment of property made after
6 December 31, 1984, and with respect to deductions (or addi-
7 tions to reserves) allowed after such date.

8 **SEC. 149. INCREASE IN PENALTY FOR PROMOTING ABUSIVE**
9 **TAX SHELTERS.**

10 (a) **IN GENERAL.**—Subsection (a) of section 6700 (relat-
11 ing to promotion of abusive tax shelters) is amended by strik-
12 ing out “\$1,000 or 10 percent” and inserting in lieu thereof
13 “\$2,000 or 20 percent”.

14 (b) **CLARIFICATION OF PENALTY.**—Paragraph (2) of
15 section 6700(a) (relating to abusive tax shelters) is amended
16 by striking out “sale)” and inserting in lieu thereof “sale or
17 incidental to the activity of such entity, plan, or arrange-
18 ment)”.

19 (c) **EFFECTIVE DATE.**—The amendment made by this
20 section shall apply to actions occurring after the date of en-
21 actment of this Act.

1 **SEC. 150. INCREASED RATE OF INTEREST FOR TAX SHELTER**
2 **CASES.**

3 (a) **IN GENERAL.**—Section 6621 (relating to determina-
4 tion of rate of interest) is amended by adding at the end
5 thereof the following new subsection:

6 **“(d) INTEREST ON TAX SHELTER DEFICIENCIES AND**
7 **OVERPAYMENTS.—**

8 **“(1) IN GENERAL.**—In the case of interest pay-
9 able under section 6601 or 6611 with respect to any
10 tax shelter deficiency or overpayment, the annual rate
11 of interest established under this section shall be 150
12 percent of the adjusted rate established under subsec-
13 tion (b).

14 **“(2) DEFINITIONS.**—For purposes of this subsec-
15 tion—

16 **“(A) TAX SHELTER DEFICIENCY OR OVER-**
17 **PAYMENT.**—The term ‘tax shelter deficiency or
18 overpayment’ means any portion of a deficiency or
19 overpayment which is attributable to any qualified
20 tax shelter.

21 **“(B) QUALIFIED TAX SHELTER.**—The term
22 ‘qualified tax shelter’ means any tax shelter
23 (within the meaning of section 6661(b)(2)(C)(ii)) in
24 which more than 34 persons participate.

1 (b) **EFFECTIVE DATE.**—The amendment made by this
2 section shall apply with respect to interest accruing after De-
3 cember 31, 1984.

4 **SEC. 151. AUTHORIZATION TO DISREGARD APPRAISALS OF**
5 **PERSONS PENALIZED FOR AIDING IN UNDER-**
6 **STATEMENTS OF TAX LIABILITY.**

7 (a) **IN GENERAL.**—Section 330 of title 31, United
8 States Code, is amended by adding at the end thereof the
9 following new subsection:

10 “(c) After notice and opportunity for a hearing to any
11 appraiser with respect to whom a penalty has been assessed
12 under section 6701(a) of the Internal Revenue Code of 1954,
13 the Secretary may—

14 “(1) provide that appraisals by such appraiser
15 shall not have any probative effect in any administra-
16 tive proceeding before the Department of the Treasury
17 or the Internal Revenue Service, and

18 “(2) bar such appraiser from presenting evidence
19 or testimony in any such proceeding.”

20 (b) **EFFECTIVE DATE.**—The amendment made by sub-
21 section (a) shall apply to penalties assessed after the date of
22 the enactment of this Act.

1 **SEC. 152. PROVISIONS RELATING TO INDIVIDUAL RETIRE-**
2 **MENT ACCOUNTS.**

3 (a) **CLARIFICATION THAT REGULATIONS MAY RE-**
4 **QUIRE REPORTS TO IDENTIFY YEARS TO WHICH CONTRI-**
5 **BUTIONS RELATE.**—Subsection (i) of section 408 (relating to
6 individual retirement accounts) is amended by inserting “(and
7 the years to which they relate)” after “contributions”.

8 (b) **INCREASE IN PENALTY FOR FAILURE TO FILE RE-**
9 **PORTS.**—Subsection (a) of section 6693 (relating to failure to
10 provide reports on individual retirement accounts and annu-
11 ities) is amended by striking out “\$10” and inserting in lieu
12 thereof “\$50”.

13 (c) **CONTRIBUTIONS REQUIRED TO BE MADE ON OR**
14 **BEFORE UNEXTENDED RETURN FILING DATE.**—Subpara-
15 graph (A) of section 219(f)(3) (relating to time when contribu-
16 tions deemed made) is amended by striking out “including”
17 and inserting in lieu thereof “not including”.

18 (d) **EFFECTIVE DATES.**—

19 (1) **IN GENERAL.**—Except as provided in para-
20 graph (2), the amendments made by this section shall
21 apply to contributions made after the date which is 30
22 days after the date of enactment of this Act for taxable
23 years beginning after December 31, 1983.

24 (2) **SUBSECTION (b).**—The amendment made by
25 subsection (b) shall apply to failures occurring after the
26 date of the enactment of this Act.

1 **SEC. 153. STATEMENTS REQUIRED IN CASE OF CERTAIN SUB-**
2 **STITUTE PAYMENTS.**

3 (a) **IN GENERAL.**—Section 6045 (relating to returns of
4 brokers) is amended by adding at the end thereof the follow-
5 ing new subsection:

6 “(d) **STATEMENTS REQUIRED IN CASE OF CERTAIN**
7 **SUBSTITUTE PAYMENTS.**—If any broker—

8 “(1) transfers securities of a customer for use in a
9 short sale or similar transaction, and

10 “(2) receives (on behalf of the customer) a pay-
11 ment in lieu of—

12 “(A) a dividend,

13 “(B) tax-exempt interest, or

14 “(C) such other items as the Secretary may
15 prescribe by regulations,

16 during the period such short sale or similar transaction
17 is open,

18 the broker shall furnish such customer a written statement (at
19 such time and in the manner as the Secretary shall prescribe
20 by regulations) identifying such payment as being in lieu of
21 the dividend, tax-exempt interest, or such other item. The
22 Secretary may prescribe regulations which require the broker
23 to make a return which includes the information contained in
24 such written statement.”.

1 (b) **EFFECTIVE DATE.**—The amendment made by this
2 section shall apply to payments received after December 31,
3 1984.

4 **SEC. 154. MODIFICATIONS TO CHARITABLE CONTRIBUTION**
5 **RULES AND INCORRECT VALUATION PENALTY.**

6 (a) **SUBSTANTIATION OF CONTRIBUTIONS OF PROPER-**
7 **TY.**—Section 170 (relating to charitable, etc., contributions
8 and gifts) is amended by redesignating subsections (j) and (k)
9 as subsections (k) and (l), respectively, and inserting after
10 subsection (i) the following new subsection:

11 “(j) **FURTHER SUBSTANTIATION OF CERTAIN CONTRI-**
12 **BUTIONS OF PROPERTY REQUIRED.**—

13 “(1) **GENERAL RULE.**—For each item of property
14 described in subparagraph (A) or (B), a qualified ap-
15 praisal shall be obtained and an appraisal summary
16 shall be attached to any return on which a deduction
17 under this section is first claimed by any individual,
18 closely held corporation, or personal service corpora-
19 tion, for the contribution of property (other than public-
20 ly traded securities) if—

21 “(A) the claimed value of such property ex-
22 ceeds \$2,000 for any single item of such property
23 or set of similar items donated to a donee, or

24 “(B) the claimed value of all items of such
25 property not described in subparagraph (A) donat-

1 ed to one or more donees exceeds in the aggre-
2 gate \$5,000.

3 Such return also shall include such additional informa-
4 tion, including the cost basis and the acquisition date of
5 each item of such property, as the Secretary prescribes
6 by regulations. The qualified appraisal shall be retained
7 by the taxpayer.

8 “(2) APPRAISAL SUMMARY.—For purposes of
9 this subsection, the appraisal summary shall be in such
10 form and include such information as the Secretary
11 prescribes by regulations. Such summary shall be
12 signed by the qualified appraiser preparing the qualified
13 appraisal and shall contain the TIN of such appraiser.

14 “(3) QUALIFIED APPRAISAL.—The term ‘quali-
15 fied appraisal’ means an appraisal prepared by a quali-
16 fied appraiser which includes—

17 “(A) a description of the property appraised,

18 “(B) the fair market value of such property
19 on the date of contribution and the specific basis
20 for the valuation,

21 “(C) a statement that such appraisal was
22 prepared for income tax purposes,

23 “(D) the qualifications of the qualified ap-
24 praiser, and

1 “(E) the signature and TIN of such ap-
2 praiser.

3 “(4) QUALIFIED APPRAISER.—

4 “(A) IN GENERAL.—For purposes of this
5 subsection, the term ‘qualified appraiser’ means an
6 appraiser qualified to make appraisals of the type
7 of property donated, who is not—

8 “(i) the taxpayer,

9 “(ii) a party to the transaction in which
10 the taxpayer acquired the property,

11 “(iii) the donee, or

12 “(iv) any person employed by any of the
13 foregoing persons or related to any of the
14 foregoing persons under section 267(b).

15 “(B) APPRAISAL FEES.—For purposes of
16 paragraph (3), an appraisal shall not be treated as
17 a qualified appraisal if all or part of the fee paid
18 for such appraisal is based on a percentage of the
19 appraised value of the property. The preceding
20 sentence shall not apply to fees based on a sliding
21 scale that are paid to a generally recognized asso-
22 ciation regulating appraisers.

23 “(5) DISALLOWANCE OF DEDUCTION FOR FAIL-
24 URE TO SUBSTANTIATE.—

1 “(A) GENERAL RULE.—If a taxpayer fails to
2 comply with the requirements of this subsection,
3 an amount equal to the greater of—

4 “(i) the amount of the otherwise allow-
5 able deduction in excess of the basis of the
6 property contributed, or

7 “(ii) 10 percent of the amount of the
8 otherwise allowable deduction,
9 shall be disallowed.

10 “(B) WAIVER OF DISALLOWANCE.—The
11 Secretary in his discretion may waive all or any
12 part of the disallowance under subparagraph (A)
13 on a showing by the taxpayer that there was rea-
14 sonable cause for the failure to meet any or all of
15 the requirements of this subsection.

16 “(6) OTHER DEFINITIONS.—For purposes of this
17 subsection—

18 “(A) CLOSELY HELD CORPORATION.—
19 The term ‘closely held corporation’ means
20 any corporation (other than an S corporation)
21 with respect to which the stock ownership
22 requirement of paragraph (2) of section
23 542(a) is met.

24 “(B) PERSONAL SERVICE CORPORA-
25 TION.—The term ‘personal service corpora-

1 tion' means any corporation (other than an S
2 corporation) which is a service organization
3 (within the meaning of section 414(m)(3)).

4 “(C) PUBLICLY TRADED SECURI-
5 TIES.—The term ‘publicly traded securities’
6 means securities for which (as of the date of
7 the contribution) market quotations are readi-
8 ly available on an established securities
9 market.”.

10 (b) DISALLOWANCE OF CHARITABLE DEDUCTIONS.—
11 Section 170 (relating to charitable, etc., contributions and
12 gifts) (as amended by subsection (a) of this section) is further
13 amended by redesignating subsections (k) and (l) as subsec-
14 tions (l) and (m), respectively, and inserting after subsection
15 (j) the following new subsection:

16 “(k) DISALLOWANCE OF DEDUCTION IN THE CASE OF
17 VALUATION OVERSTATEMENTS.—

18 “(1) IN GENERAL.—If the claimed value of prop-
19 erty (described in paragraph (A) or (B) of section
20 170(j)(1)) with respect to which a charitable contribu-
21 tion deduction is taken is 150 percent or more of the
22 amount determined to be the correct value of such
23 property, the deduction shall be disallowed according
24 to the following table:

“If the claimed value is the following percent of the correct value—

- 150 percent or more but less than 175 percent.
- 175 percent or more but less than 200 percent.
- 200 percent or more

The resulting disallowance equals:

- 1/2 of the amount of the otherwise allowable deduction in excess of basis.
- The amount of the otherwise allowable deduction in excess of basis.
- The amount of the otherwise allowable deduction.

1 “(2) COORDINATION WITH PENALTY IMPOSED BY
 2 SECTION 6659.—The disallowance imposed in para-
 3 graph (1) shall apply regardless of the assessment of
 4 the penalty imposed by section 6659.”.

5 (c) MODIFICATION OF PRESENT INCORRECT VALUA-
 6 TION PENALTY.—

7 (1) EXTENSION OF PENALTY TO INCORRECT
 8 ESTATE AND GIFT TAX VALUATIONS.—

9 (A) IN GENERAL.—Subsection (a) of section
 10 6659 (relating to addition to tax in the case of
 11 valuation overstatements for purposes of the
 12 income tax) is amended—

13 (i) by inserting “or estate” after “indi-
 14 vidual” in paragraph (1), and

15 (ii) by striking out “chapter 1 for the
 16 taxable year” and inserting in lieu thereof
 17 “chapter 1, 11, or 12”.

18 (B) CONFORMING AMENDMENT.—Subsection
 19 (d) of section 6659 (relating to underpayment
 20 must be at least \$1,000) is amended by striking
 21 out “for the taxable year”.

1 (2) PENALTY FOR VALUATION UNDERSTATE-
2 MENT.—

3 (A) IN GENERAL.—Subsection (c) of section
4 6659 is amended by inserting “or a valuation un-
5 derstatement” after “valuation overstatement”.

6 (B) APPLICABLE PERCENTAGE DEFINED.—
7 Subsection (b) of section 6659 (defining applicable
8 percentage) is amended—

9 (i) by striking out all matter before the
10 table in the first sentence and inserting in
11 lieu thereof the following:

12 “(1) VALUATION OVERSTATEMENT.—For pur-
13 poses of subsection (a), in the case of a valuation over-
14 statement, the applicable percentage shall be deter-
15 mined under the following table:”, and

16 (ii) by adding at the end thereof the fol-
17 lowing new paragraph:

18 “(2) VALUATION UNDERSTATEMENT.—For pur-
19 poses of subsection (a), in the case of a valuation un-
20 derstatement, the applicable percentage shall be deter-
21 mined under the following table:

If the valuation claimed is the following percent of the correct valuation—	The applicable percentage is:
50 percent or more but not more than 66⅔ percent.....	10
40 percent or more but less than 50 percent.....	20
Less than 40 percent.....	30.”.

1 (C) CONFORMING AMENDMENT.—Subsection
2 (d) of section 6659 is amended by inserting “or
3 understatements” after “overstatements”.

4 (3) VALUATION OVERSTATEMENT AND UNDER-
5 STATEMENT DEFINED.—Subsection (c) of section 6659
6 (defining valuation overstatement) is amended to read
7 as follows:

8 “(c) VALUATION OVERSTATEMENT AND VALUATION
9 UNDERSTATEMENT DEFINED.—

10 “(1) VALUATION OVERSTATEMENT.—For pur-
11 poses of this section, there is a valuation overstatement
12 if the value of any property, or the adjusted basis of
13 any property, claimed on any return is 150 percent or
14 more of the amount determined to be the correct
15 amount of such valuation or adjusted basis (as the case
16 may be), and

17 “(2) VALUATION UNDERSTATEMENT.—For pur-
18 poses of this section, there is a valuation understate-
19 ment if the value of any property claimed on any
20 return is $66\frac{2}{3}$ percent or less of the amount deter-
21 mined to be the correct amount of such valuation.”.

22 (4) TECHNICAL AMENDMENT.—Paragraph (2) of
23 section 6659(f) (relating to other definitions) is amend-
24 ed by striking out “described in section 465(a)(1)(C)”
25 and inserting in lieu thereof “with respect to which the

1 stock ownership requirements of paragraph (2) of sec-
2 tion 542(a) is met”.

3 (5) CLERICAL AMENDMENTS.—

4 (i) The section heading for section 6659
5 is amended by striking out “FOR PUR-
6 POSES OF THE INCOME TAX” and in-
7 serting in lieu thereof “OR UNDER-
8 STATEMENTS”.

9 (ii) The table of sections for subchapter
10 A of chapter 68 is amended by striking out
11 “for purposes of the income tax” in the item
12 relating to section 6659 and inserting in lieu
13 thereof “or understatements”.

14 (d) INFORMATION REPORT REQUIRED BY DONEE ON
15 SALE.—

16 (1) IN GENERAL.—Subpart B of part III of sub-
17 chapter A of chapter 61, as amended by this Act, is
18 amended by adding at the end thereof the following
19 new section:

20 “SEC. 6050J. RETURNS RELATING TO CERTAIN DISPOSITIONS
21 OF DONATED PROPERTY.

22 “(a) IN GENERAL.—If the donee of property described
23 in section 170(j)(1)(A) sells, exchanges, or otherwise disposes
24 of such property within 2 years of receipt, the donee shall

1 make a return. in accordance with forms and regulations pre-
2 scribed by the Secretary, showing—

3 “(1) the name, address, and TIN of the donor, or

4 “(2) a description of the property,

5 “(3) the date of the contribution,

6 “(4) the amount received on the disposition, and

7 “(5) the date of such disposition.

8 “(b) STATEMENTS TO BE FURNISHED TO DONORS.—

9 Every person making a return under subsection (a) shall fur-
10 nish to the donor a copy of such statement.”.

11 (2) PENALTY FOR FAILURE TO FILE REPORT.—

12 Subparagraph (B) of section 6652(a)(1) (relating to fail-
13 ure to file certain information returns) (as amended by
14 sections 147 and 148 of this Act) is further amended—

15 (A) by striking out “or” at the end of clause

16 (v),

17 (B) by inserting “or” at the end of clause

18 (vi), and

19 (C) by inserting after clause (vi) the following

20 new clause:

21 “(vii) section 6050J(a) (relating to re-

22 turns relating to certain dispositions of do-

23 nated property),”.

1 (3) PENALTY FOR FAILURE TO FILE STATE-
2 MENT.—Paragraph (1) of section 6678(a) (relating to
3 failure to furnish certain statements) is amended—

4 (A) by striking out “or 6050I(d)” and insert-
5 ing in lieu thereof “6050I(d), or 6050J(b)”, and

6 (B) by striking out “or 6050I(a)” and inserting
7 in lieu thereof “6050I(a) or 6050J(a)”.

8 (4) CLERICAL AMENDMENT.—The table of sec-
9 tions of subpart B of part III of chapter 61 is amended
10 by adding at the end thereof the following new item:

“Sec. 6050J. Returns relating to certain dispositions of donated
property.”.

11 (c) EFFECTIVE DATES.—

12 (1) SECTIONS 170 AND 6050J.—The amend-
13 ments made by subsections (a) and (d) shall apply to
14 charitable contributions made after December 31,
15 1984.

16 (2) SECTIONS 170 AND 6659.—The amendments
17 made by subsections (b) and (c) shall apply to returns
18 filed after December 31, 1984.

19 SEC. 155. DISCLOSURE OF RETURNS AND RETURN INFORMA-
20 TION TO CERTAIN CITIES.

21 (a) IN GENERAL.—Subsection (b) of section 6103 (relat-
22 ing to definitions for confidentiality and disclosure of returns
23 and return information) is amended—

24 (1) by striking out paragraph (5) and inserting in
25 lieu thereof the following:

1 “(5) STATE.—The term ‘State’ means—

2 “(A) any of the 50 States, the District of
3 Columbia, the Commonwealth of Puerto Rico, the
4 Virgin Islands, the Canal Zone, Guam, American
5 Samoa, the Commonwealth of the Northern Mari-
6 ana Islands, and the Trust Territory of the Pacific
7 Islands, and

8 “(B) for purposes of subsections (a)(2), (b)(4),
9 (d)(1), (h)(4), and (p)(8) any municipality—

10 “(i) with a population in excess of
11 2,000,000 (as determined under the most
12 recent census data available),

13 “(ii) which imposes a tax on income or
14 wages, and

15 “(iii) with which the Secretary has en-
16 tered into an agreement (in his sole discre-
17 tion) regarding disclosure.”, and

18 (2) by adding at the end thereof the following new
19 paragraph:

20 “(10) CHIEF EXECUTIVE OFFICER.—The term
21 ‘chief executive officer’ means, with respect to any mu-
22 nicipality, any elected official and the chief official
23 (even if not elected) of such municipality.”.

1 (b) **EFFECTIVE DATE.**—The amendments made by this
2 section shall be effective on the date of the enactment of this
3 Act.

4 **SEC. 156. INCREASE IN JURISDICTIONAL LIMIT FOR SMALL**
5 **TAX CASES IN THE UNITED STATES TAX COURT.**

6 (a) **IN GENERAL.**—Subsection (a) of section 7463 (relat-
7 ing to disputes involving \$5,000 or less) is amended by strik-
8 ing out “\$5,000” each place it appears and inserting in lieu
9 thereof “\$10,000”.

10 (b) **CONFORMING AMENDMENTS.**—

11 (A) The section heading for section 7463 is
12 amended by striking out “\$5,000” and inserting in lieu
13 thereof “\$10,000”.

14 (B) The table of sections for part II of subchapter
15 C of chapter 76 is amended by striking out “\$5,000”
16 in the item relating to section 7463 and inserting in
17 lieu thereof “\$10,000”.

18 (c) **EFFECTIVE DATE.**—The amendments made by this
19 section shall take effect on the day after the date of enact-
20 ment of this Act.

21 **SEC. 157. FAILURE TO REQUEST CHANGE OF METHOD OF**
22 **ACCOUNTING.**

23 (a) **IN GENERAL.**—Section 446 (relating to general rule
24 for methods of accounting) is amended by adding at the end
25 thereof the following new subsection:

1 “(f) **FAILURE TO REQUEST CHANGE OF METHOD OF**
 2 **ACCOUNTING.**—If the taxpayer does not file with the Secre-
 3 tary a request to change the method of accounting, the ab-
 4 sence of the consent of the Secretary to a change in the
 5 method of accounting shall not be taken into account—

6 “(1) to prevent the imposition of any penalty, or
 7 the addition of any amount to tax, under this title, or

8 “(2) to diminish the amount of such penalty or ad-
 9 dition to tax.”.

10 (b) **EFFECTIVE DATE.**—The amendment made by this
 11 section shall apply to taxable years beginning after the date
 12 of enactment of this Act.

13 **SEC. 158. INTEREST ON CERTAIN ADDITIONS TO TAX.**

14 (a) **IN GENERAL.**—Paragraph (2) of section 6601(e) (re-
 15 lating to interest on penalties and additions to tax) is amend-
 16 ed to read as follows:

17 “(2) **INTEREST ON PENALTIES, ADDITIONAL**
 18 **AMOUNTS, OR ADDITIONS TO THE TAX.**—

19 “(A) **IN GENERAL.**—Interest shall be im-
 20 posed under subsection (a) in respect of any as-
 21 sessable penalty, additional amount, or addition to
 22 the tax (other than an addition to tax imposed
 23 under section 6651(a)(1), 6659, or 6661) only if
 24 such assessable penalty, additional amount, or ad-
 25 dition to the tax is not paid within 10 days from

1 the date of notice and demand therefor, and in
2 such case interest shall be imposed only for the
3 period from the date of the notice and demand to
4 the date of payment.

5 “(B) INTEREST ON CERTAIN ADDITIONS TO
6 TAX.—Interest shall be imposed under this sec-
7 tion with respect to any addition to tax imposed
8 by section 6651(a)(1), 6659, or 6661 for the
9 period which—

10 “(i) begins on the date on which the
11 return of the tax with respect to which such
12 addition to tax is imposed is required to be
13 filed (including any extensions), and

14 “(ii) ends on the date of payment of
15 such addition to tax.”.

16 (b) EFFECTIVE DATE.—The amendment made by this
17 section shall apply to interest accrued after the date of enact-
18 ment of the Act with respect to additions to tax for which
19 notice and demand is made after such date.

20 **SEC. 159. PENALTY FOR FRAUDULENT WITHHOLDING EXEMP-**
21 **TION CERTIFICATE OR FAILURE TO SUPPLY IN-**
22 **FORMATION.**

23 (a) IN GENERAL.—Section 7205 (relating to penalty for
24 fraudulent withholding exemption certificate) is amended—

1 (1) by striking out “in lieu of” each place it ap-
2 pears and inserting in lieu thereof “in addition to”, and

3 (2) by striking out “(except the penalty provided
4 by section 6682)” each place it appears.

5 (b) EFFECTIVE DATE.—The amendments made by this
6 section shall apply to actions and failures to act occurring
7 after the date of enactment of this Act.

8 **SEC. 160. LIMITATION ON MAILING OF DEPOSITS OF TAXES.**

9 (a) IN GENERAL.—Subsection (e) of section 7502 (relat-
10 ing to mailing of deposits) is amended by adding at the end
11 thereof the following new paragraph:

12 “(3) NO APPLICATION TO CERTAIN DEPOSITS.—

13 Paragraph (1) shall not apply with respect to any de-
14 posit of \$20,000 or more by any person who is re-
15 quired to deposit the tax more than once a month.”.

16 (b) EFFECTIVE DATE.—The amendment made by this
17 section shall apply to deposits made after June 30, 1984.

18 **SEC. 161. APPLICATION OF PENALTY FOR FRIVOLOUS PRO-**
19 **CEEDINGS TO PENDING TAX COURT PROCEED-**
20 **INGS.**

21 Paragraph (2) of section 292(e) of the Tax Equity and
22 Fiscal Responsibility Act of 1982 is amended to read as fol-
23 lows:

1 “(2) PENALTY.—The amendments made by sub-
2 sections (b) and (d)(2) shall apply to any action or pro-
3 ceeding in the United States Tax Court which—

4 “(A) is commenced after December 31,
5 1982, or

6 “(B) is pending in the United States Tax
7 Court on the day which is 120 days after the date
8 of enactment of the Deficit Reduction Tax Act of
9 1984.”.

10 **SEC. 162. FURNISHING OF TIN UNDER BACKUP WITHHOLDING.**

11 (a) **IN GENERAL.**—Section 3406(e)(1) (relating to
12 backup withholding) is amended by inserting at the end
13 thereof the following new sentence: “The Secretary may re-
14 quire that a TIN required to be furnished under subsection
15 (a)(1)(A) be provided under penalties of perjury only with re-
16 spect to interest, dividends, patronage dividends, and
17 amounts subject to broker reporting.”.

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

20 **SEC. 163. REPORTING OF STATE TAX REFUNDS.**

21 (a) **IN GENERAL.**—Section 6050E (relating to State
22 and local income tax refunds) is amended—

23 (1) by striking out the second sentence of subsec-
24 tion (b),

1 (2) by redesignating subsection (c) as subsection
2 (d), and

3 (3) by inserting after subsection (b) the following
4 new subsection:

5 “(c) TIME OF STATEMENT.—

6 “(1) GENERAL RULE.—Except as provided in
7 paragraph (2), the written statement required under
8 subsection (b) shall be furnished to the individual
9 during January of the calendar year following the cal-
10 endar year for which the return under subsection (a)
11 was made.

12 “(2) PAYMENTS OF REFUNDS.—In the case of
13 any payment of refunds, the written statement required
14 under subsection (b) may be furnished to the individual
15 with such payment.”.

16 (b) PENALTY FOR FAILURE TO FILE STATEMENT.—

17 Paragraph (1) of section 6678(a) (relating to failure to furnish
18 certain statements) is amended—

19 (1) by inserting “, 6050E(b)” after “6052(a)”,
20 and

21 (2) by inserting “, 6050E(a)” after “6052(a)”.

22 (c) EFFECTIVE DATE.—The amendments made by this
23 section shall apply to any payment of refunds made after the
24 date of enactment of this Act.

1 SEC. 164. STUDY ON TAX SHELTERS.

2 (a) **GENERAL RULE.**—The Secretary of the Treasury or
3 his delegate shall conduct a study of the entire area of tax
4 shelters. Such study shall specifically examine—

5 (1) further extensions or expansions of minimum
6 tax requirements,

7 (2) the revision of the “at-risk” and “recapture”
8 rules,

9 (3) the impact of full basis adjustment for the in-
10 vestment tax credit, and

11 (4) proposals to limit the deductibility of artificial
12 accounting losses.

13 (b) **REPORT.**—Not later than December 1, 1984, the
14 Secretary of the Treasury shall submit to the Committee on
15 Ways and Means of the House of Representatives and the
16 Committee on Finance of the Senate a report on the study
17 conducted under this section, with specific recommendations
18 addressing the problem of stemming abusive tax-shelter ac-
19 tivities.

**20 SEC. 165. CLARIFICATION OF CHANGE OF VENUE FOR CER-
21 TAIN TAX OFFENSES.**

22 Section 3237(b) of title 18 of the United States Code is
23 amended to read as follows:

24 “(b) Notwithstanding the second paragraph of subsec-
25 tion (a), where an offense is described in section 7203 of the
26 Internal Revenue Code of 1954, or where venue for prosecu-

1 “(ii) assign percentages generally deter-
2 mined in accordance with use of the 175 per-
3 cent declining balance method, switching to
4 the method described in section 167(b)(1) at
5 a time to maximize the deduction allowable
6 under subsection (a).

7 In the case of 20-year real property, the applica-
8 ble percentage in the taxable year in which the
9 property is placed in service shall be determined
10 on the basis of the number of months in such year
11 during which the property was in service.

12 “(B) SPECIAL RULE FOR YEAR OF DISPOSI-
13 TION.—In the case of a disposition of 20-year
14 real property, the deduction allowable under sub-
15 section (a) for the taxable year in which the dispo-
16 sition occurs shall reflect only the months during
17 such year the property was in service.”.

18 (b) LOW INCOME HOUSING.—Subparagraph (A) of sec-
19 tion 168 (b) (2) (relating to 15-year real property) is amend-
20 ed—

21 (1) by striking out “175 percent declining balance
22 method (200 percent declining balance method in the
23 case of low income housing)” and inserting in lieu
24 thereof “200 percent declining balance method”, and

25 (2) by striking out the last sentence thereof.

1 (c) DEFINITIONS.—Paragraph (2) of section 168(c) (re-
2 lating to recovery property) is amended—

3 (1) by redesignating subparagraph (F) as subpara-
4 graph (G),

5 (2) by inserting the following new subparagraph
6 after subparagraph (E):

7 “(F) 20-YEAR REAL PROPERTY.—The term
8 ‘20-year real property’ means section 1250 class
9 property which—

10 (i) does not have a present class life of
11 12.5 years or less, and

12 (ii) is not 15-year real property.”, and

13 (3) by striking out subparagraph (D) and inserting
14 in lieu thereof the following:

15 “(D) 15-YEAR REAL PROPERTY.— The term
16 ‘15-year real property’ means section 1250 class
17 property which—

18 (i) does not have a present class life of
19 12.5 years or less, and

20 (ii) is low-income housing.

21 For purposes of the preceding sentence, the term
22 ‘low-income housing’ means property described in
23 clause (i), (ii), (iii), or (iv) of section 1250(a)(1)
24 (B).”.

1 (d) TRANSITIONAL RULE FOR COMPONENTS.—Subpar-
2 agraph (B) of section 168 (f) (1) is amended to read as fol-
3 lows:

4 “(B) TRANSITIONAL RULES.—

5 “(i) BUILDINGS PLACED IN SERVICE
6 BEFORE 1981.—In the case of any building
7 placed in service by the taxpayer before Jan-
8 uary 1, 1981, for purposes of applying sub-
9 paragraph (A) to components of such build-
10 ings placed in service after December 31,
11 1980, and before March 16, 1984, the de-
12 duction allowable under subsection (a) with
13 respect to such components shall be comput-
14 ed in the same manner as the deduction al-
15 lowable with respect to the first such compo-
16 nent placed in service after December 31,
17 1980. For purposes of the preceding sen-
18 tence, the method of computing the deduc-
19 tion allowable with respect to such first com-
20 ponent shall be determined as if it were a
21 separate building.

22 “(ii) BUILDINGS PLACED IN SERVICE
23 BEFORE MARCH 16, 1984.—In the case of
24 any building placed in service by the taxpay-
25 er before March 16, 1984, for purposes of

1 applying subparagraph (A) to components of
2 such buildings placed in service after March
3 15, 1984, the deduction allowable under sub-
4 section (a) with respect to such components
5 shall be computed in the same manner as the
6 deduction allowable with respect to the first
7 such component placed in service after
8 March 15, 1984. For purposes of the preced-
9 ing sentence the method of computing the
10 deduction allowable with respect to such first
11 component shall be determined as if it were
12 a separate building.”.

13 (e) CONFORMING AMENDMENTS.—

14 (1) Subsections (b)(3)(B)(iii), (f)(2)(B),
15 (f)(2)(C)(ii)(II), (f)(2)(E), and (f)(5) of section 168 are
16 each amended by inserting “or 20-year real property”
17 after “15-year real property” each place it appears.

18 (2) Clause (ii) of section 168(b)(3)(B) is amended
19 by inserting “or 20-year real property,” after “15-year
20 real property”.

21 (3) Subparagraph (B) of section 168(d)(2) is
22 amended by inserting “, or 20-year real property,”
23 after “15-year real property”.

24 (4) Clause (i) of section 168(f)(2)(C) (relating to
25 recovery period for property used outside United

1 States) is amended by inserting the following item after
 2 the item relating to 15-year real property in the table:

“20-year real property.....35 or 45 years.”.

3 (5) Sections 57(a)(12)(A), 312(k)(3)(A), and
 4 1245(a)(5) are each amended by inserting “or 20-year
 5 real property” after “15-year real property” each
 6 place it appears in the text and headings.

7 (6) Subparagraph (B) of section 57(a)(12) (relating
 8 to items of tax preference) is amended to read as fol-
 9 lows:

10 “(B) 15-YEAR REAL PROPERTY; 20-YEAR
 11 REAL PROPERTY.—With respect to each recovery
 12 property which is 15-year real property or 20-
 13 year real property, the amount (if any) by which
 14 the deduction allowed under section 168(a) for the
 15 taxable year exceeds the deduction which would
 16 have been allowable for the taxable year had the
 17 property been depreciated using the straight-line
 18 method (without regard to salvage value) over a
 19 recovery period of—

20 “(i) 15 years in the case of 15-year real
 21 property, and

22 “(ii) 20 years in the case of 20-year
 23 real property.”.

1 (7) Subparagraph (E) of section 57(a)(12) is
2 amended by inserting “‘20-year real property,’” after
3 “‘15-year real property’”.

4 (8) Paragraph (2) of section 48(g) (relating to
5 qualified rehabilitation expenditure) is amended—

6 (A) by striking out “property” each place it
7 appears in subparagraph (A)(i) and inserting in
8 lieu thereof “real property”,

9 (B) by inserting “or 20” after “15” in sub-
10 paragraph (A)(i), and

11 (C) by striking out “15 years” in subpara-
12 graph (B)(v) and inserting in lieu thereof “20
13 years (15 years in the case of 15-year real prop-
14 erty)”.

15 (9) Subparagraph (A) of section 168(b)(3) (relating
16 to election of different recovery percentage) is amend-
17 ed—

18 (A) by striking out “under paragraphs (1)
19 and (2)” and inserting in lieu thereof “under para-
20 graph (1), (2), or (4)”, and

21 (B) by inserting after the item in the table
22 relating to 15-year real property the following
23 new item:

24 (f) EFFECTIVE DATE.—

1 (1) **IN GENERAL.**—Except as otherwise provided
2 in this subsection, the amendments made by this sec-
3 tion shall apply with respect to property placed in
4 service by the taxpayer after March 15, 1984.

5 (2) **EXCEPTION.**—The amendments made by this
6 section shall not apply to property placed in service by
7 the taxpayer before January 1, 1987, if—

8 (A) the taxpayer or a qualified person en-
9 tered into a binding contract to purchase or con-
10 struct such property before March 16, 1984, or

11 (B) construction of such property was com-
12 menced by or for the taxpayer or a qualified
13 person before March 16, 1984.

14 For purposes of this paragraph, the term “qualified
15 person” means any person who transfers his rights in
16 such a contract or such property to the taxpayer, but
17 only if such property is not placed in service by such
18 person before such rights are transferred to the taxpay-
19 er.

20 **SEC. 172. RECAPTURE IN CASES OF INSTALLMENT SALES.**

21 (a) **IN GENERAL.**—Section 453 (relating to installment
22 method) is amended by redesignating subsection (j) as subsec-
23 tion (k) and inserting after subsection (i) the following new
24 subsection:

25 “(j) **APPLICATION WITH SECTIONS 1245 AND 1250.**—

1 “(1) IN GENERAL.—In the case of an installment
2 sale of real property, subsection (a) shall not apply, and
3 for purposes of this title, all payments to be received
4 shall be deemed received in the year of disposition.

5 (2) LIMITATION.—Paragraph (1) shall apply only
6 to the extent of the amount which is treated as ordi-
7 nary income under section 1245 or 1250 with respect
8 to the real property.”.

9 (b) EFFECTIVE DATE.—

10 (1) IN GENERAL.—The amendments made by this
11 section shall apply with respect to dispositions made
12 after March 15, 1984.

13 (2) EXCEPTION.—The amendments made by this
14 Act shall not apply with respect to any disposition con-
15 ducted pursuant to a contract which was binding on
16 March 15, 1984.

17 **SEC. 173. PROVISIONS RELATING TO SOUND RECORDINGS AND**
18 **FILMS.**

19 (a) SOUND RECORDINGS.

20 (1) IN GENERAL.—Section 48 (defining section 38
21 property) is amended by redesignating subsection (r) as
22 subsection (s) and by inserting after subsection (q) the
23 following new subsection:

24 “(r) SPECIAL RULES RELATING TO SOUND RECORD-
25 INGS.—

1 “(1) IN GENERAL.—For purposes of this title, in
2 the case of any sound recording which, if it were sec-
3 tion 38 property, would be new section 38 property,
4 the taxpayer may elect to treat such recording as re-
5 covery property which is 3-year property to the extent
6 that the taxpayer has an ownership interest in such re-
7 cording.

8 “(2) FAILURE TO MAKE ELECTION.—If a tax-
9 payer does not make an election under paragraph (1)
10 with respect to any sound recording—

11 “(A) no credit shall be allowed under section
12 38 with respect to such recording, and

13 “(B) such recording shall not be treated as
14 recovery property.

15 “(3) PREDOMINANT USE TEST AND AT RISK
16 RULES NOT TO APPLY; QUALIFIED INVESTMENT.—In
17 the case of any sound recording—

18 “(A) sections 46 (c)(8), 46(c)(9), and 48(a)(2)
19 shall not apply, and

20 “(B) in determining the qualified investment
21 under section 46(c)(1), there shall be used (in lieu
22 of the basis of the property) an amount equal to
23 the production costs which are allocable to the
24 United States (as determined under rules similar
25 to the rules of section 48(k)(5)(D)).

1 “(4) OWNERSHIP INTEREST.—For purposes of
2 determining the credit allowable under section 38, the
3 ownership interest of any person in a sound recording
4 shall be determined on the basis of his proportionate
5 share of any loss which may be incurred with respect
6 to the production costs of such sound recording.

7 “(5) SOUND RECORDING.—For purposes of this
8 subsection, the term ‘sound recording’ means any
9 sound recording described in section 280(c)(2).

10 “(6) PRODUCTION COSTS—

11 “(A) IN GENERAL.—For purposes of this
12 section, the term ‘production costs’ includes—

13 “(i) a reasonable allocation of general
14 overhead costs,

15 “(ii) compensation for services per-
16 formed by song writers, artists, production
17 personnel, directors, producers, and similar
18 personnel,

19 “(iii) costs of ‘first’ distribution of
20 records or tapes, and

21 “(iv) the cost of the material being re-
22 corded.

23 “(B) CERTAIN COSTS NOT TAKEN INTO AC-
24 COUNT.—The term ‘production costs’ shall not in-
25 clude—

1 “(i) ‘residuals’ payable under contracts
2 with labor organizations, or

3 “(ii) participations or royalties payable
4 as compensation to song writers, artists, pro-
5 duction personnel, directors, producers, and
6 similar personnel, or

7 “(iii) any other contingent amounts.

8 “(7) ELECTION MADE SEPARATELY.—An elec-
9 tion under paragraph (1) shall be made separately with
10 respect to each sound recording and must be made by
11 all persons having an ownership interest in such re-
12 cording.

13 “(8) UNITED STATES.—For purposes of this sub-
14 section, the term ‘United States’ includes the posses-
15 sions of the United States.”.

16 (2) CONFORMING AMENDMENTS.—Section 168(f)
17 (relating to special rules), as amended by this Act, is
18 amended by adding at the end thereof the following
19 new paragraph:

20 “(14) SPECIAL RULES FOR SOUND RECORD-
21 INGS.—In the case of a qualified sound recording
22 (within the meaning of section 48(r)), the unadjusted
23 basis of such property shall be equal to the production
24 costs (within the meaning of section 48(r)(6)).”.

25 (b) FILMS AND OTHER PROPERTY.—

1 (1) **FILM AND VIDEO TAPES NOT TREATED AS**
2 **RECOVERY PROPERTY.**—Section 168(e) (relating to
3 property excluded from application of this section) is
4 amended by adding at the end thereof the following
5 new paragraph:

6 “(5) **FILMS AND VIDEO TAPES NOT RECOVERY**
7 **PROPERTY.**—The term ‘recovery property’ shall not
8 include any motion picture film or video tape.”.

9 (2) **APPLICATION OF RECOVERY PROPERTY EX-**
10 **CEPTIONS.**—Section 168(e) is amended by striking out
11 “section” and inserting in lieu thereof “title” in the
12 matter preceding paragraph (1).

13 (3) **MOVIES NOT SUBJECT TO INVESTMENT**
14 **CREDIT AT-RISK RULES.**—Paragraph (4) of section
15 48(k) is amended—

16 (A) by inserting “, section 46(c)(8), or sec-
17 tion 46(c)(9)” after “section 48(a)(2)” in subpara-
18 graph (A), and

19 (B) by inserting “or at-risk rules” after
20 “test” in the heading thereof.

21 (4) **BASIS ADJUSTMENT FOR MOVIES.**—Section
22 48(q) (relating to basis adjustment) is amended by
23 adding at the end thereof the following new paragraph:

24 “(6) **SPECIAL RULE FOR QUALIFIED FILMS.**—If a
25 credit is allowed under section 38 with respect to any

1 qualified film (within the meaning of subsection
2 (k)(1)(B)) then, in lieu of any reduction under para-
3 graph (1)—

4 “(A) to the extent that the credit is deter-
5 mined with respect to any amount described in
6 clause (v) or (vi) of subsection (k)(5)(B), any de-
7 duction allowable under this chapter with respect
8 to such amount shall be reduced by 50 percent of
9 the amount of the credit so determined, and

10 “(B) the taxpayer’s ownership interest
11 (within the meaning of subsection (k)(1)(C)) shall
12 be reduced by the excess of—

13 “(i) 50 percent of the amount of the
14 credit determined under subsection (k), over

15 “(ii) the amount of the reduction under
16 subparagraph (A).”.

17 (c) EFFECTIVE DATES.—

18 (1) SOUND RECORDINGS.—The amendments made
19 by subsection (a) shall apply to property placed in serv-
20 ice after March 15, 1984, in taxable years ending after
21 such date.

22 (2) FILMS AND OTHER PROPERTY.—

23 (A) The amendments made by paragraphs
24 (1), (2), and (3) of subsection (b) shall apply as if
25 included in the amendments made by the Eco-

1 nomic Recovery Tax Act of 1981, except that the
2 amendments made by paragraph (1) of subsection
3 (b) shall not apply to any qualified film which the
4 taxpayer treated as recovery property for pur-
5 poses of section 168 of such Code on a return
6 filed before March 16, 1984.

7 (B) The amendment made by paragraph (4)
8 of subsection (b) shall take effect as if included in
9 the amendments made by the Tax Equity and
10 Fiscal Responsibility Act of 1982.

11 **SUBTITLE M—MISCELLANEOUS PROVISIONS**

12 **SEC. 175. INCLUSION OF TAX BENEFIT ITEMS IN INCOME.**

13 (a) **IN GENERAL.**—Section 111 (relating to recovery of
14 bad debts, prior taxes, and delinquency amounts) is amended
15 to read as follows:

16 **“SEC. 111. RECOVERY OF TAX BENEFIT ITEMS.**

17 “(a) **DEDUCTIONS.**—Gross income does not include
18 income attributable to the recovery during the taxable year of
19 any amount deducted in any prior taxable year to the extent
20 such amount did not reduce income subject to tax.

21 “(b) **TREATMENT OF CARRYOVERS.**—For purposes of
22 this section, an increase in a carryover which has not expired
23 before the beginning of the taxable year in which the recov-
24 ery takes place shall be treated as reducing income subject to
25 tax.

1 “(c) SPECIAL RULES FOR ACCUMULATED EARNINGS
2 TAX AND FOR PERSONAL HOLDING COMPANY TAX.—In
3 applying subsection (a) for the purpose of determining the
4 accumulated earnings tax under section 531 or the tax under
5 section 541 (relating to personal holding companies)—

6 “(1) any excluded amount under subsection (a) al-
7 lowed for the purposes of this subtitle (other than sec-
8 tion 531 or section 541) shall be allowed whether or
9 not such amount resulted in a reduction of the tax
10 under section 531 or the tax under section 541 for the
11 prior taxable year; and

12 “(2) where any excluded amount under subsection
13 (a) was not allowable as a deduction for the prior tax-
14 able year for purposes of this subtitle other than of sec-
15 tion 531 or section 541 but was allowable for the same
16 taxable year under section 531 or section 541, then
17 such excluded amount shall be allowable if it did not
18 result in a reduction of the tax under section 531 or
19 the tax under section 541.”

20 (b) CLERICAL AMENDMENT.—The table of sections for
21 part III of subchapter B of chapter 1 (relating to items spe-
22 cifically excluded from gross income) is amended by striking
23 out the item relating to section 111 and inserting in lieu
24 thereof:

“Sec. 111. Recovery of tax benefit items.”

1 (c) **EFFECTIVE DATE.**—The amendments made by this
2 section shall apply to amounts recovered after December 31,
3 1983, in taxable years ending after such date.

4 **SEC. 176. LOANS WITH BELOW-MARKET INTEREST RATES.**

5 (a) **IN GENERAL.**—Subchapter C of chapter 80 (relating
6 to provisions affecting more than one subtitle) is amended by
7 adding at the end thereof the following new sections:

8 **“SEC. 7872. GIFT LOANS WITH BELOW-MARKET INTEREST**
9 **RATES.**

10 “(a) **IMPUTED INTEREST.**—In the case of a gift loan,
11 the borrower shall be treated for purposes of this title as
12 having paid to the lender (and the lender treated as having
13 received from the borrower) on the last day of each outstand-
14 ing taxable year of the borrower an amount of interest equal
15 to the sum of the amounts of interest imputed on such loan
16 under subsection (c) for each day within such taxable year on
17 which such loan is outstanding.

18 “(b) **IMPUTED GIFTS.**—For purposes of this title—

19 “(1) **DEMAND LOANS.**—In the case of a gift loan
20 which is a demand loan, the lender shall be treated as
21 having paid to the borrower (and the borrower treated
22 as having received from the lender) on the last day of
23 each outstanding taxable year of the borrower a gift in
24 an amount equal to the sum of the amounts of interest
25 imputed on such loan under subsection (c) for each day

1 within such taxable year on which such loan is out-
2 standing.

3 “(2) TERM LOANS.—

4 “(A) IN GENERAL.—In the case of a gift
5 loan which is a term loan, the lender shall be
6 treated as having paid to the borrower (and the
7 borrower treated as having received from the
8 lender) on the date the loan is made a gift in an
9 amount equal to the excess of—

10 “(i) the principal of the loan, over

11 “(ii) the present value (at the time the
12 loan is made) of the payments of principal
13 and interest which are required to be made
14 under the terms of the loan.

15 “(B) PRESENT VALUE.—For purposes of
16 subparagraph (A), the present value of each pay-
17 ment shall be determined by using the designated
18 market interest rate applicable at the time the
19 loan is made, compounded semiannually.

20 “(c) AMOUNT OF INTEREST IMPUTED DAILY.—For
21 purposes of this section, the amount of interest imputed on a
22 loan for any day within the taxable year of the borrower is
23 the excess of—

24 “(1) the amount of interest which would have ac-
25 crued on the outstanding balance of the loan during

1 such day if interest accrued on the loan at an annual
2 rate equal to the designated market interest rate appli-
3 cable for—

4 “(A) in the case of a demand loan, such day,

5 or

6 “(B) in the case of a term loan, the day on
7 which the loan was made, over

8 “(2) the portion of interest actually paid or ac-
9 crued on the loan that is properly attributable to such
10 day.

11 “(d) LIMITATIONS APPLICABLE TO LOANS MADE DI-
12 RECTLY BETWEEN INDIVIDUALS.—

13 “(1) MINIMUM OUTSTANDING BALANCE.—

14 “(A) IN GENERAL.—No interest shall be
15 taken into account under subsections (a) and (b)(1)
16 with respect to any day on which the aggregate
17 amount of loans outstanding between the borrow-
18 er and the lender is \$10,000 or less.

19 “(B) IMPUTED GIFT ON TERM LOANS.—

20 Subsection (b)(2) shall not apply to a loan if the
21 aggregate amount of loans outstanding between
22 the borrower and the lender on the date such loan
23 is made is \$10,000 or less.

24 “(2) NET INVESTMENT INCOME LIMITATIONS.—

1 “(A) MINIMUM NET INVESTMENT
2 INCOME.—If the sum of—

3 “(i) the net investment income of the
4 borrower for the taxable year, and

5 “(ii) the net investment income of the
6 spouse of the borrower for the taxable year
7 —ending with or within such taxable year of
8 the borrower,

9 does not exceed \$1,000, no interest shall be taken
10 into account under subsection (a) with respect to
11 any qualifying day within such taxable year.

12 “(B) IMPUTED INTEREST NOT TO EXCEED
13 NET INVESTMENT INCOME.—The aggregate
14 amount of interest which may be taken into ac-
15 count under subsection (a) with respect to qualify-
16 ing days within the taxable year of the borrower
17 shall not exceed the sum described in subpara-
18 graph (A) for such taxable year.

19 “(C) NO APPLICATION TO LOAN USED IN
20 ACQUIRING SECURITIES.—This paragraph shall
21 not apply with respect to any loan which is made
22 for the purpose of acquiring or carrying any mar-
23 ketable securities (other than evidences of indebt-
24 edness).

1 “(D) QUALIFYING DAYS.—For purposes of
2 this paragraph, the term ‘qualifying day’ means
3 any day on which the aggregate amount of loans
4 outstanding between the lender and the borrower
5 does not exceed \$100,000.

6 “(3) LOANS BETWEEN INDIVIDUALS.—This sub-
7 section shall only apply with respect to gift loans made
8 directly between individuals.

9 “(4) SUBSECTION NOT TO APPLY TO CERTAIN
10 LOANS.—

11 “(A) TAX AVOIDANCE.—This subsection
12 shall not apply with respect to a loan if tax avoid-
13 ance is a principal purpose of such loan.

14 “(B) LOANS USED TO PURCHASE INVEST-
15 MENTS.—The provisions of this subsection (other
16 than paragraph (2)(B)) shall not apply with re-
17 spect to any loan which is incurred or continued
18 to purchase or carry investments which produce
19 net investment income.

20 “(5) MODIFICATION UNDER REGULATIONS.—The
21 Secretary may prescribe regulations which modify the
22 provisions of this subsection with respect to a loan if
23 the lender, borrower, or any person related to the
24 lender or borrower—

1 “(A) has engaged in any activities a principal
2 purpose of which was the deferral of receipt of net
3 investment income, or

4 “(B) can control the time at which net in-
5 vestment income is received by the borrower or
6 the spouse of the borrower.

7 “(6) DETERMINATION OF AGGREGATE AMOUNT
8 OF LOANS OUTSTANDING BETWEEN BORROWER AND
9 LENDER.—In determining the aggregate amount of
10 loans outstanding between a borrower and a lender on
11 any day for purposes of this subsection, any loan be-
12 tween—

13 “(A) the lender and the spouse of the bor-
14 rower,

15 “(B) the spouse of the borrower and the
16 spouse of the lender, or

17 “(C) the borrower and the spouse of the
18 lender,

19 shall be treated as a loan between the borrower and
20 the lender.

21 “(e) DESIGNATED MARKET INTEREST RATE.—For
22 purposes of this section—

23 “(1) DEMAND LOANS.—In the case of a demand
24 loan, the designated market interest rate is the Federal
25 short-term rate.

1 “(2) **TERM LOANS.**—In the case of a term loan,
 2 the designated market interest rate shall be determined
 3 in accordance with the following table:

“In the case of a loan with a term of:	The designated market interest rate is:
Less than 3 years.....	The Federal short-term rate
Over 3 years but not over 9 years....	The Federal mid-term rate
Over 9 years.....	The Federal long-term rate.

4 “(3) **FEDERAL RATES.**—For purposes of this sub-
 5 section, the terms ‘Federal short-term rate’, ‘Federal
 6 mid-term rate’, and ‘Federal long-term rate’ have the
 7 respective meaning given to such terms by section
 8 1274(d).

9 “(4) **TERM OF A LOAN.**—Options to renew or
 10 extend the term of a loan shall be taken into account
 11 in determining the length of the term of the loan.

12 “(f) **DEFINITIONS AND SPECIAL RULES.**—For pur-
 13 poses of this section—

14 “(1) **GIFT LOANS.**—The term ‘gift loan’ means
 15 any below-market loan with respect to which interest
 16 is foregone with donative intent.

17 “(2) **BELOW-MARKET LOAN.**—The term ‘below-
 18 market loan’ means any loan on which interest is pay-
 19 able at a rate less than the designated market interest
 20 rate.

21 “(3) **NET INVESTMENT INCOME.**—

1 “(A) IN GENERAL.—The term ‘net invest-
2 ment income’ has the meaning given to such term
3 by section 163(d)(3).

4 “(B) ADDITIONAL AMOUNTS TREATED AS
5 INTEREST.—In determining the net investment
6 income of a person for any taxable year—

7 “(i) any amount which is included in the
8 gross income of such person for such taxable
9 year by reason of section 1272, and

10 “(ii) any amount which would be includ-
11 ed in the gross income of such person for
12 such taxable year by reason of section 1272
13 if such section applied to deferred payment
14 obligations,

15 shall be treated as interest received by such
16 person for such taxable year.

17 “(C) DEFERRED PAYMENT OBLIGATIONS.—
18 The term ‘deferred payment obligations’ includes
19 market discount bonds, short-term government ob-
20 ligations, annuities and any similar obligations.

21 “(4) DEMAND LOAN.—The term ‘demand loan’
22 means any loan which is payable in full at any time
23 upon the demand of the lender.

24 “(5) TERM LOAN.—The term ‘term loan’ means
25 any loan which is not a demand loan.

1 “(6) **OUTSTANDING TAXABLE YEAR.**—The term
2 ‘outstanding taxable year’ means, with respect to any
3 loan, any taxable year which includes at least one day
4 on which such loan is outstanding.

5 “(7) **APPLICATION WITH OTHER PROVISIONS RE-**
6 **LATING TO IMPUTATION OF INTEREST.**—Subsection
7 (a) shall not apply to any loan to which section 483 or
8 1274 applies.

9 “(8) **NO BACKUP WITHHOLDING OF INTEREST.**—
10 Section 3406 shall not apply with respect to any inter-
11 est which is treated as having been paid and received
12 by reason of this section.

13 “(g) **REGULATIONS.**—

14 “(1) **IN GENERAL.**—The Secretary shall prescribe
15 such regulations as may be necessary or appropriate to
16 carry out the purposes of this section, including regula-
17 tions providing that where, by reason of varying rates
18 of interest, conditional interest payments, waivers of
19 interest, or other circumstances, the provisions of this
20 section do not carry out the purposes of this section,
21 adjustments to the provisions of this section will be
22 made to the extent necessary to carry out the purposes
23 of this section.

24 “(2) **ESTATE TAX.**—The Secretary may prescribe
25 regulations which require that a gift loan be taken into

1 account in determining the gross estate of a decedent
2 in a manner consistent with the provisions of subsec-
3 tion (b).

4 **“SEC. 7873. OTHER LOANS WITH BELOW-MARKET INTEREST**
5 **RATES.**

6 **“(a) TERM LOANS.—**For purposes of this title—

7 **“(1) IMPUTED WAGES, DIVIDENDS, AND OTHER**
8 **PAYMENTS.—**

9 **“(A) IN GENERAL.—**In the case of an appli-
10 cable loan which is a term loan, the lender shall
11 be treated as having paid to the borrower (and the
12 borrower treated as having received from the
13 lender) on the date the loan is made wages, a
14 dividend, or any other payment, as the case may
15 be, in an amount equal to the excess of—

16 **“(i) the principal of the loan, over**

17 **“(ii) the present value (at the time the**
18 **loan is made) of the payments of principal**
19 **and interest which are required to be made**
20 **under the terms of the loan.**

21 **“(B) PRESENT VALUE.—**For purposes of
22 subparagraph (A), the present value of each pay-
23 ment shall be determined by using the designated
24 market interest rate applicable at the time the
25 loan is made, compounded semiannually.

1 “(2) OBLIGATION TREATED AS HAVING ORIGI-
2 NAL ISSUE DISCOUNT.—For purposes of this title—

3 “(A) IN GENERAL.—Any applicable loan
4 that is a term loan shall be treated as having
5 original issue discount in an amount equal to the
6 excess described in paragraph (1)(A).

7 “(B) ADDITIONAL ORIGINAL ISSUE DIS-
8 COUNT.—Any original issue discount which an
9 obligation is treated as having by reason of sub-
10 paragraph (A) shall be in addition to any other
11 original issue discount on such obligation (deter-
12 mined without regard to subparagraph (A)).

13 “(b) DEMAND LOANS.—For purposes of this title—

14 “(1) IMPUTED INTEREST.—In the case of an ap-
15 plicable loan which is a demand loan, the borrower
16 shall be treated as having paid to the lender (and the
17 lender treated as having received from the borrower)
18 on any day on which such loan is outstanding the
19 amount of interest imputed on such loan under subsec-
20 tion (c) for such day.

21 “(2) IMPUTED WAGES, DIVIDENDS, AND OTHER
22 PAYMENTS.—In the case of an applicable loan which
23 is a demand loan, the lender shall be treated as having
24 paid to the borrower (and the borrower treated as
25 having received from the lender) on any day on which

1 such loan is outstanding wages, a dividend, or any
2 other payment, as the case may be, in an amount equal
3 to the amount of interest imputed on such loan under
4 subsection (c) for such day.

5 “(c) AMOUNT OF INTEREST IMPUTED DAILY.—For
6 purposes of this section, the amount of interest imputed on a
7 loan for any day is the excess of—

8 “(1) the amount of interest which would have ac-
9 crued on the outstanding balance of the loan during
10 such day if interest accrued on the loan at an annual
11 rate equal to the designated market interest rate appli-
12 cable for such day, over

13 “(2) the portion of interest actually paid or ac-
14 crued on the loan that is properly attributable to such
15 day.

16 “(d) LIMITATIONS APPLICABLE TO EMPLOYMENT RE-
17 LATED LOANS.—

18 “(1) TERM LOANS.—Subsection (a) shall not
19 apply to a term loan between—

20 “(A) an employer and an employee, or

21 “(B) an independent contractor and a person
22 for whom such contractor provides services,

23 if the aggregate amount of loans outstanding between
24 the borrower and the lender on the date on which such
25 loan is made is \$10,000 or less.

1 “(2) DEMAND LOANS.—In the case of a demand
2 loan between two persons described in either subpara-
3 graph (A) or (B) of paragraph (1), subsection (b) shall
4 not apply with respect to any day on which the aggre-
5 gate amount of loans outstanding between the borrow-
6 er and the lender is \$10,000, or less.

7 “(3) NO APPLICATION TO LOANS USED IN AC-
8 QUIRING TAX-EXEMPT BONDS.—This subsection shall
9 not apply with respect to any loan made to acquire or
10 carry any obligation the interest on which is wholly
11 exempt from taxation under this title.

12 “(e) NO WITHHOLDING OF IMPUTED AMOUNTS.—Sec-
13 tions 3102, 3202, 3402, and 3406 shall not apply with re-
14 spect to any amount which is treated as having been paid and
15 received by reason of this section.

16 “(f) APPLICATION WITH OTHER PROVISIONS RELAT-
17 ING TO IMPUTATION OF INTEREST.—Subsection (a) shall
18 not apply to any loan to which section 483 or 1274 applies.

19 “(g) DEFINITIONS.—For purposes of this section—

20 “(1) APPLICABLE LOANS.—

21 “(A) IN GENERAL.—The term ‘applicable
22 loan’ means—

23 “(i) a loan made between a corporation
24 and shareholder of such corporation,

1 “(ii) a loan made by an employer to an
2 employee,

3 “(iii) a loan made to an independent
4 contractor by any person for whom such con-
5 tractor performs services, and

6 “(iv) such other loans as the Secretary
7 may prescribe by regulations.

8 “(B) EXCLUSION OF GIFT LOANS.—The
9 term ‘applicable loan’ shall not include a gift loan
10 (within the meaning of section 7872(f)).

11 “(2) DESIGNATED MARKET INTEREST RATE.—
12 The term ‘designated market interest rate’ has the
13 meaning given to such term by section 7872(e).

14 “(3) DEMAND LOANS; TERM LOANS.—The terms
15 ‘demand loan’ and ‘term loan’ have the respective
16 meaning given to such terms by section 7872(f).

17 “(h) REGULATIONS.—The Secretary shall prescribe
18 such regulations as may be necessary or appropriate to carry
19 out the purposes of this section, including regulations provid-
20 ing that where, by reason of varying rates of interest, condi-
21 tional interest payments, waivers of interest, or other circum-
22 stances, the provisions of this section do not carry out the
23 purposes of this section, adjustments to the provisions of this
24 section will be made to the extent necessary to carry out the
25 purposes of this section.”.

1 **(b) CONFORMING AMENDMENT.**—The table of sections
2 for subchapter C of chapter 80 is amended by adding at the
3 end thereof the following new sections:

“Sec. 7872. Gift loans with below-market interest rates.

“Sec. 7873. Other loans with below-market interest rates.”.

4 **(c) EFFECTIVE DATE.**—

5 **(1) IN GENERAL.**—Except as otherwise provided
6 in this subsection, the amendments made by this sec-
7 tion shall apply with respect to amounts outstanding on
8 loans after the date of enactment of this Act.

9 **(2) TERM LOANS.**—The amendments made by
10 this section shall not apply to term loans made before
11 February 1, 1984.

12 **SEC. 177. LIFO CONFORMITY RULES APPLIED ON CON-**
13 **TROLLED GROUP BASIS.**

14 **(a) GENERAL RULE.**—Section 472 (relating to last-in,
15 first-out inventories) is amended by adding at the end thereof
16 the following new subsection:

17 **“(g) CONFORMITY RULES APPLIED ON CONTROLLED**
18 **GROUP BASIS.**—

19 **“(1) IN GENERAL.**—Except as otherwise provided
20 in regulations, all members of the same group of finan-
21 cially related corporations shall be treated as 1 taxpay-
22 er for purposes of subsections (c) and (e)(2).

1 “(2) GROUP OF FINANCIALLY RELATED CORPO-
2 RATIONS.—For purposes of paragraph (1), the term
3 ‘group of financially related corporations’ means—

4 “(A) any affiliated group as defined in sec-
5 tion 1504 determined by substituting ‘50 percent’
6 for ‘80 percent’ each place it appears in section
7 1504(a) and without regard to section 1504(b),
8 and

9 “(B) any other group of corporations which
10 consolidate or combine for purposes of financial
11 statements.”

12 (b) EFFECTIVE DATE.—The amendment made by sub-
13 section (a) shall apply to taxable years beginning after the
14 date of the enactment of this Act.

15 SEC. 178. MODIFICATION OF INCOME ELIGIBILITY FOR
16 INCOME AVERAGING.

17 (a) BASE PERIOD SHORTENED TO 3 YEARS.—Para-
18 graph (2) of section 1302(c) (relating to definition of averag-
19 able income; related definitions) is amended by striking out
20 “4 taxable years” and inserting in lieu thereof “3 taxable
21 years”.

22 (b) INCREASE IN PERCENTAGE OF AVERAGE BASE
23 INCOME TAKEN INTO ACCOUNT.—Section 1301 (relating to
24 limitation on tax) is amended by striking out “120 percent”
25 and inserting in lieu thereof “140 percent”.

1 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

2 (1) Section 1301 (relating to limitation on tax) is
3 amended—

4 (A) by striking out “5 times” and inserting
5 in lieu thereof “4 times”, and

6 (B) by striking out “20 percent” and insert-
7 ing in lieu thereof “25 percent”.

8 (2) Paragraph (1) of section 1302(a) (defining
9 averagable income) is amended by striking out “120
10 percent” and inserting in lieu thereof “140 percent”.

11 (3) Paragraph (1) of section 1302(b) (defining
12 average base period income) is amended by striking out
13 “one-fourth” and inserting in lieu thereof “ $\frac{1}{3}$ ”.

14 (4) Paragraph (3) of section 1302(c) is amended
15 by striking out “4 taxable years” and inserting in lieu
16 thereof “3 taxable years”.

17 (d) EFFECTIVE DATE.—The amendments made by this
18 section shall apply to computation years beginning after De-
19 cember 31, 1983, and to base period years applicable to such
20 computation years.

21 **SEC. 179. LIMITATIONS ON BUSINESS DEDUCTIONS FOR PROP-**
22 **ERTY WHICH IS PARTIALLY USED FOR PER-**
23 **SONAL PURPOSES.**

24 (a) IN GENERAL.—Section 274 (relating to disallow-
25 ance of certain entertainment expenses) is amended by redess-

1 ignating subsection (i) as subsection (k) and by inserting after
2 subsection (h) the following new subsections:

3 “(i) AUTOMOBILES USED FOR NONBUSINESS PUR-
4 POSES.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this title, if the taxpayer’s business use of
7 an automobile does not meet the requirements of para-
8 graph (2)(A) for any taxable year, the aggregate
9 amount allowable as a deduction for such taxable year
10 and any subsequent taxable year with respect to such
11 automobile for—

12 “(A) operating expenses (including repairs),

13 “(B) license and registration expenses,

14 “(C) depreciation and expensing,

15 “(D) lease payments, and

16 “(E) insurance,

17 shall not exceed a mileage allowance prescribed by the
18 Secretary under regulations.

19 “(2) SUFFICIENT BUSINESS USE.—

20 “(A) IN GENERAL.—A taxpayer’s business
21 use of an automobile meets the requirements of
22 this subparagraph for the taxable year if the
23 number of miles for which such automobile is used
24 in carrying on a trade or business of the taxpayer
25 (or in any activity described in section 212) during

1 the taxable year equals or exceeds 90 percent of
2 the aggregate number of miles for which such
3 automobile was used for any purpose during such
4 taxable year.

5 “(B) AUTOMOBILES KEPT AT RESIDENCE
6 OVERNIGHT.—

7 “(i) IN GENERAL.—A taxpayer’s busi-
8 ness use of an automobile shall be treated as
9 failing to meet the requirements of subpara-
10 graph (A) for the taxable year if such auto-
11 mobile is kept at the residence of the taxpay-
12 er overnight more than 14 nights during the
13 taxable year.

14 “(ii) EXCEPTIONS.—This subparagraph
15 shall not apply if—

16 “(I) the trade or business of the
17 taxpayer is described in section
18 62(2)(D), or

19 “(II) the residence of the taxpayer
20 is the principal place of business of the
21 principal trade or business of the tax-
22 payer.

23 “(C) REQUIREMENTS MUST BE MET FOR AT
24 LEAST 2 TAXABLE YEARS.—The taxpayer’s busi-
25 ness use of an automobile shall be treated as fail-

1 ing to meet the requirements of subparagraph (A)
2 for the qualifying taxable year if the taxpayer's
3 business use of such automobile fails to meet the
4 requirements of subparagraph (A) for the taxable
5 year succeeding the qualifying taxable year. The
6 amount of any deduction or credit claimed in the
7 qualifying taxable year which is not allowable by
8 reason of the preceding sentence shall be included
9 in gross income, or added to tax, as appropriate,
10 for the year following the qualifying year.

11 “(3) RECAPTURE.—If the taxpayer's business use
12 of an automobile fails to meet the requirements of
13 paragraph (2)(A) for any taxable year beginning after
14 the taxable year which succeeds the qualifying taxable
15 year, there shall be included in the gross income of the
16 taxpayer for the taxable year in which such failure
17 occurs an amount of ordinary income equal to—

18 “(A) in the case of a taxpayer who is a
19 lessee of such automobile and who deducts
20 amounts in excess of those provided for in para-
21 graph (1), a percentage (determined under regula-
22 tions) of the aggregate amount of deductions for
23 lease payments which were allowed the taxpayer
24 with respect to such automobile for all previous
25 taxable years, or

1 “(B) in all other cases, the excess of—

2 “ (i) the sum of—

3 “ (I) the aggregate amount allowed
4 the taxpayer as a deduction for depreci-
5 ation or amortization with respect to
6 such automobile, plus

7 “ (II) the aggregate amount al-
8 lowed the taxpayer as a deduction
9 under section 179 with respect to such
10 automobile, over

11 “ (ii) the aggregate amount of depreci-
12 ation deductions which would have been al-
13 lowable to the taxpayer with respect to such
14 automobile for all previous taxable years if
15 the taxpayer had depreciated the automobile
16 to its fair market value as of the beginning of
17 the year in which the failure occurs.

18 “(4) USE BY OTHER PARTIES.—If the taxpayer’s
19 automobile is used by another person, any use of the
20 automobile by that other person—

21 “(A) which is not directly connected with a
22 trade or business or income producing activity of
23 the taxpayer,

24 “(B) which does not give rise to income to
25 the other person and, with respect to an employ-

1 ee, is treated as wages to the employee for pur-
2 poses of chapter 24, or

3 “(C) for which a fair rent is not paid,
4 shall not be treated (for purposes of applying this sub-
5 section with respect to the taxpayer) as use in the
6 trade or business of the taxpayer or in any activity de-
7 scribed in section 212.

8 “(5) NO APPLICATION TO SHORT LEASES.—This
9 subsection shall not apply with respect to the lessee of
10 any automobile leased for a period (including renewals)
11 that does not exceed 30 days.

12 “(6) DEFINITIONS.—For purposes of this subsec-
13 tion—

14 “(A) AUTOMOBILE.—The term ‘automobile’
15 has the meaning given to such term by section
16 4064(b)(1).

17 “(B) QUALIFYING TAXABLE YEAR.—The
18 term ‘qualifying taxable year’ means—

19 “(i) in the case of a taxpayer who is a
20 lessee of the automobile, the taxable year in
21 which the lease begins, and

22 “(ii) in the case of any other taxpayer,
23 the taxable year in which the taxpayer
24 places the automobile in service.

1 “(j) CERTAIN DEPRECIABLE PROPERTY USED FOR
2 NONBUSINESS PURPOSES.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of this title, if the taxpayer’s business use of
5 any applicable property does not meet the requirements
6 of paragraph (2)(A) for any taxable year, the aggregate
7 amount allowable as a deduction for such taxable year
8 and any subsequent taxable year with respect to such
9 property for depreciation, expensing, or amortization
10 shall not exceed the amount of such deduction which
11 would be allowable for such taxable year if such prop-
12 erty were depreciated under the straight line method
13 over a 12-year recovery period (without regard to sal-
14 vage value and using a half-year convention).

15 “(2) SUFFICIENT BUSINESS USE.—

16 “(A) IN GENERAL.—A taxpayer’s business
17 use of applicable property meets the requirements
18 of this subparagraph for the taxable year if the
19 use of such property in carrying on the trade or
20 business of the taxpayer (or in any activity de-
21 scribed in section 212) for the taxable year equals
22 or exceeds 90 percent of the aggregate use of
23 such property for the taxable year.

24 “(B) REQUIREMENTS MUST BE MET FOR AT
25 LEAST 2 TAXABLE YEARS.—The taxpayer’s busi-

1 ness use of applicable property shall be treated as
2 failing to meet the requirements of subparagraph
3 (A) for the qualifying taxable year if the taxpay-
4 er's business use of such property fails to meet
5 the requirements of subparagraph (A) for the tax-
6 able year succeeding the qualifying taxable year.
7 The amount of any deduction or credit claimed in
8 the qualifying year which is not allowable by
9 reason of the preceding sentence shall be included
10 in gross income, or added to tax, as appropriate,
11 for the year following the qualifying year.

12 “(3) LEASE PAYMENTS.—Notwithstanding any
13 other provision of this title, if the taxpayer's business
14 use of applicable property leased by taxpayer does not
15 meet the requirements of paragraph (2)(A) for any tax-
16 able year, the aggregate amount allowed as a deduc-
17 tion for such taxable year and any subsequent taxable
18 year with respect to such property for lease payments
19 made in such taxable year shall not exceed a percent-
20 age (prescribed in regulations) of the portion of such
21 payments which corresponds to the taxpayer's business
22 use.

23 “(4) RECAPTURE.—If the taxpayer's business use
24 of applicable property fails to meet the requirements of
25 paragraph (2)(A) for any taxable year beginning after

1 the taxable year which succeeds the qualifying taxable
2 year, there shall be included in the gross income of the
3 taxpayer for the taxable year in which such failure
4 occurs an amount of ordinary income equal to—

5 “(A) in the case of a taxpayer who is a
6 lessee of such property, a percentage (prescribed
7 in regulations) of the aggregate amount of deduc-
8 tions for lease payments which were allowed the
9 taxpayer with respect to such property for all pre-
10 vious taxable years, or

11 “(B) in all other cases, the excess of—

12 “(i) the sum of—

13 “(I) the aggregate amount allowed
14 the taxpayer as a deduction for depreci-
15 ation or amortization with respect to
16 such property, plus

17 “(II) the aggregate amount al-
18 lowed the taxpayer as a deduction
19 under section 179 with respect to such
20 property, over

21 “(ii) the aggregate amount of depreci-
22 ation deductions which would have been al-
23 lowable to the taxpayer with respect to such
24 property for all previous taxable years if the
25 taxpayer had depreciated the property under

1 the straight line method over a 12-year re-
2 covery period (without regard to salvage
3 value and using a half-year convention).

4 “(5) **USE BY OTHER PARTIES.**—If the taxpayer’s
5 property is used by another person, any use of the
6 property by that other person—

7 “(A) which is not directly connected with a
8 trade or business or income producing activity of
9 the taxpayer,

10 “(B) which does not give rise to income to
11 the other person and with respect to an employee,
12 is treated as wages to the employee for purposes
13 of chapter 24, or

14 “(C) for which a fair rent is not paid,
15 shall not be treated (for purposes of applying this sub-
16 section with respect to the taxpayer) as use in the
17 trade or business of the taxpayer or in any activity de-
18 scribed in section 212.

19 “(6) **NO APPLICATION TO SHORT LEASES.**—This
20 subsection shall not apply with respect to the lessee of
21 any property leased for a period (including renewals)
22 that does not exceed 30 days.

23 “(7) **APPLICABLE PROPERTY.**—For purposes of
24 this subsection, the term ‘applicable property’ means—

1 “(A) any property used as a means of trans-
2 portation (other than an automobile as defined in
3 subsection (i)(6)(A)),

4 “(B) any property of a type generally used
5 for purposes of entertainment, recreation, or
6 amusement,

7 “(C) any computers, or

8 “(D) such other property as the Secretary
9 may prescribe by regulations,

10 with respect to which a deduction for depreciation (or
11 deductions in lieu of depreciation) is allowable.

12 **(b) INVESTMENT TAX CREDIT.—**

13 **(1) DENIAL OF CREDIT.—**Subsection (e) of sec-
14 tion 46 (relating to limitations with respect to certain
15 persons), as amended by this Act, is amended by
16 adding at the end thereof the following new paragraph:

17 **“(5) PROPERTY USED FOR NONBUSINESS PUR-
18 POSES.—**

19 **“(A) AUTOMOBILES.—**No credit shall be al-
20 lowed under section 38 with respect to any auto-
21 mobile (within the meaning of section 4064(b)(1))
22 if the taxpayer’s business use of such automobile
23 fails to meet the requirements of section
24 274(i)(2)(A) for the taxable year in which such

1 automobile is placed in service by the taxpayer or
2 for the succeeding taxable year.

3 “(B) OTHER PROPERTY.—No credit shall be
4 allowed under section 38 with respect to any
5 property to which section 274(j) applies if the tax-
6 payer’s business use of such property fails to meet
7 the requirements of section 274(j)(2)(A) for the
8 taxable year in which such property is placed in
9 service by the taxpayer or for the succeeding tax-
10 able year.”.

11 (2) RECAPTURE OF CREDIT.—Section 47 (relat-
12 ing to dispositions of section 38 property) is amended
13 by adding at the end thereof the following new subsec-
14 tion:

15 “(e) PROPERTY USED FOR NONBUSINESS PUR-
16 POSES.—If

17 “(1) the taxpayer’s business use of an automobile
18 (within the meaning of section 4064(b)(1)) fails to meet
19 the requirements of section 274(i)(2)(A), or

20 “(2) the taxpayer’s business use of any other
21 property to which section 274(j) applies fails to meet
22 the requirements of section 274(j)(2)(A),

23 for any taxable year beginning after the taxable year suc-
24 ceeding the taxable year in which such automobile or other
25 property was placed in service by the taxpayer, such auto-

1 mobile or such other property shall be treated, for purposes of
2 this section, as having ceased to be section 38 property
3 within the taxable year in which such failure occurs.”.

4 (c) COMPLIANCE.—Section 274(d) is amended by—

5 (1) striking out “or” at the end of paragraph (2),

6 (2) adding “or” at the end of paragraph (3),

7 (3) adding after paragraph (3) the following new
8 paragraph:

9 “(4) for any item described in subsections (i) or
10 (j),”

11 (4) striking out “or by sufficient evidence corrobora-
12 rating his own statement”, and

13 (5) by adding at the end thereof “Any income tax
14 return preparer who prepares a return of the tax im-
15 posed by this chapter for any taxable year shall verify
16 that adequate contemporaneous records have been kept
17 supporting deductions to which this subsection may
18 apply before signing such return.”.

19 (d) EFFECTIVE DATE.—The amendments made by this
20 section shall apply to—

21 (1) property placed in service after March 15,
22 1984, and

23 (2) leases of property entered into after such date.

1 SEC. 180. AMENDMENTS TO SECTION 267.

2 (a) ALLOWANCE OF DEDUCTION WHERE EXPENSES
3 AND INTEREST ARE PAID TO RELATED CASH-BASIS TAX-
4 PAYERS AFTER 2½-MONTH PERIOD.—

5 (1) IN GENERAL.—Subsection (a) of section 267
6 (relating to losses, expenses, and interest with respect
7 to transactions between related taxpayers) is amended
8 to read as follows:

9 “(a) IN GENERAL.—

10 “(1) DEDUCTION FOR LOSSES DISALLOWED.—No
11 deduction shall be allowed in respect of any loss from
12 the sale or exchange of property (other than a loss in
13 case of a distribution in corporate liquidation), directly
14 or indirectly, between persons specified in any of the
15 paragraphs of subsection (b).

16 “(2) MATCHING OF DEDUCTION AND PAYEE
17 INCOME ITEM IN THE CASE OF EXPENSES AND IN-
18 TEREST.—If—

19 “(A) by reason of the method of accounting
20 of the person to whom the payment is to be made,
21 the amount thereof is not (unless paid) includible
22 in the gross income of such person, and

23 “(B) at the close of the taxable year of the
24 taxpayer for which (but for this paragraph) the
25 amount would be deductible under this chapter,
26 both the taxpayer and the person to whom the

1 payment is to be made are persons specified in
 2 any of the paragraphs of subsection (b),
 3 then any deduction allowable under this chapter in re-
 4 spect of such amount shall be allowable as of the day
 5 as of which such amount is includible in the gross
 6 income of the person to whom the payment is made
 7 (or, if later, as of the day on which it would be so al-
 8 lowable but for this paragraph).”

9 (2) CONFORMING AMENDMENT.—Subsection (e) of
 10 section 267 (relating to rule where last day of 2½-
 11 month period falls on Sunday, etc.) is hereby repealed.

12 (b) EXTENSION OF SECTION 267 TO CERTAIN RELAT-
 13 ED ENTRIES.—

14 (1) PASS-THRU ENTITIES.—Section 267 is
 15 amended by striking out subsection (f) and inserting in
 16 lieu thereof the following:

17 “(e) SPECIAL RULES FOR PASS-THRU ENTITIES.—

18 “(1) IN GENERAL.—In the case of any amount
 19 paid or incurred by, to, or on behalf of, a pass-thru
 20 entity, for purposes of applying subsection (a)(2)—

21 “(A) such entity,

22 “(B) in the case of—

23 “(i) a partnership, any person who owns
 24 (directly or indirectly) any capital interest or
 25 profits interest of such partnership, or

1 “(ii) an S corporation, any person who
2 owns (directly or indirectly) any of the stock
3 of such corporation,

4 “(C) any person who owns (directly or indi-
5 rectly) any capital interest or profits interest of a
6 partnership in which such entity owns (directly or
7 indirectly) any capital interest or profits interest,
8 and

9 “(D) any person related (within the meaning
10 of subsection (b) of this section or section
11 707(b)(1)) to a person described in subparagraph
12 (B) or (C),

13 shall be treated as persons specified in a paragraph of
14 subsection (b). Subparagraph (C) shall apply to a trans-
15 action only if such transaction is related either to the
16 operations the partnership described in such subpara-
17 graph or to an interest in such partnership.

18 “(2) PASS-THRU ENTITY.—For purposes of this
19 section, the term ‘pass-thru entity’ means—

20 “(A) a partnership, and

21 “(B) an S corporation.

22 “(3) CONSTRUCTIVE OWNERSHIP IN THE CASE
23 OF PARTNERSHIPS.—For purposes of determining
24 ownership of a capital interest or profits interest of a

1 partnership, the principles of subsection (c) (other than
2 paragraph (3)) shall apply.

3 “(4) SUBSECTION (a)(2) NOT TO APPLY TO CER-
4 TAIN GUARANTEED PAYMENTS OF PARTNERSHIPS.—
5 In the case of any amount paid or incurred by a part-
6 nership, subsection (a)(2) shall not apply to the extent
7 that section 707(c) applies to such amount.

8 “(5) EXCEPTION FOR CERTAIN EXPENSES AND
9 INTEREST OF PARTNERSHIPS OWNING LOW-INCOME
10 HOUSING.—

11 “(A) IN GENERAL.—This subsection shall
12 not apply with respect to qualified expenses and
13 interest paid or incurred by a partnership owning
14 low-income housing to—

15 “(i) any qualified 5-percent or less part-
16 ner of such partnership, or

17 “(ii) any person related (within the
18 meaning of subsection (b) of this section or
19 section 707(b)(1)) to any qualified 5-percent
20 or less partner of such partnership.

21 “(B) QUALIFIED 5-PERCENT OR LESS PART-
22 NER.—For purposes of this paragraph, the term
23 ‘qualified 5-percent or less partner’ means any
24 partner who has (directly or indirectly) an interest

1 of 5 percent or less in the aggregate capital and
2 profits interests of the partnership but only if—

3 “(i) such partner owned the low-income
4 housing at all times during the 2-year period
5 ending on the date such housing was trans-
6 ferred to the partnership, or

7 “(ii) such partnership acquired the low-
8 income housing pursuant to a purchase, as-
9 signment, or other transfer from the Depart-
10 ment of Housing and Urban Development or
11 any State or local housing authority.

12 “(C) QUALIFIED EXPENSES AND INTER-
13 EST.—For purposes of this paragraph, the term
14 ‘qualified expenses and interest’ means any ex-
15 pense or interest incurred by the partnership with
16 respect to low-income housing held by the part-
17 nership but—

18 “(i) only if the amount of such expense
19 or interest (as the case may be) is uncondi-
20 tionally required to be paid by the partner-
21 ship not later than 10 years after the date
22 such amount was incurred, and

23 “(ii) in the case of such interest, only to
24 the extent such interest accrues at an annual
25 rate not in excess of 12 percent.

1 “(D) **LOW-INCOME HOUSING.**—For purposes
2 of this paragraph, the term ‘low-income housing’
3 means—

4 “(i) any interest in low-income housing
5 (as defined in paragraph (5) of section
6 189(e)), and

7 “(ii) any interest in a partnership
8 owning low-income housing (as so defined).”.

9 **(2) CERTAIN CONTROLLED GROUPS.**—

10 (A) Paragraph (3) of section 267(b) is amend-
11 ed to read as follows:

12 “(3) Two corporations which are members of the
13 same controlled group (as defined in subsection (f));”.

14 (B) Section 267 is amended by adding at the
15 end thereof the following new subsection:

16 **“(f) CONTROLLED GROUP DEFINED.**—For purposes of
17 this section, the term ‘controlled group’ has the meaning
18 given to such term by section 1563(a), except that—

19 “(1) ‘more than 50 percent’ shall be substituted
20 for ‘at least 80 percent’ each place it appears in sec-
21 tion 1563(a), and

22 “(2) the determination shall be made without
23 regard to subsections (a)(4), (b)(2), and (e)(3)(C) of sec-
24 tion 1563.”.

1 (3) CORPORATION AND PARTNERSHIP OWNED BY
2 SAME PERSONS.—Paragraph (10) of section 267(b) is
3 amended—

4 (A) by striking out “An S corporation” and
5 inserting in lieu thereof “A corporation”, and

6 (B) by striking out “the S corporation” and
7 inserting in lieu thereof “the corporation”.

8 (4) S CORPORATION AND C CORPORATION
9 OWNED BY SAME PERSONS.—Paragraph (12) of sec-
10 tion 267(b) is amended by striking out “the same indi-
11 vidual” and inserting in lieu thereof “the same per-
12 sons”.

13 (5) TECHNICAL AMENDMENTS.—

14 (A) Paragraph (3) of section 170(a) is amend-
15 ed by striking out “section 267(b)” and inserting
16 in lieu thereof “section 267(b) or 707(b)”.

17 (B) Clause (iii) of section 514(c)(9)(B) is
18 amended by striking out “section 267(b)” and in-
19 serting in lieu thereof “section 267(b) or 707(b)”.

20 (C) Subsection (d) of section 1235 is
21 amended—

22 (i) by striking out “section 267(b)” in
23 the matter preceding paragraph (1) and in-
24 serting in lieu thereof “section 267(b) or per-
25 sons described in section 707(b)”,

1 (ii) by striking out “section 267 (b) and
2 (c)” and inserting in lieu thereof “section
3 267 (b) and (c) and section 707(b)”, and

4 (iii) by striking out “section 267(b)” in
5 paragraph (1) and inserting in lieu thereof
6 “section 267(b) or 707(b)”.

7 (D) Subparagraph (F) of section 368(a)(2) is
8 amended by striking out clause (viii).

9 (c) DEFERRAL (RATHER THAN DENIAL) OF LOSS
10 FROM SALE OR EXCHANGE BETWEEN MEMBERS OF A
11 CONTROLLED GROUP.—Section 267 (relating to losses, ex-
12 penses and interest with respect to transactions between re-
13 lated parties), as amended by this section, is amended by
14 adding at the end thereof the following new subsection:

15 “(g) DEFERRAL OF LOSSES FROM SALES OR EX-
16 CHANGES BETWEEN MEMBERS OF CONTROLLED
17 GROUPS.—In the case of any loss from a sale or exchange of
18 property between members of the same controlled group to
19 which subsection (a) (1) applies (determined without regard to
20 this subsection)—

21 “(1) subsections (a) (1) and (d) shall not apply to
22 such loss, but

23 “(2) no deduction shall be allowed with respect to
24 such loss to the transferor of such property until the

1 first taxable year of such transferor in which the trans-
2 feree—

3 “(A) sells, exchanges or otherwise disposes
4 of such property (or exchanged basis property
5 with respect to such property) to a person other
6 than a member of such controlled group (deter-
7 mined as of the time of the disposition), and

8 “(B) recognizes gain or loss on such disposi-
9 tion.”.

10 (d) EFFECTIVE DATES.—

11 (1) SUBSECTIONS (A) AND (B)(1).—The amend-
12 ments made by subsections (a) and (b)(1) shall apply to
13 amounts allowable as deductions under chapter 1 of
14 the Internal Revenue Code of 1954 for taxable years
15 beginning after December 31, 1983. For purposes of
16 the preceding sentence, the allowability of a deduction
17 shall be determined without regard to any disallowance
18 or the postponement of deductions under section 267 of
19 such Code.

20 (2) SUBSECTIONS (B)(2) AND (C).—The amend-
21 ments made by subsections (b)(2) and (c) shall apply to
22 transactions after September 29, 1983, in taxable
23 years ending after such date.

24 (3) EXCEPTION FOR EXISTING INDEBTEDNESS,
25 ETC.—

1 (A) IN GENERAL.—The amendments made
2 by this section shall not apply to any amount paid
3 or incurred—

4 (i) on indebtedness incurred on or before
5 September 29, 1983, or

6 (ii) pursuant to a contract which was
7 binding on September 29, 1983, and at all
8 times thereafter before the amount is paid or
9 incurred.

10 (B) TREATMENT OF RENEGOTIATIONS, EX-
11 TENSIONS, ETC.—If any indebtedness (or contract
12 described in subparagraph (A)) is renegotiated, ex-
13 tended, renewed, or revised after September 29,
14 1983, subparagraph (A) shall not apply to any
15 amount paid or incurred on such indebtedness (or
16 pursuant to such contract) after the date of such
17 renegotiation, extension, renewal, or revision.

18 **SEC. 181. LOSSES ON SALES AND EXCHANGES OF PROPERTY**
19 **USED IN THE TRADE OR BUSINESS.**

20 (a) GAINS EXCEED LOSSES.—Subsection (a) of section
21 1231 (relating to property used in the trade or business and
22 involuntary conversions) is amended to read as follows:

23 “(a) CHARACTER OF GAINS AND LOSSES.—For pur-
24 poses of this subtitle—

1 “(1) GAINS EXCEED LOSSES.—If during the tax-
2 able year, the sum of—

3 “(A) the recognized gains on sales or ex-
4 changes of property used in the trade or business,
5 plus

6 “(B) the recognized gains from the compul-
7 sory or involuntary conversion (as a result of de-
8 struction in whole or in part, theft or seizure, or
9 an exercise of the power of requisition or condem-
10 nation or the threat or imminence thereof) of—

11 “(i) property used in the trade or busi-
12 ness, or

13 “(ii) capital assets held for more than 1
14 year,

15 into other property or money,
16 exceeds the sum of the recognized losses from such
17 sales, exchanges, and conversions, such gains shall be
18 treated as long-term capital gains and such losses shall
19 be treated as long-term capital losses.

20 “(2) LOSSES EXCEED GAINS.—

21 “(A) IN GENERAL.—If the sum of the gains
22 described in paragraph (1) does not exceed the
23 sum of the losses described in paragraph (1), such
24 gains shall not be treated as gains from sales or
25 exchanges of capital assets and such losses shall

1 not be treated as losses from sales or exchanges
2 of capital assets. The portion of such losses
3 which—

4 “(i) exceeds the sums of such gains, and

5 “(ii) does not exceed the sum of the
6 qualified Section 1231 gains of the taxpayer
7 for the 3 taxable years preceding the taxable
8 year,

9 shall not be allowed as a loss.

10 “(B) CARRYBACK OF LONG-TERM CAPITAL
11 LOSSES.—Any losses incurred in the taxable year
12 (hereinafter in this subparagraph referred to as
13 the “loss year”) which are disallowed by subpara-
14 graph (A) shall be a Section 1231 loss carryback
15 to each of the 3 taxable years preceding the loss
16 year. The entire amount of such losses shall be
17 carried to the earliest of the taxable years to
18 which such loss may be carried, and the portion of
19 such loss which shall be carried to each of the
20 other taxable years to which such loss may be
21 carried shall be the excess, if any, of—

22 “(i) the entire amount of such loss, over

23 “(ii) the sum of the qualified section
24 1231 gains for each of the prior taxable
25 years to which such loss may be carried.

1 For purposes of the preceding sentence, the net
2 capital gain attributable to gains described in
3 paragraph (1) for any such prior taxable year shall
4 be computed without regard to the Section 1231
5 loss carryback for the loss year or for any taxable
6 year thereafter.

7 “(C) NET CAPITAL GAIN TREATED AS OR-
8 DINARY INCOME TO THE EXTENT OF SECTION
9 1231 LOSSES.—Any net capital gain attributable
10 to gains described in paragraph (1) for the taxable
11 year shall not be treated as gain from the sale or
12 exchange of capital assets to the extent such net
13 capital gain is less than the sum of the qualified
14 Section 1231 losses for the 3 taxable years pre-
15 ceding such taxable year which have not previ-
16 ously been taken into account under this subpara-
17 graph.

18 “(D) QUALIFIED SECTION 1231 GAIN.—For
19 purposes of this paragraph, the term ‘qualified
20 Section 1231 gain’ means the excess of—

21 “(i) the gains described in paragraph (1)
22 for the taxable year, over

23 “(ii) the losses described in paragraph
24 (1) for the taxable year.

1 “(E) QUALIFIED SECTION 1231 LOSS.—For
2 purposes of this paragraph, the term ‘qualified
3 Section 1231 loss’ means the excess of—

4 “(i) the losses described in paragraph
5 (1) for the taxable year which are not disal-
6 lowed for the taxable year by reason of sub-
7 paragraph (A), over

8 “(ii) the gains described in paragraph
9 (1) for the taxable year.”.

10 (b) SPECIAL RULES.—Section 1231 is amended by
11 adding at the end thereof the following new subsection:

12 “(c) SPECIAL RULES.—For purposes of this section—

13 “(1) DETERMINATION OF WHETHER GAINS
14 EXCEED LOSSES.—In determining under subsection (a)
15 whether gains exceed losses—

16 “(A) the gains described in such subsection
17 shall be taken into account only if, and to the
18 extent, such gains are taken into account in com-
19 puting gross income,

20 “(B) the losses described in such subsection
21 shall be taken into account only if, and to the
22 extent, such losses are taken into account in com-
23 puting taxable income, and

24 “(C) section 1211 shall not apply.

1 “(2) LOSSES FROM DESTRUCTION, THEFT,
2 ETC.—Losses (including losses not compensated for by
3 insurance or otherwise) upon the destruction, in whole
4 or in part, theft or seizure, or requisition or condemna-
5 tion of—

6 “(A) property used in the trade or business,

7 or

8 “(B) capital assets held for more than 1
9 year,

10 shall be considered losses from a compulsory or invol-
11 untary conversion.

12 “(3) CERTAIN INVOLUNTARY CONVERSIONS.—In
13 the case of any involuntary conversion (subject to the
14 provisions of subsection (a) but for this paragraph) aris-
15 ing from fire, storm, shipwreck, or other casualty, or
16 from theft, of any property used in the trade or busi-
17 ness or of any capital asset held for more than 1 year,
18 subsection (a) shall not apply to such conversion
19 (whether resulting in gain or loss) if during the taxable
20 year the recognized losses from such conversions
21 exceed the recognized gains from such conversions.”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Paragraph (2) of section 6511 (d) (relating to
24 limitations on credits or refunds) is amended—

1 (A) by striking out “or a capital loss carry-
2 back” each place it appears and inserting in lieu
3 thereof “, a capital loss carryback, or a Section
4 1231 loss carryback”,

5 (B) by striking out “or net capital loss” in
6 subparagraph (A) and inserting in lieu thereof “,
7 net capital loss, or loss described in section 1231
8 (a) (2) (B)”,

9 (C) by striking out “OR CAPITAL LOSS CAR-
10 RYBACK” in the paragraph heading and inserting
11 in lieu thereof “, CAPITAL LOSS CARRYBACKS,
12 OR SECTION 1231 LOSS CARRYBACKS”,

13 (D) by striking out “such deduction or with
14 respect to” in subparagraph (B) and inserting in
15 lieu thereof “such deduction, with respect to”,

16 (E) by striking out “capital loss, to the
17 extent” in subparagraph (B) and inserting in lieu
18 thereof “capital loss, with respect to the determi-
19 nation of a long-term capital loss and the effect of
20 such long-term capital loss, to the extent”, and

21 (F) by striking out “deduction or short-term
22 capital loss” in subparagraph (B) and inserting in
23 lieu thereof “deduction, short-term capital loss, or
24 long-term capital loss”.

1 (2) Section 6411 (relating to quick refunds in re-
2 spect of tentative carryback adjustments) is amended—

3 (A) by striking out “or unused employee
4 stock ownership credit” each place it appears and
5 inserting in lieu thereof “unused employee stock
6 ownership credit, or loss described in section 1231
7 (a) (2) (C)”;

8 (B) by inserting “by a Section 1231 loss car-
9 ryback provided by section 1231 (a) (2) (C)” after
10 “by an employee stock ownership credit carryback
11 provided in section 44G(b)(2),” in the first sen-
12 tence of subsection (a); and

13 (C) by striking out “or a capital loss carry-
14 back (or” in the second sentence of subsection (a)
15 and inserting in lieu thereof “, capital loss carry-
16 back, or Section 1231 loss carryback (or,”.

17 (d) **EFFECTIVE DATE.**—The amendments made by this
18 section shall apply to taxable years beginning after December
19 31, 1984.

20 **SEC. 182. DEDUCTION DISALLOWED WHERE TAXPAYER USES**
21 **PROPERTY SIMILAR TO PROPERTY OF THE**
22 **TAXPAYER FOR PERSONAL USE.**

23 (a) **IN GENERAL.**—Section 262 (relating to disallow-
24 ance for personal, living, and family expenses) is amended—

1 (1) by striking out “Except” and inserting in lieu
2 thereof:

3 “(a) IN GENERAL.—Except”, and

4 (2) by adding at the end thereof the following new sub-
5 section:

6 “(b) PERSONAL USE OF PROPERTY SIMILAR TO PROP-
7 ERTY OWNED BY THE TAXPAYER.—In any case in which—

8 “(1) a taxpayer uses property of another person
9 for personal purposes and such other person (or any
10 other person) uses similar property of the taxpayer for
11 personal purposes, or

12 “(2) under regulations prescribed by the Secre-
13 tary, the taxpayer is a member of a partnership, joint
14 venture, or other entity one of the principal purposes of
15 which is to allow members of such entity to acquire
16 property and to use such property or similar property
17 for personal purposes,

18 the taxpayer shall, for purposes of this section, be treated as
19 using the taxpayer’s property for personal purposes during
20 any period the taxpayer is entitled to use such similar proper-
21 ty for personal purposes.”.

22 (b) EFFECTIVE DATE.—The amendment made by this
23 section shall apply to the use of property after February 22,
24 1984, in taxable years ending after such date.

1 **SEC. 183. FOREIGN EARNED INCOME EXCLUSION TREATED AS**
2 **PREFERENCE ITEM.**

3 (a) **IN GENERAL.**—Subsection (a) of section 57 (relating
4 to items of tax preference) is amended by adding after para-
5 graph (12) the following new paragraph:

6 “(13) **EXCLUSION OF FOREIGN EARNED**
7 **INCOME.**—Any amount excluded from gross income for
8 the taxable year under section 911(a)(1).”.

9 (b) **ALLOWANCE OF FOREIGN TAX CREDIT AGAINST**
10 **MINIMUM TAX.**—Paragraph (6) of section 911(d) (relating to
11 denial of double benefits) is amended by adding at the end
12 thereof the following new sentence: “For purposes of this
13 paragraph, the term ‘tax imposed by this chapter’ shall not
14 include the tax imposed by section 55.”.

15 (c) **CONFORMING AMENDMENT.**—The last sentence of
16 section 57(a) is amended by striking out “and (12)(A)” and
17 inserting in lieu thereof “(12)(A), and (13)”.

18 (d) **EFFECTIVE DATE.**—The amendments made by this
19 section shall apply to taxable years beginning after December
20 31, 1984.

21 **SEC. 184. SPECIAL RULE RELATING TO SALES OR EXCHANGES**
22 **OF CERTAIN ECONOMIC INTERESTS IN COAL**
23 **BETWEEN RELATED PARTIES.**

24 (a) **IN GENERAL.**—The last sentence of section 631(c)
25 (relating to disposal of coal or domestic iron ore with a re-

1 tained economic interest) is amended by inserting “or coal”
2 after “iron ore” each place it appears.

3 (b) **EFFECTIVE DATE.**—The amendment made by sub-
4 section (a) shall apply to dispositions after the date of the
5 enactment of this Act.

6 **SEC. 185. REPEAL OF EXCLUSION FOR DIVIDEND REINVEST-**
7 **MENT IN STOCK IN PUBLIC UTILITIES.**

8 (a) **REPEAL OF SECTION 305(e).**—Section 305 (relating
9 to distribution of stock and stock rights) is amended by strik-
10 ing out subsection (e) and redesignating subsection (f) as sub-
11 section (e).

12 (b) **AMENDMENT OF SECTION 305(d).**—Paragraph (1)
13 of section 305(d) (defining stock) is amended by striking out
14 “this section (other than subsection (e))” and inserting in lieu
15 thereof “this section”.

16 (c) **EFFECTIVE DATE.**—The amendments made by this
17 section shall apply to distributions after December 31, 1984,
18 in taxable years ending after such date.

19 **SEC. 186. ESTIMATED INCOME TAX FOR INDIVIDUALS.**

20 (a) **IN GENERAL.**—Paragraph (1) of section 6654(g)
21 (defining tax for purposes of failure by individual to pay esti-
22 mated income tax) is amended by striking out “(other than by
23 section 55)”.

1 (b) CONFORMING AMENDMENTS.—Subsection (d) of
2 section 6654 (relating to exception to addition to tax for un-
3 derpayment of estimated tax by individuals) is amended—

4 (1) by inserting “and alternative minimum taxable
5 income” after “taxable income” each place it appears
6 in paragraph (2), and

7 (2) by inserting “, the actual alternative minimum
8 taxable income,” after “actual taxable income” in
9 paragraph (3).

10 (c) WAIVER OF IMPOSITION OF ADDITION TO TAX IN
11 CERTAIN CASES.—Section 6654 (relating to failure by indi-
12 viduals to pay estimated income tax) is amended by adding at
13 the end thereof the following new subsection:

14 “(i) WAIVERS.—

15 “(A) IN GENERAL.—No addition to tax shall be
16 imposed under subsection (a) with respect to any un-
17 derpayment to the extent the Secretary determines
18 that by reason of casualty, disaster, or other unusual
19 circumstances the imposition of such addition to tax
20 would be against equity and good conscience.

21 “(4) WAIVER FOR NEWLY RETIRED OR DIS-
22 ABLED.—No addition to tax shall be imposed under
23 subsection (a) with respect to any underpayment if the
24 Secretary determines that—

25 “(A) the taxpayer—

1 “(i) retired after having attained at least
2 62 years of age, or

3 “(ii) became disabled,
4 in the taxable year for which estimated payments
5 were required to be made or in the taxable year
6 preceding such taxable year, and

7 “(B) such underpayment was due to reason-
8 able cause and not to willful neglect.”.

9 (d) **TECHNICAL AMENDMENT.**—Subsection (d) of sec-
10 tion 6015 (defining estimated tax for individuals) is amended
11 by striking out “(other than the tax imposed by section 55)”.

12 (e) **EFFECTIVE DATE.**—The amendments made by this
13 section shall apply to taxable years beginning after December
14 31, 1983.

15 **SEC. 187. REPEAL OF EXEMPTION FROM FEDERAL TAX OF**
16 **THE FEDERAL HOME LOAN MORTGAGE CORPO-**
17 **RATION.**

18 (a) **REPEAL OF EXEMPTION.**—Subsection (d) of section
19 303 of the Federal Home Loan Mortgage Corporation Act
20 (12 U.S.C. 1452(d)) is amended—

21 (1) by striking out “by the United States,”,

22 (2) by striking out “possession thereof,” and in-
23 serting in lieu thereof “possession of the United
24 States”, and

25 (3) by striking out the last sentence.

1 (b) TREATMENT OF DIVIDENDS PAID BY FEDERAL
2 HOME LOAN BANKS WHICH ARE ALLOCABLE TO DIVI-
3 DENDS FROM THE FEDERAL HOME LOAN MORTGAGE COR-
4 PORATION.—Subsection (a) of section 246 (relating to denial
5 of dividends received deduction for dividends from certain
6 corporations) is amended to read as follows:

7 “(a) DEDUCTION NOT ALLOWED FOR DIVIDENDS
8 FROM CERTAIN CORPORATIONS.—

9 “(1) IN GENERAL.—The deductions allowed by
10 sections 243, 244, and 245 shall not apply to any divi-
11 dend from a corporation which, for the taxable year of
12 the corporation in which the distribution is made, or
13 for the next preceding taxable year of the corporation,
14 is a corporation exempt from tax under section 501
15 (relating to certain charitable, etc., organizations) or
16 section 521 (relating to farmers’ cooperative associ-
17 ations).

18 “(2) SUBSECTION NOT TO APPLY TO CERTAIN
19 DIVIDENDS OF FEDERAL HOME LOAN BANKS.—

20 “(A) DIVIDENDS OUT OF CURRENT EARN-
21 INGS AND PROFITS.—In the case of any dividend
22 paid by any FHLB out of earnings and profits of
23 the FHLB for the taxable year in which such
24 dividend was paid, paragraph (1) shall not apply

1 to that portion of such dividend which bears the
2 same ratio to the total dividend as—

3 “(i) the dividends received by the
4 FHLB from the FHLMC for such taxable
5 year, bears to

6 “(ii) the total earnings and profits of the
7 FHLB for such taxable year.

8 “(B) DIVIDENDS OUT OF ACCUMULATED
9 EARNINGS AND PROFITS.—For purposes of sub-
10 paragraph (A), in the case of any dividend which
11 is paid out of any accumulated earnings and prof-
12 its of any FHLB, paragraph (1) shall not apply to
13 that portion of the dividend which bears the same
14 ratio to the total dividend as—

15 “(i) the amount of dividends received by
16 such FHLB from the FHLMC which are out
17 of earnings and profits of the FHLMC—

18 “(I) for taxable years ending after
19 December 31, 1984, and

20 “(II) which were not taken into
21 account under subparagraph (A), bears
22 to

23 “(ii) the sum of—

24 “(I) the retained earnings of such
25 FHLB as of January 1, 1985, and

1 “(II) the total accumulated earn-
2 ings and profits of the FHLB as of the
3 time such dividend is paid which are al-
4 locable to periods after December 31,
5 1984.

6 “(C) DEFINITIONS.—For purposes of this
7 paragraph—

8 “(i) FHLB AND FHLMC.—The terms
9 ‘FHLB’ and ‘FHLMC’ mean any Federal
10 Home Loan Bank or the Federal Home
11 Loan Mortgage Corporation, respectively.

12 “(ii) TAXABLE YEAR.—The taxable
13 year of an FHLB shall, except as provided
14 in regulations prescribed by the Secretary, be
15 treated as the calendar year.”.

16 (c) TREATMENT OF NET OPERATING LOSSES OF THE
17 FEDERAL HOME LOAN MORTGAGE CORPORATION.—

18 (1) IN GENERAL.—Subparagraph (H) of section
19 172(b)(1) (relating to years to which net operating
20 losses may be carried) is amended—

21 (A) by inserting “, or a net operating loss of
22 the Federal Home Loan Mortgage Corporation for
23 any taxable year beginning after December 31,
24 1984” after “1981”,

1 (B) by striking out “the FNMA mortgage
2 disposition loss (within the meaning of subsection
3 (i))” in clause (i) and inserting in lieu thereof “the
4 FNMA mortgage disposition loss or the FHLMC
5 mortgage disposition loss (within the meaning of
6 subsection (i)), respectively,” and

7 (C) by inserting “or the FHLMC mortgage
8 disposition loss” after “FNMA mortgage disposi-
9 tion loss” in clause (ii).

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (A) of section 172(i)(1) is
12 amended—

13 (i) by striking out “the term ‘FNMA
14 mortgage disposition loss’ ” and inserting in
15 lieu thereof “the terms ‘FNMA mortgage
16 disposition loss’ and ‘FHLMC mortgage dis-
17 position loss’ ”, and

18 (ii) by inserting “by the Federal Nation-
19 al Mortgage Association or the Federal
20 Home Loan Mortgage Corporation, which-
21 ever is appropriate” after “indebtedness” in
22 clause (i).

23 (B) Paragraphs (1)(B) and (2) of section
24 172(i) are each amended by inserting “or

1 FHLMC mortgage disposition loss” after “FNMA
2 mortgage disposition loss”.

3 (C) The headings for subsection (i) and para-
4 graphs (1) and (1)(B) of subsection (i) of section
5 172 are each amended by inserting “or FHLMC
6 mortgage disposition loss” after “loss”.

7 (d) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendments made by this
9 section shall take effect on January 1, 1985.

10 (2) TRANSITION RULE FOR GAINS AND
11 LOSSES.—The adjusted basis of any asset of the Fed-
12 eral Home Loan Mortgage Corporation held on the
13 first day of the first taxable year of such Corporation
14 to which this section applies shall—

15 (A) for purposes of determining any loss, be
16 equal to the lesser of the adjusted basis of such
17 asset or the fair market value of such asset as of
18 such date, and

19 (B) for purposes of determining any gain, be
20 equal to the higher of the adjusted basis of such
21 asset or the fair market value of such asset as of
22 such date.

23 (3) TREATMENT OF PARTICIPATION CERTIFI-
24 CATES.—

1 (A) **IN GENERAL.**—Paragraph (2) shall not
2 apply to any asset which was represented by any
3 mortgage pool participation certificate or other
4 similar interest in any mortgage.

5 (B) **NONRECOGNITION FOR CERTAIN**
6 **SALES.**—If any gain is realized on the sale or ex-
7 change of an interest in any mortgage pool par-
8 ticipation certificate or other similar interest after
9 March 15, 1984, and before January 1, 1985, the
10 gain shall not be recognized when realized, but
11 shall be recognized on January 1, 1985.

12 (5) **NO ACCUMULATED EARNINGS AND PROF-**
13 **ITS.**—For purposes of the Internal Revenue Code of
14 1954, the Federal Home Loan Mortgage Corporation
15 shall be treated as having no accumulated earnings and
16 profits as of January 1, 1985.

17 (6) **ADJUSTED BASIS.**—For purposes of para-
18 graphs (2) and (3), the adjusted basis of any asset shall
19 be determined under part II of subchapter O of the In-
20 ternal Revenue Code of 1954.

21 **SEC. 188. APPLICATION OF RELATED PARTY RULE TO SEC-**
22 **TION 265(2).**

23 (a) **IN GENERAL.**—Section 265(2) (relating to denial of
24 deduction for interest relating to tax-exempt income), as
25 amended by this Act, is amended—

1 (1) by inserting “of the taxpayer or a related
2 person” after “indebtedness” the first place it appears,
3 and

4 (2) by adding at the end thereof the following new
5 sentence: “For purposes of this paragraph, the term
6 ‘related person’ has the meaning given such term by
7 section 1239(b).”.

8 (b) EFFECTIVE DATES.—

9 (1) IN GENERAL.—The amendments made by this
10 section shall apply to indebtedness incurred after the
11 date of the enactment of this Act, in taxable years
12 ending after such date.

13 (2) DEMAND LOANS.—In the case of a demand
14 loan in effect on the date of the enactment of this Act,
15 the amendments made by this section shall apply to
16 any indebtedness continued under such loan after the
17 60th day after such date.

18 **TITLE II—LIFE INSURANCE**
19 **PROVISIONS**

20 **SEC. 201. SHORT TITLE; ETC.**

21 (a) **SHORT TITLE.**—This title may be cited as the “Life
22 Insurance Tax Act of 1984”.

23 (b) **TABLE OF SECTIONS FOR PART I OF SUBCHAPTER**
24 **L.**—Under the amendment to part I of subchapter L made by

1 section 211(a), the subparts and sections of such part I will
2 be as follows:

PART I—LIFE INSURANCE COMPANIES

SUBPART A—TAX IMPOSED

Sec. 801. Tax imposed.

SUBPART B—LIFE INSURANCE GROSS INCOME

Sec. 803. Life insurance gross income.

SUBPART C—LIFE INSURANCE DEDUCTIONS

Sec. 804. Life insurance deductions.

Sec. 805. General deductions.

Sec. 806. Special deductions.

Sec. 807. Rules for certain reserves.

Sec. 808. Policyholder dividends deduction.

Sec. 809. Reduction in certain deductions of mutual life insurance companies.

Sec. 810. Operations loss deduction.

SUBPART D—ACCOUNTING, ALLOCATION, AND FOREIGN PROVISIONS

Sec. 811. Accounting provisions.

Sec. 812. Definition of company's share and policyholders' share.

Sec. 813. Foreign life insurance companies.

Sec. 814. Contiguous country branches of domestic life insurance companies.

Sec. 815. Distributions to shareholders from pre-1984 policyholders surplus account.

SUBPART E—DEFINITIONS AND SPECIAL RULES

Sec. 816. Life insurance company defined.

Sec. 817. Treatment of variable contracts.

Sec. 818. Other definitions and special rules.

3 **Subtitle A—Taxation of Life**
4 **Insurance Companies**

5 **PART I—AMENDMENT OF**

6 **SUBCHAPTER L**

7 **SEC. 211. AMENDMENT OF SUBCHAPTER L.**

8 (a) **GENERAL RULE.**—Part I of subchapter L of chapter
9 1 is amended to read as follows:

10 **“PART I—LIFE INSURANCE COMPANIES**

“Subpart A. Tax imposed.

“Subpart B. Life insurance gross income.

“Subpart C. Life insurance deductions.

“Subpart D. Accounting, allocation, and foreign provisions.

“Subpart E. Definitions and special rules.

1 **“Subpart A—Tax Imposed**

“Sec. 801. Tax imposed.

2 **“SEC. 801. TAX IMPOSED.**

3 **“(a) TAX IMPOSED.—**

4 **“(1) IN GENERAL.—**A tax is hereby imposed for
5 each taxable year on the life insurance company tax-
6 able income of every life insurance company. Such tax
7 shall consist of a tax computed as provided in section
8 11 as though the life insurance company taxable
9 income were the taxable income referred to in section
10 11.

11 **“(2) ALTERNATIVE TAX IN CASE OF CAPITAL**
12 **GAINS.—**

13 **“(A) IN GENERAL.—**If a life insurance com-
14 pany has a net capital gain for the taxable year,
15 then (in lieu of the tax imposed by paragraph (1)),
16 there is hereby imposed a tax (if such tax is less
17 than the tax imposed by paragraph (1)).

18 **“(B) AMOUNT OF TAX.—**The amount of the
19 tax imposed by this paragraph shall be the sum
20 of—

21 **“(i) a partial tax, computed as provided**
22 **by paragraph (1), on the life insurance com-**

1 "SEC. 803. LIFE INSURANCE GROSS INCOME.

2 "(a) IN GENERAL.—For purposes of this part, the term
3 'life insurance gross income' means the sum of the following
4 amounts:

5 "(1) PREMIUMS.—

6 "(A) The gross amount of premiums and
7 other consideration on insurance and annuity con-
8 tracts, less

9 "(B) return premiums, and premiums and
10 other consideration arising out of indemnity rein-
11 surance.

12 "(2) DECREASES IN CERTAIN RESERVES.—Each
13 net decrease in reserves which is required by section
14 807(a) to be taken into account under this paragraph.

15 "(3) OTHER AMOUNTS.—All amounts not includi-
16 ble under paragraph (1) or (2) which under this subtitle
17 are includible in gross income.

18 "(b) SPECIAL RULES FOR PREMIUMS.—

19 "(1) CERTAIN ITEMS INCLUDED.—For purposes
20 of subsection (a)(1)(A), the term 'gross amount of pre-
21 miums and other consideration' includes—

22 "(A) advance premiums,

23 "(B) deposits,

24 "(C) fees,

25 "(D) assessments,

1 “(E) consideration in respect of assuming li-
2 abilities under contracts not issued by the taxpay-
3 er, and

4 “(F) the amount of policyholder dividends
5 reimbursable to the taxpayer by a reinsurer in re-
6 spect of reinsured policies,
7 on insurance and annuity contracts.

8 “(2) POLICYHOLDER DIVIDENDS EXCLUDED
9 FROM RETURN PREMIUMS.—For purposes of subsec-
10 tion (a)(1)(B)—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), the term ‘return premiums’
13 does not include any policyholder dividends.

14 “(B) EXCEPTION FOR INDEMNITY REINSUR-
15 ANCE.—Subparagraph (A) shall not apply to
16 amounts of premiums or other consideration re-
17 turned to another life insurance company in re-
18 spect of indemnity reinsurance.

19 **“Subpart C—Life Insurance Deductions**

“Sec. 804. Life insurance deductions.

“Sec. 805. General deductions.

“Sec. 806. Special deductions.

“Sec. 807. Rules for certain reserves.

“Sec. 808. Policyholder dividends deduction.

“Sec. 809. Reduction in certain deductions of mutual life insurance companies.

“Sec. 810. Operations loss deduction.

1 **"SEC. 804. LIFE INSURANCE DEDUCTIONS.**

2 "For purposes of this part, the term 'life insurance de-
3 ductions' means—

4 "(1) the general deductions provided in section
5 805,

6 "(2) the special life insurance company deduction
7 determined under section 806(a), and

8 "(3) the small life insurance company deduction (if
9 any) determined under section 806(b).

10 **"SEC. 805. GENERAL DEDUCTIONS.**

11 "(a) **GENERAL RULE.**—For purposes of this part, there
12 shall be allowed the following deductions:

13 "(1) **DEATH BENEFITS, ETC.**—All claims and
14 benefits accrued, and all losses incurred (whether or
15 not ascertained), during the taxable year on insurance
16 and annuity contracts.

17 "(2) **INCREASES IN CERTAIN RESERVES.**—The
18 net increase in reserves which is required by section
19 807(b) to be taken into account under this paragraph.

20 "(3) **POLICYHOLDER DIVIDENDS.**—The deduction
21 for policyholder dividends (determined under section
22 808(c)).

23 "(4) **DIVIDENDS RECEIVED BY COMPANY.**—

24 "(A) **IN GENERAL.**—The deductions pro-
25 vided by sections 243, 244, and 245 (as modified
26 by subparagraph (B))—

1 “(i) for 100 percent dividends received,
2 and

3 “(ii) for the life insurance company’s
4 share of the dividends (other than 100 per-
5 cent dividends) received.

6 “(B) APPLICATION OF SECTION 246(b).—In
7 applying section 246(b) (relating to limitation on
8 aggregate amount of deductions for dividends re-
9 ceived) for purposes of subparagraph (A), the limit
10 on the aggregate amount of the deductions al-
11 lowed by sections 243(a)(1), 244(a), and 245 shall
12 be 85 percent of the life insurance company tax-
13 able income, computed without regard to—

14 “(i) the special life insurance company
15 deduction and the small life insurance com-
16 pany deduction,

17 “(ii) the operations loss deduction pro-
18 vided by section 810,

19 “(iii) the deductions allowed by sections
20 243(a)(1), 244(a), and 245, and

21 “(iv) any capital loss carryback to the
22 taxable year under section 1212(a)(1),

23 but such limit shall not apply for any taxable year
24 for which there is a loss from operations.

1 “(C) 100 PERCENT DIVIDEND.—For pur-
2 poses of subparagraph (A), the term ‘100 percent
3 dividend’ means any dividend if the percentage
4 used for purposes of determining the deduction al-
5 lowable under section 243 or 244 is 100 percent.
6 Such term does not include any dividend to the
7 extent it is a distribution out of tax-exempt inter-
8 est or out of dividends which are not 100 percent
9 dividends (determined with the application of this
10 sentence).

11 “(D) CERTAIN DIVIDENDS RECEIVED IN THE
12 CASE OF FOREIGN CORPORATIONS.—Subpara-
13 graph (A)(i) (and not subparagraph (A)(ii)) shall
14 apply to any dividend which would be a 100 per-
15 cent dividend if section 1504(b)(3) did not apply
16 for purposes of applying section 243(b)(5).

17 “(5) OPERATIONS LOSS DEDUCTION.—The oper-
18 ations loss deduction (determined under section 810).

19 “(6) ASSUMPTION BY ANOTHER PERSON OF LI-
20 ABILITIES UNDER INSURANCE, ETC., CONTRACTS.—
21 The consideration (other than consideration arising out
22 of indemnity reinsurance) in respect of the assumption
23 by another person of liabilities under insurance and an-
24 nuity contracts.

1 “(7) REIMBURSABLE DIVIDENDS.—The amount of
2 policyholder dividends which—

3 “(A) are paid or accrued by another insur-
4 ance company in respect of policies the taxpayer
5 has reinsured, and

6 “(B) are reimbursable by the taxpayer under
7 the terms of the reinsurance contract.

8 “(8) OTHER DEDUCTIONS.—Subject to the modifi-
9 cations provided by subsection (b), all other deductions
10 allowed under this subtitle for purposes of computing
11 taxable income.

12 Except as provided in paragraph (3), no amount shall be al-
13 lowed as a deduction under this part in respect of policy-
14 holder dividends.

15 “(b) MODIFICATIONS.—The modifications referred to in
16 subsection (a)(8) are as follows:

17 “(1) INTEREST.—In applying section 163 (relat-
18 ing to deduction for interest), no deduction shall be
19 allowed for interest in respect of items described in
20 section 807(c).

21 “(2) BAD DEBTS.—Section 166(c) (relating to
22 reserve for bad debts) shall not apply.

23 “(3) CHARITABLE, ETC., CONTRIBUTIONS AND
24 GIFTS.—In applying section 170—

1 “(A) the limit on the total deductions under
2 such section provided by section 170(b)(2) shall be
3 10 percent of the life insurance company taxable
4 income computed without regard to—

5 “(i) the deduction provided by section
6 170,

7 “(ii) the deductions provided by para-
8 graphs (3) and (4) of subsection (a),

9 “(iii) the special life insurance company
10 deduction and the small life insurance com-
11 pany deduction,

12 “(iv) any operations loss carryback to
13 the taxable year under section 810, and

14 “(v) any capital loss carryback to the
15 taxable year under section 1212(a)(1), and

16 “(B) under regulations prescribed by the Sec-
17 retary, a rule similar to the rule contained in sec-
18 tion 170(d)(2)(B) (relating to special rule for net
19 operating loss carryovers) shall be applied.

20 “(4) AMORTIZABLE BOND PREMIUM.—

21 “(A) IN GENERAL.—Section 171 shall not
22 apply.

23 “(B) CROSS REFERENCE.—

"For rules relating to amortizable bond premium, see section 811(b).

1 “(5) NET OPERATING LOSS DEDUCTION.—Except
2 as provided by section 844, the deduction for net oper-
3 ating losses provided in section 172 shall not be
4 allowed.

5 “(6) DIVIDENDS RECEIVED DEDUCTION.—Except
6 as provided in subsection (a)(4), the deductions for divi-
7 dends received provided by sections 243, 244, and 245
8 shall not be allowed.

9 “SEC. 806. SPECIAL DEDUCTIONS.

10 “(a) SPECIAL LIFE INSURANCE COMPANY DEDUC-
11 TION.—For purposes of section 804, the special life insur-
12 ance company deduction for any taxable year is 20 percent of
13 the excess of the tentative LICTI for such taxable year over
14 the small life insurance company deduction (if any).

15 “(b) SMALL LIFE INSURANCE COMPANY DEDUC-
16 TION.—

17 “(1) IN GENERAL.—For purposes of section 804,
18 the small life insurance company deduction for any tax-
19 able year is 60 percent of so much of the tentative
20 LICTI for such taxable year as does not exceed
21 \$3,000,000.

22 “(2) PHASEOUT BETWEEN \$3,000,000 AND
23 \$15,000,000.—The amount of the small life insurance
24 company deduction determined under paragraph (1) for

1 any taxable year shall be reduced (but not below zero)
2 by 15 percent of so much of the tentative LICTI for
3 such taxable year as exceeds \$3,000,000.

4 “(3) SMALL LIFE INSURANCE COMPANY DEDUC-
5 TION NOT ALLOWABLE TO COMPANY WITH ASSETS
6 OF \$500,000,000 OR MORE.—

7 “(A) IN GENERAL.—The small life insurance
8 company deduction shall not be allowed for any
9 taxable year to any life insurance company which,
10 at the close of such taxable year, has assets equal
11 to or greater than \$500,000,000.

12 “(B) ASSETS.—For purposes of this para-
13 graph, the term ‘assets’ means all assets of the
14 company.

15 “(C) VALUATION OF ASSETS.—For pur-
16 poses of this paragraph, the amount attributable
17 to—

18 “(i) real property and stock shall be the
19 fair market value thereof, and

20 “(ii) any other asset shall be the adjust-
21 ed basis of such asset for purposes of deter-
22 mining gain on sale or other disposition.

23 “(D) SPECIAL RULE FOR INTERESTS IN
24 PARTNERSHIPS AND TRUSTS.—For purposes of
25 this paragraph—

1 “(i) an interest in a partnership or trust
2 shall not be treated as an asset of the com-
3 pany, but

4 “(ii) the company shall be treated as ac-
5 tually owning its proportionate share of the
6 assets held by the partnership or trust (as
7 the case may be).

8 “(c) TENTATIVE LICTI.—For purposes of this part—

9 “(1) IN GENERAL.—The term ‘tentative LICTI’
10 means life insurance company taxable income deter-
11 mined without regard to—

12 “(A) the special life insurance company de-
13 duction, and

14 “(B) the small life insurance company deduc-
15 tion.

16 “(2) EXCLUSION OF ITEMS ATTRIBUTABLE TO
17 NONINSURANCE BUSINESSES.—The amount of the ten-
18 tative LICTI for any taxable year shall be determined
19 without regard to all items attributable to noninsurance
20 businesses.

21 “(3) NONINSURANCE BUSINESS.—

22 “(A) IN GENERAL.—The term ‘noninsurance
23 business’ means any activity which is not an in-
24 surance business.

1 “(B) CERTAIN ACTIVITIES TREATED AS IN-
2 SURANCE BUSINESSES.—For purposes of subpar-
3 agraph (A), any activity which is not an insurance
4 business shall be treated as an insurance business
5 if it is of a type traditionally carried on by life in-
6 surance companies and—

7 “(i) is carried on for investment pur-
8 poses but only if the carrying on of such ac-
9 tivity (other than in the case of real estate)
10 does not constitute the active conduct of a
11 trade or business, or

12 “(ii) involves the performance of admin-
13 istrative services in connection with plans
14 providing life insurance, pension, or accident
15 and health benefits.

16 “(d) SPECIAL RULE FOR CONTROLLED GROUPS.—

17 “(1) SPECIAL LIFE INSURANCE COMPANY DE-
18 DUCTION AND SMALL LIFE INSURANCE COMPANY DE-
19 DUCTION DETERMINED ON CONTROLLED GROUP
20 BASIS.—For purposes of subsections (a) and (b)—

21 “(A) all life insurance companies which are
22 members of the same controlled group shall be
23 treated as 1 life insurance company, and

24 “(B) any special life insurance company de-
25 duction and any small life insurance company de-

1 duction determined with respect to such group
2 shall be allocated among the life insurance compa-
3 nies which are members of such group in propor-
4 tion to their respective tentative LICIT's.

5 “(2) **NONLIFE INSURANCE MEMBERS INCLUDED**
6 **FOR ASSET TEST.**—For purposes of subsection (b)(3),
7 all members of the same controlled group (whether or
8 not life insurance companies) shall be treated as 1 com-
9 pany.

10 “(3) **CONTROLLED GROUP.**—For purposes of this
11 subsection, the term ‘controlled group’ means any con-
12 trolled group of corporations (as defined in section
13 1563(a)); except that subsections (a)(4) and (b)(2)(D) of
14 section 1563 shall not apply.

15 “(4) **ELECTION WITH RESPECT TO LOSS FROM**
16 **OPERATIONS OF MEMBER OF GROUP.**—

17 “(A) **IN GENERAL.**—Any life insurance com-
18 pany which is a member of a controlled group
19 may elect to have its loss from operations for any
20 taxable year not taken into account for purposes
21 of determining the amount of the special life in-
22 surance company deduction for the life insurance
23 companies which are members of such group and
24 which do not file a consolidated return with such
25 life insurance company for the taxable year.

1 “(B) LIMITATION ON AMOUNT OF LOSS
2 WHICH MAY OFFSET NONLIFE INCOME.—In the
3 case of that portion of any loss from operations
4 for any taxable year of a life insurance company
5 which (but for subparagraph (A)) would have re-
6 duced tentative LICTI of other life insurance
7 companies for such taxable year—

8 “(i) only 80 percent of such portion may
9 be used to offset nonlife income, and

10 “(ii) to the extent such portion is used
11 to offset nonlife income, the loss shall be
12 treated as used at a rate of \$1 for each 80
13 cents of income so offset.

14 For purposes of the preceding sentence, any such
15 portion shall be used before the remaining portion
16 of the loss from the same year and shall be treat-
17 ed as first being offset against income which is
18 not nonlife income.

19 “(C) NONLIFE INCOME.—

20 “(i) IN GENERAL.—The term ‘nonlife
21 income’ means the portion of the life insur-
22 ance company’s taxable income for which the
23 special life insurance company deduction was
24 not allowable and any income of a corpora-
25 tion not subject to tax under this part.

1 “(ii) SPECIAL RULE FOR TAXABLE
2 YEARS BEGINNING BEFORE JANUARY 1,
3 1984.—In the case of a taxable year begin-
4 ning before January 1, 1984, all life insur-
5 ance company taxable income shall be treat-
6 ed as nonlife income.

7 “(5) ADJUSTMENTS TO PREVENT EXCESS DETRI-
8 MENT OR BENEFIT.—Under regulations prescribed by
9 the Secretary, proper adjustments shall be made in the
10 application of this subsection to prevent any excess
11 detriment or benefit (whether from year-to-year or oth-
12 erwise) arising from the application of this subsection.

13 “(e) ELECTION OF THE ALTERNATIVE LIFE INSUR-
14 ANCE COMPANY DEDUCTION.—

15 “(1) IN GENERAL.—Any life insurance company
16 may elect for the taxable year to treat as the aggre-
17 gate of the special life insurance company deduction
18 under subsection (a) and the small life insurance com-
19 pany deduction under subsection (b) for such year the
20 amount of the deduction computed under this subsec-
21 tion.

22 “(2) AMOUNT OF DEDUCTION.—

23 “(A) IN GENERAL.—The amount of the de-
24 duction computed under this subsection for any
25 taxable year is the sum of—

1 “(i) an amount equal to 20 percent of
2 the life insurance company’s qualified first-
3 year premiums for the taxable year, multi-
4 plied by the phase-out percentage for the
5 taxable year, plus

6 “(ii) an amount equal to the aggregate
7 deductions which (but for the election under
8 this subsection) would be allowed under sub-
9 sections (a) and (b) for the taxable year, mul-
10 tplied by the phase-in percentage for such
11 year.

12 “(B) PHASE-OUT AND PHASE-IN PERCENT-
13 AGES.—The phase-out and phase-in percentages
14 for any taxable year shall be determined in ac-
15 cordance with the following table:

“For taxable years beginning in:	The phase-out percentage is:	The phase-in percentage is:
1984	80	20
1985	60	40
1986	40	60
1987	20	80
1988 or thereafter	0	100

16 “(3) QUALIFIED FIRST-YEAR PREMIUMS.—

17 “(A) IN GENERAL.—For purposes of this
18 paragraph, the term ‘qualified first-year premium’
19 means (i) the premiums received by the life insur-
20 ance company during the taxable year for the first
21 year of coverage under any newly issued qualified
22 contract (which was directly issued by such com-

1 pany with respect to the life or health of an indi-
2 vidual during the taxable year), reduced by (ii)
3 premiums paid for reinsurance ceded with respect
4 to such contracts.

5 “(B) MAXIMUM PREMIUM TAKEN INTO AC-
6 COUNT.—The amount taken into account under
7 subparagraph (A) with respect to the first year of
8 coverage under any contract shall not exceed 200
9 percent of the net level premium required for the
10 benefits provided under the contract, computed by
11 assuming that the contract extends for and premi-
12 ums are payable until the insured attains age 95
13 or, if later, the maturity date of the contract.

14 “(C) NEWLY ISSUED.—A contract shall be
15 treated as newly issued only if—

16 “(i) the contract is not a renewal of an-
17 other contract, and

18 “(ii) such contract does not provide cov-
19 erage to an individual who was covered
20 (during the taxable year or the preceding
21 taxable year) under another contract of the
22 same type issued by such company or by a
23 company which is in the same controlled
24 group (within the meaning of subsection
25 (d)(3)) as such company.

1 “(D) QUALIFIED CONTRACT.—For purposes
2 of this paragraph, the term ‘qualified contract’
3 means any individual ordinary life insurance or in-
4 dividual noncancellable accident and health insur-
5 ance contract, and does not include—

6 “(i) any annuity contract,

7 “(ii) any group contract,

8 “(iii) any credit life contract,

9 “(iv) any single premium contract, and

10 “(v) any contract having the term of
11 one year or less.

12 “(4) SPECIAL RULES RELATING TO ELECTION.—

13 An election may be made under paragraph (1) for any
14 taxable year only if it is made for the taxable year by
15 all life insurance companies which are members of the
16 same controlled group (within the meaning of subsec-
17 tion (d)(3)) as the electing company. Any such election,
18 once made, shall apply to all taxable years beginning
19 before 1988 unless such company revokes such election
20 for any taxable year. A revocation of such election by
21 one member of a controlled group (within the meaning
22 of subsection (d)(?) shall be treated as a revocation of
23 such election by all members of such group. A compa-
24 ny which has revoked its election under this subsection

1 for any taxable year may not make an election under
2 this subsection for any succeeding taxable year.

3 “(5) DEDUCTION ALLOWED ONLY AGAINST LIFE
4 INSURANCE INCOME.—Under regulations prescribed by
5 the Secretary, if the amount of the deduction under
6 this subsection creates or increases a loss from oper-
7 ations for a life insurance company for any taxable
8 year—

9 “(A) the portion of such loss so created or
10 increased shall not be allowed as an offset against
11 nonlife income (as defined in subsection
12 806(d)(4)(C)) of such company or any other com-
13 pany, and

14 “(B) paragraph (4) of subsection (d) shall not
15 apply.

16 **“SEC. 807. RULES FOR CERTAIN RESERVES.**

17 “(a) DECREASE TREATED AS GROSS INCOME.—If for
18 any taxable year—

19 “(1) the opening balance for the items described
20 in subsection (c), exceeds

21 “(2)(A) the closing balance for such items, re-
22 duced by

23 “(B) the sum of (i) the amount of the policyhold-
24 ers’ share of tax-exempt interest, plus (ii) any excess
25 described in section 809(a)(2) for the taxable year,

1 such excess shall be included in gross income under section
2 803(a)(2).

3 “(b) INCREASE TREATED AS DEDUCTION.—If for any
4 taxable year—

5 “(1)(A) the closing balance for the items described
6 in subsection (c), reduced by

7 “(B) the sum of (i) the amount of the policyhold-
8 ers’ share of tax-exempt interest, plus (ii) any excess
9 described in section 809(a)(2) for the taxable year, ex-
10 ceeds

11 “(2) the opening balance for such items,
12 such excess shall be taken into account as a deduction under
13 section 805(a)(2).

14 “(c) ITEMS TAKEN INTO ACCOUNT.—The items re-
15 ferred to in subsections (a) and (b) are as follows:

16 “(1) The life insurance reserves (as defined in sec-
17 tion 816(b)).

18 “(2) The unearned premiums and unpaid losses in-
19 cluded in total reserves under section 816(c)(2).

20 “(3) The amounts (discounted at the appropriate
21 rate of interest) necessary to satisfy the obligations
22 under insurance and annuity contracts, but only if such
23 obligations do not involve (at the time with respect to
24 which the computation is made under this paragraph)
25 life, accident, or health contingencies.

1 “(4) Dividend accumulations, and other amounts,
2 held at interest in connection with insurance and annu-
3 ity contracts.

4 “(5) Premiums received in advance, and liabilities
5 for premium deposit funds.

6 “(6) Reasonable special contingency reserves
7 under contracts of group term life insurance or group
8 accident and health insurance which are established
9 and maintained for the provision of insurance on retired
10 lives, for premium stabilization, or for a combination
11 thereof.

12 For purposes of paragraph (3), the appropriate rate of inter-
13 est for any obligation is the higher of the prevailing State
14 assumed interest rate as of the time such obligation first did
15 not involve life, accident, or health contingencies or the rate
16 of interest assumed by the company (as of such time) in de-
17 termining the guaranteed benefit.

18 “(d) METHOD OF COMPUTING RESERVES FOR PUR-
19 POSES OF DETERMINING INCOME.—

20 “(1) IN GENERAL.—For purposes of this part
21 (other than section 816), the amount of the life insur-
22 ance reserves for any contract shall be the greater of—

23 “(A) the net surrender value of such con-
24 tract, or

1 “(B) the reserve determined under paragraph
2 (2).

3 In no event shall the reserve determined under the
4 preceding sentence for any contract as of any time
5 exceed the amount which would be taken into account
6 with respect to such contract as of such time in deter-
7 mining statutory reserves (as defined in section
8 809(b)(4)(B)).

9 “(2) AMOUNT OF RESERVE.—The amount of the
10 reserve determined under this paragraph with respect
11 to any contract shall be determined by using—

12 “(A) the tax reserve method applicable to
13 such contract,

14 “(B) the prevailing State assumed interest
15 rate, and

16 “(C) the prevailing commissioners’ standard
17 tables for mortality and morbidity adjusted as ap-
18 propriate to reflect the risks (such as substandard
19 risks) incurred under the contract which are not
20 otherwise taken into account.

21 “(3) TAX RESERVE METHOD.—For purposes of
22 this subsection—

23 “(A) IN GENERAL.—The term ‘tax reserve
24 method’ means—

1 “(i) LIFE INSURANCE CONTRACTS.—
2 The CRVM in the case of a contract covered
3 by the CRVM.

4 “(ii) ANNUITY CONTRACTS.—The
5 CARVM in the case of a contract covered by
6 the CARVM.

7 “(iii) NONCANCELLABLE ACCIDENT
8 AND HEALTH INSURANCE CONTRACTS.—In
9 the case of any noncancellable accident and
10 health insurance contract, a 2-year full pre-
11 liminary term method.

12 “(iv) OTHER CONTRACTS.—In the case
13 of any contract not described in clause (i),
14 (ii), or (iii)—

15 “(I) the reserve method prescribed
16 by the National Association of Insur-
17 ance Commissioners which covers such
18 contract (as of the date of issuance), or

19 “(II) if no reserve method has
20 been prescribed by the National Associ-
21 ation of Insurance Commissioners which
22 covers such contract, a reserve method
23 which is consistent with the reserve
24 method required under clause (i), (ii), or
25 (iii) or under subclause (I) of this clause

1 as of the date of the issuance of such
2 contract (whichever is most appropri-
3 ate).

4 “(B) DEFINITION OF CRVM AND
5 CARVM.—For purposes of this paragraph—

6 “(i) CRVM.—The term ‘CRVM’ means
7 the Commissioners’ Reserve Valuation
8 Method prescribed by the National Associ-
9 ation of Insurance Commissioners which is in
10 effect on the date of the issuance of the con-
11 tract.

12 “(ii) CARVM.—The term ‘CARVM’
13 means the Commissioners’ Annuities Reserve
14 Valuation Method prescribed by the National
15 Association of Insurance Commissioners
16 which is in effect on the date of the issuance
17 of the contract.

18 “(C) NO ADDITIONAL RESERVE DEDUCTION
19 ALLOWED FOR DEFICIENCY RESERVES.—Nothing
20 in any reserve method described under this para-
21 graph shall permit any increase in the reserve be-
22 cause the net level premium (computed on the
23 basis of assumptions required under this subsec-
24 tion) exceeds the actual premiums or other consid-
25 eration charged for the benefit.

1 “(4) PREVAILING STATE ASSUMED INTEREST
2 RATE.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘prevailing
4 State assumed interest rate’ means, with respect
5 to any contract, the highest assumed interest rate
6 permitted to be used in computing life insurance
7 reserves for insurance contracts or annuity con-
8 tracts (as the case may be) under the insurance
9 laws of at least 26 States. For purposes of the
10 preceding sentence, the effect of the nonforfeiture
11 laws of a State on interest rates for reserves shall
12 not be taken into account.

13 “(B) WHEN RATE DETERMINED.—Except as
14 provided in subparagraph (C), the prevailing State
15 assumed rate with respect to any contract shall be
16 determined as of the beginning of the calendar
17 year in which the contract was issued.

18 “(C) ELECTION FOR NONANNUITY CON-
19 TRACTS.—In the case of a contract other than an
20 annuity contract, the issuer may elect (at such
21 time and in such manner as the Secretary shall by
22 regulations prescribe) to determine the prevailing
23 State assumed rate as of the beginning of the cal-
24 endar year preceding the calendar year in which
25 the contract was issued.

1 “(5) PREVAILING COMMISSIONERS’ STANDARD
2 TABLES.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘prevailing
4 commissioners’ standard tables’ means, with re-
5 spect to any contract, the most recent commis-
6 sioners’ standard tables prescribed by the National
7 Association of Insurance Commissioners which
8 are permitted to be used in computing reserves for
9 that type of contract under the insurance laws of
10 at least 26 States when the contract was issued.

11 “(B) INSURER MAY USE OLD TABLES FOR 3
12 YEARS WHEN TABLES CHANGE.—If the prevail-
13 ing commissioners’ standard tables as of the be-
14 ginning of any calendar year (hereinafter in this
15 subparagraph referred to as the ‘year of change’)
16 is different from the prevailing commissioners’
17 standard tables as of the beginning of the preced-
18 ing calendar year, the issuer may use the prevail-
19 ing commissioners’ standard tables as of the be-
20 ginning of the preceding calendar year with re-
21 spect to any contract issued after the change and
22 before the close of the 3-year period beginning on
23 the first day of the year of change.

24 “(C) SPECIAL RULE FOR CONTRACTS FOR
25 WHICH THERE ARE NO COMMISSIONERS’ STAND-

1 ARD TABLES.—If there are no commissioners'
2 standard tables applicable to any contract when it
3 is issued, the mortality and morbidity tables
4 used for purposes of paragraph (2)(C) shall be de-
5 termined under regulations prescribed by the Sec-
6 retary.

7 “(D) SPECIAL RULE FOR CONTRACTS
8 ISSUED BEFORE 1948.—If—

9 “(i) a contract was issued before 1948,
10 and

11 “(ii) there were no commissioners'
12 standard tables applicable to such contract
13 when it was issued,

14 the mortality and morbidity tables used in com-
15 puting statutory reserves for such contracts shall
16 be used for purposes of paragraph (2)(C).

17 “(E) SPECIAL RULE WHERE MORE THAN 1
18 TABLE OR OPTION APPLICABLE.—If, with re-
19 spect to any category of risks, there are 2 or
20 more tables (or options under 1 or more tables)
21 which meet the requirements of subparagraph (A)
22 (or, where applicable, subparagraph (B) or (C)),
23 the table (and option thereunder) which generally
24 yields the lowest reserves shall be used for pur-
25 poses of paragraph (2)(C).

1 “(e) SPECIAL RULES FOR COMPUTING RESERVES.—

2 “(1) NET SURRENDER VALUE.—For purposes of
3 this section—

4 “(A) IN GENERAL.—The net surrender value
5 of any contract shall be determined—

6 “(i) with regard to any penalty or
7 charge which would be imposed on surren-
8 der, but

9 “(ii) without regard to any market value
10 adjustment on surrender.

11 “(B) SPECIAL RULE FOR PENSION PLAN
12 CONTRACTS.—In the case of a pension plan con-
13 tract, the balance in the policyholder’s fund (de-
14 termined without regard to any market value ad-
15 justment) shall be treated as the net surrender
16 value of such contract.

17 “(2) ISSUANCE DATE IN CASE OF GROUP CON-
18 TRACTS.—For purposes of this section, in the case of a
19 group contract, the date on which such contract is
20 issued shall be the date as of which the master plan is
21 issued (or, with respect to a benefit guaranteed to a
22 participant after such date, the date as of which such
23 benefit is guaranteed).

24 “(3) SUPPLEMENTAL BENEFITS.—

1 “(A) QUALIFIED SUPPLEMENTAL BENEFITS
2 TREATED SEPARATELY.—For purposes of this
3 part, the amount of the life insurance reserve for
4 any qualified supplemental benefit—

5 “(i) shall be computed separately as
6 though such benefit were under a separate
7 contract, and

8 “(ii) shall, except to the extent other-
9 wise provided in regulations, be the reserve
10 taken into account for purposes of the annual
11 statement approved by the National Associ-
12 ation of Insurance Commissioners.

13 “(B) SUPPLEMENTAL BENEFITS WHICH ARE
14 NOT QUALIFIED SUPPLEMENTAL BENEFITS.—In
15 the case of any supplemental benefit described in
16 subparagraph (D) which is not a qualified supple-
17 mental benefit, the amount of the reserve deter-
18 mined under paragraph (2) of subsection (d) shall,
19 except to the extent otherwise provided in regula-
20 tions, be the reserve taken into account for pur-
21 poses of the annual statement approved by the
22 National Association of Insurance Commissioners.

23 “(C) QUALIFIED SUPPLEMENTAL BENE-
24 FIT.—For purposes of this paragraph, the term

1 'qualified supplemental benefit' means any supple-
 2 mental benefit described in subparagraph (D) if—

3 "(i) there is a separately identified pre-
 4 mium or charge for such benefit, and

5 "(ii) any net surrender value under the
 6 contract attributable to any other benefit is
 7 not available to fund such benefit.

8 "(D) SUPPLEMENTAL BENEFITS.—For pur-
 9 poses of this paragraph, the supplemental benefits
 10 described in this subparagraph are any—

11 "(i) guaranteed insurability,

12 "(ii) accidental death or disability bene-
 13 fit,

14 "(iii) convertibility,

15 "(iv) disability waiver benefit, or

16 "(v) other benefit prescribed by regula-
 17 tions,

18 which is supplemental to a contract for which
 19 there is a reserve described in subsection (c).

20 "(4) CERTAIN CONTRACTS ISSUED BY FOREIGN
 21 BRANCHES OF DOMESTIC LIFE INSURANCE COMPA-
 22 NIES.—

23 "(A) IN GENERAL.—In the case of any
 24 qualified foreign contract, the amount of the re-
 25 serve shall be not less than the minimum reserve

1 required by the laws, regulations, or administra-
 2 tive guidance of the regulatory authority of the
 3 foreign country referred to in subparagraph (B)
 4 (but not to exceed the net level reserves for such
 5 contract).

6 “(B) QUALIFIED FOREIGN CONTRACT.—For
 7 purposes of subparagraph (A), the term ‘qualified
 8 foreign contract’ means any contract issued by a
 9 foreign life insurance branch (which has its princi-
 10 pal place of business in a foreign country) of a do-
 11 mestic life insurance company if—

12 “(i) such contract is issued on the life or
 13 health of a resident of such country,

14 “(ii) such domestic life insurance compa-
 15 ny was required by such foreign country (as
 16 of the time it began operations in such coun-
 17 try) to operate in such country through a
 18 branch, and

19 “(iii) such foreign country is not contig-
 20 uous to the United States.

21 “(5) TREATMENT OF SUBSTANDARD RISKS.—

22 “(A) SEPARATE COMPUTATION.—Except to
 23 the extent provided in regulations, the amount of
 24 the life insurance reserve for any qualified sub-
 25 standard risk shall be computed separately under

1 subsection (d)(1) from any other reserve under the
2 contract.

3 “(B) QUALIFIED SUBSTANDARD RISK.—For
4 purposes of subparagraph (A), the term ‘qualified
5 substandard risk’ means any substandard risk if—

6 “(i) the insurance company maintains a
7 separate reserve for such risk,

8 “(ii) there is a separately identified pre-
9 mium or charge for such risk,

10 “(iii) the amount of the net surrender
11 value under the contract is not increased or
12 decreased by reason of such risk, and

13 “(iv) the net surrender value under the
14 contract is not regularly used to pay premi-
15 um charges for such risk.

16 “(C) LIMITATION ON AMOUNT OF LIFE IN-
17 SURANCE RESERVE.—The amount of the life in-
18 surance reserve determined for any qualified sub-
19 standard risk shall in no event exceed the sum of
20 the separately identified premiums charged for
21 such risk plus interest less mortality charges for
22 such risk.

23 “(D) LIMITATION ON AMOUNT OF CON-
24 TRACTS TO WHICH PARAGRAPH APPLIES.—The
25 aggregate amount of insurance in force under con-

1 tracts to which this paragraph applies shall not
2 exceed 10 percent of the insurance in force (other
3 than term insurance) under life insurance con-
4 tracts of the company.

5 “(6) SPECIAL RULES FOR CONTRACTS ISSUED
6 BEFORE JANUARY 1, 1989, UNDER EXISTING PLANS
7 OF INSURANCE, WITH TERM INSURANCE OR ANNUITY
8 BENEFITS.—For purposes of this part—

9 “(A) IN GENERAL.—In the case of a life in-
10 surance contract issued before January 1, 1989,
11 under an existing plan of insurance, the life insur-
12 ance reserve for any benefit to which this para-
13 graph applies shall be computed separately under
14 subsection (d)(1) from any other reserve under the
15 contract.

16 “(B) BENEFITS TO WHICH THIS PARA-
17 GRAPH APPLIES.—This paragraph applies to any
18 term insurance or annuity benefit with respect to
19 which the requirements of clauses (i) and (ii) of
20 paragraph (3)(C) are met.

21 “(C) EXISTING PLAN OF INSURANCE.—For
22 purposes of this paragraph, the term ‘existing plan
23 of insurance’ means, with respect to any contract,
24 any plan of insurance which was filed by the com-
25 pany using such contract in one or more States

1 before January 1, 1984, and is on file in the ap-
2 propriate State for such contract.

3 “(f) ADJUSTMENT FOR CHANGE IN COMPUTING RE-
4 SERVES.—

5 “(1) 10-YEAR SPREAD.—

6 “(A) IN GENERAL.—For purposes of this
7 part, if the basis for determining any item referred
8 to in subsection (c) as of the close of any taxable
9 year differs from the basis for such determination
10 as of the close of the preceding taxable year, then
11 so much of the difference between—

12 “(i) the amount of the item at the close
13 of the taxable year, computed on the new
14 basis, and

15 “(ii) the amount of the item at the close
16 of the taxable year, computed on the old
17 basis,

18 as is attributable to contracts issued before the
19 taxable year shall be taken into account under the
20 method provided in subparagraph (B).

21 “(B) METHOD.—The method provided in this
22 subparagraph is as follows:

23 “(i) if the amount determined under sub-
24 paragraph (A)(i) exceeds the amount deter-
25 mined under subparagraph (A)(ii), $\frac{1}{10}$ of

1 such excess shall be taken into account, for
2 each of the succeeding 10 taxable years, as a
3 deduction under section 805(a)(2); or

4 “(ii) if the amount determined under
5 subparagraph (A)(ii) exceeds the amount de-
6 termined under subparagraph (A)(i), $\frac{1}{10}$ of
7 such excess shall be included in gross
8 income, for each of the 10 succeeding tax-
9 able years, under section 803(a)(2).

10 “(2) **TERMINATION AS LIFE INSURANCE COM-**
11 **PANY.**—Except as provided in section 381(c)(22) (re-
12 lating to carryovers in certain corporate readjust-
13 ments), if for any taxable year the taxpayer is not a
14 life insurance company, the balance of any adjustments
15 under this subsection shall be taken into account for
16 the preceding taxable year.

17 **“SEC. 808. POLICYHOLDER DIVIDENDS DEDUCTION.**

18 “(a) **POLICYHOLDER DIVIDEND DEFINED.**—For pur-
19 poses of this part, the term ‘policyholder dividend’ means any
20 dividend or similar distribution to policyholders in their ca-
21 pacity as such.

22 “(b) **CERTAIN AMOUNTS INCLUDED.**—For purposes of
23 this part, the term ‘policyholder dividend’ includes—

24 “(1) any amount paid or credited (including as an
25 increase in benefits) where the amount is not fixed in

1 the contract but depends on the experience of the com-
2 pany or the discretion of the management,

3 “(2) excess interest,

4 “(3) premium adjustments, and

5 “(4) experience-rated refunds.

6 “(c) AMOUNT OF DEDUCTION.—

7 “(1) IN GENERAL.—Except as limited by para-
8 graph (2), the deduction for policyholder dividends for
9 any taxable year shall be an amount equal to the poli-
10 cyholder dividends paid or accrued during the taxable
11 year.

12 “(2) REDUCTION IN CASE OF MUTUAL COMPA-
13 NIES.—In the case of a mutual life insurance company,
14 the deduction for policyholder dividends for any taxable
15 year shall be reduced by the amount determined under
16 section 809.

17 “(d) DEFINITIONS.—For purposes of this section—

18 “(1) EXCESS INTEREST.—The term ‘excess inter-
19 est’ means any amount in the nature of interest—

20 “(A) paid or credited to a policyholder in his
21 capacity as such, and

22 “(B) determined at a rate in excess of the
23 prevailing State assumed interest rate for such
24 contract.

1 “(2) PREMIUM ADJUSTMENT.—The term ‘premi-
2 um adjustment’ means any reduction in the premium
3 under an insurance or annuity contract which (but for
4 the reduction) would have been required to be paid
5 under the contract.

6 “(3) EXPERIENCE-RATED REFUND.—The term
7 ‘experience-rated refund’ means any refund or credit
8 based on the experience of the contract or group
9 involved.

10 “(e) TREATMENT OF POLICYHOLDER DIVIDENDS.—
11 For purposes of this part, any policyholder dividend which—

12 “(1) increases the cash surrender value of the
13 contract or other benefits payable under the contract,
14 or

15 “(2) reduces the premium otherwise required to be
16 paid,

17 shall be treated as paid to the policyholder and returned by
18 the policyholder to the company as a premium.

19 **“SEC. 809. REDUCTION IN CERTAIN DEDUCTIONS OF MUTUAL**
20 **LIFE INSURANCE COMPANIES.**

21 “(a) GENERAL RULE.—

22 “(1) POLICYHOLDER DIVIDENDS.—In the case of
23 any mutual life insurance company, the amount of the
24 deduction allowed under section 808 shall be reduced

1 (but not below zero) by the differential earnings
2 amount.

3 “(2) REDUCTION IN RESERVE DEDUCTION IN
4 CERTAIN CASES.—In the case of any mutual life insur-
5 ance company, if the differential earnings amount ex-
6 ceeds the amount allowable as a deduction under sec-
7 tion 808 for the taxable year (determined without
8 regard to this section), such excess shall be taken into
9 account under subsections (a) and (b) of section 807.

10 “(3) DIFFERENTIAL EARNINGS AMOUNT.—For
11 purposes of this section, the term ‘differential earnings
12 amount’ means, with respect to any taxable year, an
13 amount equal to the product of—

14 “(A) the life insurance company’s average
15 equity base for the taxable year, multiplied by

16 “(B) the differential earnings rate for such
17 taxable year.

18 “(b) AVERAGE EQUITY BASE.—For purposes of this
19 section—

20 “(1) IN GENERAL.—The term ‘average equity
21 base’ means, with respect to any taxable year, the
22 average of—

23 “(A) the equity base determined as of the
24 close of the taxable year, and

1 “(B) the equity base determined as of the
2 close of the preceding taxable year.

3 “(2) EQUITY BASE.—The term ‘equity base’
4 means an amount equal to—

5 “(A) the surplus and capital,

6 “(B) adjusted as provided in paragraphs (3),
7 (4), (5), and (6) of this subsection.

8 “(3) INCREASE FOR NONADMITTED FINANCIAL
9 ASSETS.—

10 “(A) IN GENERAL.—The amount of the sur-
11 plus and capital shall be increased by the amount
12 of the nonadmitted financial assets.

13 “(B) NONADMITTED FINANCIAL ASSETS.—
14 For purposes of subparagraph (A), the term ‘non-
15 admitted financial asset’ means any nonadmitted
16 asset of the company which is—

17 “(i) a bond,

18 “(ii) stock,

19 “(iii) real estate,

20 “(iv) a mortgage loan on real estate, or

21 “(v) any other invested asset.

22 “(4) INCREASE WHERE STATUTORY RESERVES
23 EXCEED TAX RESERVES.—

24 “(A) IN GENERAL.—If—

1 “(i) the aggregate amount of statutory
2 reserves, exceeds

3 “(ii) the aggregate amount of tax
4 reserves,

5 the amount of the surplus and capital shall be in-
6 creased by the amount of such excess.

7 “(B) DEFINITIONS.—For purposes of this
8 paragraph—

9 “(i) STATUTORY RESERVES.—The term
10 ‘statutory reserves’ means the aggregate
11 amount set forth in the annual statement
12 with respect to items described in section
13 807(c). Such term shall not include any re-
14 serve attributable to a deferred and uncol-
15 lected premium if the establishment of such
16 reserve is not permitted under section 811(c).

17 “(ii) TAX RESERVES.—The term ‘tax
18 reserves’ means the aggregate of the items
19 described in section 807(c) as determined for
20 purposes of section 807.

21 “(5) INCREASE BY AMOUNT OF CERTAIN OTHER
22 RESERVES.—The amount of the surplus and capital
23 shall be increased by the sum of—

24 “(A) the amount of any mandatory securities
25 valuation reserve,

1 “(B) the amount of any deficiency reserve,
2 and

3 “(C) the amount of any voluntary reserve not
4 described in subparagraph (A) or (B).

5 “(6) ADJUSTMENT FOR NEXT YEAR’S POLICY-
6 HOLDER DIVIDENDS.—The amount of the surplus and
7 capital shall be increased by 50 percent of the amount
8 of any provision for policyholder dividends (or other
9 similar liability) payable in the following taxable year.

10 “(c) DIFFERENTIAL EARNINGS RATE.—For purposes
11 of this section, the differential earnings rate for any taxable
12 year is the excess of—

13 “(1) the imputed earnings rate for the taxable
14 year, over

15 “(2) the average mutual earnings rate for the
16 second calendar year preceding the calendar year in
17 which the taxable year begins.

18 “(d) IMPUTED EARNINGS RATE.—

19 “(1) IN GENERAL.—For purposes of this section,
20 the imputed earnings rate for any taxable year is—

21 “(A) 16.5 percent in the case of taxable
22 years beginning in 1984, and

23 “(B) in the case of taxable years beginning
24 after 1984, an amount which bears the same ratio
25 to 16.5 percent as the current stock earnings rate

1 for the taxable year bears to the base period stock
2 earnings rate.

3 “(2) CURRENT STOCK EARNINGS RATE.—For
4 purposes of this subsection, the term ‘current stock
5 earnings rate’ means, with respect to any taxable year,
6 the average of the stock earnings rates determined
7 under paragraph (4) for the 3 calendar years preceding
8 the calendar year in which the taxable year begins.

9 “(3) BASE PERIOD STOCK EARNINGS RATE.—For
10 purposes of this subsection, the base period stock earn-
11 ings rate is the average of the stock earnings rates de-
12 termined under paragraph (4) for calendar years 1981,
13 1982, and 1983.

14 “(4) STOCK EARNINGS RATE.—

15 “(A) IN GENERAL.—For purposes of this
16 subsection, the stock earnings rate for any calen-
17 dar year is the numerical average of the earnings
18 rates of the 50 largest stock companies.

19 “(B) EARNINGS RATE.—For purposes of
20 subparagraph (A), the earnings rate of any stock
21 company is the percentage (determined by the
22 Secretary) which—

23 “(i) the statement gain or loss from op-
24 erations for the calendar year of such compa-
25 ny, is of

1 “(ii) such company’s average equity
2 base for such year.

3 “(C) 50 LARGEST STOCK COMPANIES.—For
4 purposes of this paragraph, the term ‘50 largest
5 stock companies’ means a group (as determined
6 by the Secretary) of stock life insurance compa-
7 nies which consists of the 50 largest stock life in-
8 surance companies which are subject to tax under
9 this chapter.

10 “(D) TREATMENT OF AFFILIATED
11 GROUPS.—For purposes of this paragraph, all
12 stock life insurance companies which are members
13 of the same affiliated group shall be treated as
14 one stock life insurance company.

15 “(e) AVERAGE MUTUAL EARNINGS RATE.—For pur-
16 poses of this section, the average mutual earnings rate for
17 any calendar year is the percentage (determined by the Sec-
18 retary) which—

19 “(1) the aggregate statement gain or loss from op-
20 erations for such year of mutual life insurance compa-
21 nies, is of

22 “(2) their aggregate average equity bases for such
23 year.

24 “(f) RECOMPUTATION IN SUBSEQUENT YEAR.—

1 “(1) INCLUSION IN INCOME WHERE RECOMPUT-
2 ED AMOUNT GREATER.—In the case of any mutual life
3 insurance company, if—

4 “(A) the recomputed differential earnings
5 amount for any taxable year, exceeds

6 “(B) the differential earnings amount deter-
7 mined under this section for such taxable year,
8 such excess shall be included in life insurance gross
9 income for the succeeding taxable year.

10 “(2) DEDUCTION WHERE RECOMPUTED AMOUNT
11 SMALLER.—In the case of any mutual life insurance
12 company, if—

13 “(A) the differential earnings amount deter-
14 mined under this section for any taxable year,
15 exceeds

16 “(B) the recomputed differential earnings
17 amount for such taxable year,
18 such excess shall be allowed as a life insurance deduc-
19 tion for the succeeding taxable year.

20 “(3) RECOMPUTED DIFFERENTIAL EARNINGS
21 AMOUNT.—For purposes of this subsection, the term
22 ‘recomputed differential earnings amount’ means, with
23 respect to any taxable year, the amount which would
24 be the differential earnings amount for such taxable
25 year if the average mutual earnings rate taken into ac-

1 count under subsection (c)(2) were the average mutual
2 earnings rate for the calendar year in which the tax-
3 able year begins.

4 “(4) SPECIAL RULE WHERE COMPANY CEASES
5 TO BE MUTUAL LIFE INSURANCE COMPANY.—Except
6 as provided in section 381(c)(22), if—

7 “(A) a life insurance company is a mutual
8 life insurance company for any taxable year, but

9 “(B) such life insurance company is not a
10 mutual life insurance company for the succeeding
11 taxable year,

12 any adjustment under paragraph (1) or (2) by reason of
13 the recomputed differential earnings amount for the
14 first of such taxable years shall be taken into account
15 for the first of such taxable years.

16 “(g) DEFINITIONS AND SPECIAL RULES.—For pur-
17 poses of this section—

18 “(1) STATEMENT GAIN OR LOSS FROM OPER-
19 ATIONS.—The term ‘statement gain or loss from oper-
20 ations’ means the net gain or loss from operations re-
21 quired to be set forth in the annual statement—

22 “(A) determined with regard to policyholder
23 dividends (as defined in section 808) but without
24 regard to Federal income taxes,

1 “(B) determined on the basis of the tax re-
2 serves rather than statutory reserves, and

3 “(C) properly adjusted for realized capital
4 gains and losses and other relevant items.

5 “(2) OTHER TERMS.—Except as otherwise pro-
6 vided in this section, the terms used in this section
7 shall have the same respective meanings as when used
8 in the annual statement.

9 “(3) DETERMINATIONS BASED ON AMOUNT SET
10 FORTH IN ANNUAL STATEMENT.—Except as other-
11 wise provided in this section or in regulations, all de-
12 terminations under this section shall be made on the
13 basis of the amounts required to be set forth on the
14 annual statement.

15 “(4) ANNUAL STATEMENT.—The term ‘annual
16 statement’ means the annual statement for life insur-
17 ance companies approved by the National Association
18 of Insurance Commissioners.

19 “(5) REDUCTION IN EQUITY BASE FOR PORTION
20 OF EQUITY ALLOCABLE TO LIFE INSURANCE BUSI-
21 NESS IN NONCONTIGUOUS WESTERN HEMISPHERE
22 COUNTRIES.—The equity base of any mutual life insur-
23 ance company shall be reduced by an amount equal to
24 the portion of the equity base attributable to the life
25 insurance business multiplied by a fraction—

1 “(A) the numerator of which is the portion of
2 the tax reserves which is allocable to life insur-
3 ance contracts issued on the life of residents of
4 countries in the Western Hemisphere which are
5 not contiguous to the United States, and

6 “(B) the denominator of which is the amount
7 of the tax reserves allocable to life insurance
8 contracts.

9 The preceding sentence shall not apply unless the frac-
10 tion determined under the preceding sentence exceeds
11 $\frac{1}{20}$.

12 “(6) SPECIAL RULE FOR CERTAIN CONTRACTS
13 ISSUED BEFORE JANUARY 1, 1985.—In determining
14 the amount of tax reserves for purposes of subsection
15 (b)(4), section 811(e) shall not apply with respect to
16 any life insurance contract issued before January 1,
17 1985, under a plan of life insurance in existence on
18 July 1, 1983.

19 “(7) REDUCTION IN EQUITY BASE FOR MUTUAL
20 SUCCESSOR OF FRATERNAL BENEFIT SOCIETY.—In
21 the case of any mutual life insurance company which—

22 “(A) is the successor to a fraternal benefit
23 society, and

24 “(B) which assumed the surplus of such fra-
25 ternal benefit society in 1950,

1 the equity base of such mutual life insurance company
2 shall be reduced by the amount of the surplus so as-
3 sumed plus earnings thereon, (i) for taxable years
4 before 1984, at a 7 percent interest rate, and (ii) for
5 taxable years 1984 and following, at the average
6 mutual earnings rate for such year.

7 “(h) TREATMENT OF STOCK COMPANIES OWNED BY
8 MUTUAL LIFE INSURANCE COMPANIES.—

9 “(1) TREATMENT AS MUTUAL LIFE INSURANCE
10 COMPANIES FOR PURPOSES OF DETERMINING STOCK
11 EARNINGS RATES AND MUTUAL EARNINGS RATES.—

12 Solely for purposes of subsections (d) and (e), a stock
13 life insurance company shall be treated as a mutual life
14 insurance company if stock possessing—

15 “(A) at least 80 percent of the total com-
16 bined voting power of all classes of stock of such
17 stock life insurance company entitled to vote, or

18 “(B) at least 80 percent of the total value of
19 shares of all classes of stock of such stock life in-
20 surance company,

21 is owned at any time during the calendar year directly
22 (or through the application of section 318) by 1 or
23 more mutual life insurance companies.

24 “(2) TREATMENT OF AFFILIATED GROUP WHICH
25 INCLUDES MUTUAL PARENT AND STOCK SUBSIDI-

1 ARY.—In the case of an affiliated group of corporations
2 which includes a common parent which is a mutual life
3 insurance company and one or more stock life insur-
4 ance companies, for purposes of determining the aver-
5 age equity base of such common parent (and the state-
6 ment gain or loss from operations)—

7 “(A) stock in such stock life insurance com-
8 panies held by such common parent (and divi-
9 dends on such stock) shall not be taken into ac-
10 count, and

11 “(B) such common parent and such stock life
12 insurance companies shall be treated as though
13 they were one mutual life insurance company.

14 “(3) ADJUSTMENT WHERE STOCK COMPANY NOT
15 MEMBER OF AFFILIATED GROUP.—In the case of any
16 stock life insurance company which is described in
17 paragraph (1) but is not a member of an affiliated
18 group described in paragraph (2), under regulations,
19 proper adjustments shall be made in the average equity
20 bases (and statement gains or losses from operations) of
21 mutual life insurance companies owning stock in such
22 company as may be necessary or appropriate to carry
23 out the purposes of this section.

24 “(i) TRANSITIONAL RULE FOR CERTAIN HIGH SUR-
25 PLUS MUTUAL LIFE INSURANCE COMPANIES.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (a)(3), the average equity base of a high surplus mutual
3 life insurance company for any taxable year shall not
4 include the applicable percentage of the excess equity
5 base of such company for such taxable year.

6 “(2) DEFINITIONS.—For purposes of this subsec-
7 tion—

8 “(A) EXCESS EQUITY BASE.—The term
9 ‘excess equity base’ means the excess of—

10 “(i) the average equity base of the com-
11 pany for the taxable year, over

12 “(ii) the amount which would be its
13 average equity base if its equity percentage
14 equaled 130 percent of the numerical aver-
15 age of the equity percentage for the 50 larg-
16 est mutual life insurance companies for such
17 taxable year.

18 “(B) APPLICABLE PERCENTAGE.—The term
19 ‘applicable percentage’ means these determined in
20 accordance with the following table:

“For taxable years beginning in:	The applicable percentage is:
1984	100
1985	80
1986	60
1987	40
1988	20
1989 or thereafter	0.

1 “(C) HIGH SURPLUS MUTUAL LIFE INSUR-
2 ANCE COMPANY.—The term ‘high surplus mutual
3 life insurance company’ means any mutual life in-
4 surance company if, for the taxable year begin-
5 ning in 1984, its equity percentage exceeded 130
6 percent of the numerical average of the equity
7 percentages for the 50 largest mutual life insur-
8 ance companies for such taxable year.

9 “(D) EQUITY PERCENTAGE.—The term
10 ‘equity percentage’ means, with respect to any
11 mutual life insurance company, the percentage
12 which—

13 “(i) the average equity base of such
14 company (determined under this section with-
15 out regard to this subsection) for a taxable
16 year bears to

17 “(ii) the average of—

18 “(I) the assets of such company as
19 of the close of the preceding taxable
20 year, and

21 “(II) the assets of such company
22 as of the close of the taxable year.

23 For purposes of the preceding sentence, the assets
24 of a company shall include all assets included
25 under this section in its equity base.

1 “(E) 50 LARGEST MUTUAL LIFE INSURANCE
2 COMPANIES.—The term ‘50 largest mutual life
3 insurance companies’ means a group (as deter-
4 mined by the Secretary) of mutual life insurance
5 companies which consists of the 50 largest mutual
6 life insurance companies which are subject to tax
7 under this chapter.

8 “(3) DETERMINATION OF AVERAGE OF EQUITY
9 PERCENTAGES FOR ALL COMPANIES.—The average of
10 the equity percentages for the 50 largest mutual life
11 insurance companies for any taxable year shall be such
12 average as determined by the Secretary using the most
13 recent data available as of the close of such taxable
14 year.

15 “SEC. 810. OPERATIONS LOSS DEDUCTION.

16 “(a) DEDUCTION ALLOWED.—There shall be allowed
17 as a deduction for the taxable year an amount equal to the
18 aggregate of—

19 “(1) the operations loss carryovers to such year,
20 plus

21 “(2) the operations loss carrybacks to such year.

22 For purposes of this part, the term ‘operations loss deduction’
23 means the deduction allowed by this subsection.

24 “(b) OPERATIONS LOSS CARRYBACKS AND CAR-
25 RYOVERS.—

1 “(1) YEARS TO WHICH LOSS MAY BE CAR-
2 RIED.—The loss from operations for any taxable year
3 (hereinafter in this section referred to as the ‘loss
4 year’) shall be—

5 “(A) an operations loss carryback to each of
6 the 3 taxable years preceding the loss year,

7 “(B) an operations loss carryover to each of
8 the 15 taxable years following the loss year, and

9 “(C) if the life insurance company is a new
10 company for the loss year, an operations loss car-
11 ryover to each of the 3 taxable years following
12 the 15 taxable years described in subparagraph
13 (B).

14 “(2) AMOUNT OF CARRYBACKS AND CAR-
15 RYOVERS.—The entire amount of the loss from oper-
16 ations for any loss year shall be carried to the earliest
17 of the taxable years to which (by reason of paragraph
18 (1)) such loss may be carried. The portion of such loss
19 which shall be carried to each of the other taxable
20 years shall be the excess (if any) of the amount of such
21 loss over the sum of the offsets (as defined in subsec-
22 tion (d)) for each of the prior taxable years to which
23 such loss may be carried.

24 “(3) ELECTION FOR OPERATIONS LOSS CARRY-
25 BACKS.—In the case of a loss from operations for any

1 taxable year, the taxpayer may elect to relinquish the
2 entire carryback period for such loss. Such election
3 shall be made by the due date (including extensions of
4 time) for filing the return for the taxable year of the
5 loss from operations for which the election is to be in
6 effect, and, once made for any taxable year, such elec-
7 tion shall be irrevocable for that taxable year.

8 “(c) COMPUTATION OF LOSS FROM OPERATIONS.—

9 For purposes of this section—

10 “(1) IN GENERAL.—The term ‘loss from opera-
11 tions’ means the excess of the life insurance deduc-
12 tions for any taxable year over the life insurance gross
13 income for such taxable year.

14 “(2) MODIFICATIONS.—For purposes of para-
15 graph (1)—

16 “(A) the operations loss deduction shall not
17 be allowed, and

18 “(B) the deductions allowed by sections 243
19 (relating to dividends received by corporations),
20 244 (relating to dividends received on certain pre-
21 ferred stock of public utilities), and 245 (relating
22 to dividends received from certain foreign corpora-
23 tions) shall be computed without regard to section
24 246(b) as modified by section 805(a)(4).

25 “(d) OFFSET DEFINED.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (b)(2), the term ‘offset’ means, with respect to any tax-
3 able year, an amount equal to that increase in the op-
4 erations loss deduction for the taxable year which re-
5 duces the life insurance company taxable income (com-
6 puted without regard to paragraphs (2) and (3) of sec-
7 tion 804) for such year to zero.

8 “(2) OPERATIONS LOSS DEDUCTION.—For pur-
9 poses of paragraph (1), the operations loss deduction
10 for any taxable year shall be computed without regard
11 to the loss from operations for the loss year or for any
12 taxable year thereafter.

13 “(e) NEW COMPANY DEFINED.—For purposes of this
14 part, a life insurance company is a new company for any
15 taxable year only if such taxable year begins not more than 5
16 years after the first day on which it (or any predecessor, if
17 section 381(c)(22) applies) was authorized to do business as
18 an insurance company.

19 “(f) APPLICATION OF SUBTITLES A AND F IN RE-
20 SPECT OF OPERATION LOSSES.—Except as provided in sec-
21 tion 805(b)(5), subtitles A and F shall apply in respect of
22 operation loss carrybacks, operation loss carryovers, and the
23 operations loss deduction under this part, in the same manner
24 and to the same extent as such subtitles apply in respect of

1 net operating loss carrybacks, net operating loss carryovers,
2 and the net operating loss deduction.

3 “(g) **TRANSITIONAL RULE.**—For purposes of this sec-
4 tion and section 812 (as in effect before the enactment of the
5 Life Insurance Tax Act of 1984), this section shall be treated
6 as a continuation of such section 812.

7 **“Subpart D—Accounting, Allocation, and Foreign**
8 **Provisions**

“Sec. 811. Accounting provisions.

“Sec. 812. Definition of company’s share and policyholders’ share.

“Sec. 813. Foreign life insurance companies.

“Sec. 814. Contiguous country branches of domestic life insurance
companies.

“Sec. 815. Distributions to shareholders from pre-1984 policyhold-
ers surplus account.

9 **“SEC. 811. ACCOUNTING PROVISIONS.**

10 “(a) **METHOD OF ACCOUNTING.**—All computations en-
11 tering into the determination of the taxes imposed by this
12 part shall be made—

13 “(1) under an accrual method of accounting, or

14 “(2) to the extent permitted under regulations
15 prescribed by the Secretary, under a combination of an
16 accrual method of accounting with any method permit-
17 ted by this chapter (other than the cash receipts and
18 disbursements method).

19 To the extent not inconsistent with the preceding sentence or
20 any other provision of this part, all such computations shall
21 be made in a manner consistent with the manner required for

1 purposes of the annual statement approved by the National
2 Association of Insurance Commissioners.

3 “(b) AMORTIZATION OF PREMIUM AND ACCRUAL OF
4 DISCOUNT.—

5 “(1) IN GENERAL.—The appropriate items of
6 income, deductions, and adjustments under this part
7 shall be adjusted to reflect the appropriate amortization
8 of premium and the appropriate accrual of discount at-
9 tributable to the taxable year on bonds, notes, debent-
10 ures, or other evidences of indebtedness held by a life
11 insurance company. Such amortization and accrual
12 shall be determined—

13 “(A) in accordance with the method regular-
14 ly employed by such company, if such method is
15 reasonable, and

16 “(B) in all other cases, in accordance with
17 regulations prescribed by the Secretary.

18 “(2) SPECIAL RULES.—

19 “(A) AMORTIZATION OF BOND PREMIUM.—
20 In the case of any bond (as defined in section
21 171(d)), the amount of bond premium, and the
22 amortizable bond premium for the taxable year,
23 shall be determined under section 171(b) as if the
24 election set forth in section 171(c) had been made.

1 “(B) CONVERTIBLE EVIDENCE OF INDEBT-
2 EDNESS.—In no case shall the amount of premi-
3 um on a convertible evidence of indebtedness in-
4 clude any amount attributable to the conversion
5 features of the evidence of indebtedness.

6 “(3) EXCEPTION.—No accrual of discount shall
7 be required under paragraph (1) on any bond (as de-
8 fined in section 171(d)), except in the case of discount
9 which is--

10 “(A) interest to which section 103 applies, or

11 “(B) original issue discount (as defined in
12 section 1232(b)).

13 “(c) NO DOUBLE COUNTING.—Nothing in this part
14 shall permit—

15 “(1) a reserve to be established for any item
16 unless the gross amount of premiums and other consid-
17 eration attributable to such item are required to be in-
18 cluded in life insurance gross income,

19 “(2) the same item to be counted more than once
20 for reserve purposes, or

21 “(3) any item to be deducted (either directly or as
22 an increase in reserves) more than once.

23 “(d) ALLOCATION IN CASE OF REINSURANCE AGREE-
24 MENT INVOLVING TAX AVOIDANCE OR EVASION.—In the
25 case of 2 or more related persons (within the meaning of

1 section 482) who are parties to a reinsurance agreement (or
 2 where one of the parties to a reinsurance agreement is, with
 3 respect to any contract covered by the agreement, in effect
 4 an agent of another party to such agreement or a conduit
 5 between related persons), the Secretary may—

6 “(1) allocate between or among such persons
 7 income (whether investment income, premium, or oth-
 8 erwise), deductions, assets, reserves, credits, and other
 9 items related to such agreement, or

10 “(2) recharacterize any such items,
 11 if he determines that such allocation or recharacterization is
 12 necessary to reflect the proper source and character of the
 13 taxable income (or any item described in paragraph (1) relat-
 14 ing to such taxable income) of each such person.

15 “(e) METHOD OF COMPUTING RESERVES ON CON-
 16 TRACT WHERE INTEREST IS GUARANTEED BEYOND END
 17 OF TAXABLE YEAR.—For purposes of this part (other than
 18 section 816), amounts in the nature of interest to be paid or
 19 credited under any contract for any period which is computed
 20 at a rate which—

21 “(1) exceeds the prevailing State assumed interest
 22 rate for the contract for such period, and

23 “(2) is guaranteed beyond the end of the taxable
 24 year on which the reserves are being computed,

1 shall be taken into account in computing the reserves with
 2 respect to such contract as if such interest were guaranteed
 3 only up to the end of the taxable year.

4 “(f) **SHORT TAXABLE YEARS.**—If any return of a cor-
 5 poration made under this part is for a period of less than the
 6 entire calendar year (referred to in this subsection as ‘short
 7 period’), then section 443 shall not apply in respect to such
 8 period, but life insurance company taxable income shall be
 9 determined, under regulations prescribed by the Secretary,
 10 on an annual basis by a ratable daily projection of the appro-
 11 priate figures for the short period.

12 **“SEC. 812. DEFINITION OF COMPANY’S SHARE AND POLICY-**
 13 **HOLDERS’ SHARE.**

14 “(a) **GENERAL RULE.**—

15 “(1) **COMPANY’S SHARE.**—For purposes of sec-
 16 tion 805(a)(4), the term ‘company’s share’ means, with
 17 respect to any taxable year, the percentage obtained by
 18 dividing—

19 “(A) the company’s share of the net invest-
 20 ment income for the taxable year, by

21 “(B) the net investment income for the tax-
 22 able year.

23 “(2) **POLICYHOLDERS’ SHARE.**—For purposes of
 24 section 807, the term ‘policyholders’ share’ means,
 25 with respect to any taxable year, the excess of 100

1 percent over the percentage determined under para-
2 graph (1).

3 “(b) COMPANY’S SHARE OF NET INVESTMENT
4 INCOME.—

5 “(1) IN GENERAL.—For purposes of this section,
6 the company’s share of net investment income is the
7 excess (if any) of—

8 “(A) the net investment income for the tax-
9 able year, over

10 “(B) the sum of—

11 “(i) the policy interest, for the taxable
12 year, plus

13 “(ii) the gross investment income’s pro-
14 portionate share of policyholder dividends for
15 the taxable year.

16 “(2) POLICY INTEREST.—For purposes of this
17 subsection, the term ‘policy interest’ means—

18 “(A) required interest (at the prevailing State
19 assumed rate) on reserves under section 807(c)
20 (other than paragraph (2) thereof),

21 “(B) the deductible portion of excess interest,
22 and

23 “(C) the deductible portion of any amount
24 (whether or not a policyholder dividend), and not

1 taken into account under subparagraph (A) or (B),
2 credited to—

3 “(i) a policyholder’s fund under a pen-
4 sion plan contract for employees (other than
5 retired employees), or

6 “(ii) a deferred annuity contract before
7 the annuity starting date.

8 “(3) GROSS INVESTMENT INCOME’S PROPOR-
9 TIONATE SHARE OF POLICYHOLDER DIVIDENDS.—For
10 purposes of paragraph (1), the gross investment in-
11 come’s proportionate share of policyholder dividends
12 is—

13 “(A) the deduction for policyholders’ divi-
14 dends determined under sections 808 and 809 for
15 the taxable year, but not including—

16 “(i) the deductible portion of excess in-
17 terest,

18 “(ii) the deductible portion of policy-
19 holder dividends on contracts referred to in
20 clauses (i) and (ii) of paragraph (2)(C), and

21 “(iii) the deductible portion of the pre-
22 mium and mortality charge adjustments with
23 respect to contracts paying excess interest
24 for such year,

25 multiplied by

1 “(B) the fraction—

2 “(i) the numerator of which is gross in-
3 vestment income for the taxable year (re-
4 duced by the policy interest for such year),
5 and

6 “(ii) the denominator of which is gross
7 income (including tax-exempt interest) re-
8 duced by the excess (if any) of the closing
9 balance for the items described in section
10 807(c) over the opening balance for such
11 items for the taxable year.

12 “(c) NET INVESTMENT INCOME.—For purposes of this
13 section, the term ‘net investment income’ means 90 percent
14 of gross investment income.

15 “(d) GROSS INVESTMENT INCOME.—For purposes of
16 this section, the term ‘gross investment income’ means the
17 sum of the following:

18 “(1) INTEREST, ETC.—The gross amount of
19 income from—

20 “(A) interest (including tax-exempt interest),
21 dividends, rents, and royalties,

22 “(B) the entering into of any lease, mort-
23 gage, or other instrument or agreement from
24 which the life insurance company derives interest,
25 rents, or royalties, and

1 “(C) the alteration or termination of any in-
2 strument or agreement described in subparagraph
3 (B).

4 “(2) SHORT-TERM CAPITAL GAIN.—The amount
5 (if any) by which the net short-term capital gain ex-
6 ceeds the net long-term capital loss.

7 “(3) TRADE OR BUSINESS INCOME.—The gross
8 income from any trade or business (other than an in-
9 surance business) carried on by the life insurance com-
10 pany, or by a partnership of which the life insurance
11 company is a partner. In computing gross income
12 under this paragraph, there shall be excluded any item
13 described in paragraph (1).

14 Except as provided in paragraph (2), in computing gross in-
15 vestment income under this subsection, there shall be ex-
16 cluded any gain from the sale or exchange of a capital asset,
17 and any gain considered as gain from the sale or exchange of
18 a capital asset.

19 “(e) DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT
20 INCLUDED IN GROSS INVESTMENT INCOME.—For purposes
21 of this section, the term ‘gross investment income’ shall not
22 include any dividend received by the life insurance company
23 which is a 100-percent dividend (as defined in section
24 805(a)(4)(C)). Such term also shall not include any dividend

1 described in section 805(a)(4)(D) (relating to certain dividends
2 in the case of foreign corporations).

3 “(f) NO DOUBLE COUNTING.—Under regulations,
4 proper adjustments shall be made in the application of this
5 section to prevent an item from being counted more than
6 once.

7 “SEC. 813. FOREIGN LIFE INSURANCE COMPANIES.

8 “(a) ADJUSTMENT WHERE SURPLUS HELD IN THE
9 UNITED STATES IS LESS THAN SPECIFIED MINIMUM.—

10 “(1) IN GENERAL.—In the case of any foreign
11 company taxable under this part, if—

12 “(A) the required surplus determined under
13 paragraph (2), exceeds

14 “(B) the surplus held in the United States,
15 then its income effectively connected with the conduct
16 of an insurance business within the United States shall
17 be increased by an amount determined by multiplying
18 such excess by such company’s current investment
19 yield.

20 “(2) REQUIRED SURPLUS.—For purposes of this
21 subsection—

22 “(A) IN GENERAL.—The term ‘required sur-
23 plus’ means the amount determined by multiplying
24 the taxpayer’s total insurance liabilities on United
25 States business by a percentage for the taxable

1 year determined and proclaimed by the Secretary
2 under subparagraph (B).

3 “(B) DETERMINATION OF PERCENTAGE.—

4 The percentage determined and proclaimed by the
5 Secretary under this subparagraph shall be based
6 on such data with respect to domestic life insur-
7 ance companies for the preceding taxable year as
8 the Secretary considers representative. Such per-
9 centage shall be computed on the basis of a ratio
10 the numerator of which is the excess of the assets
11 over the total insurance liabilities, and the
12 denominator of which is the total insurance
13 liabilities.

14 “(3) CURRENT INVESTMENT YIELD.—For pur-
15 poses of this subsection—

16 “(A) IN GENERAL.—The term ‘current in-
17 vestment yield’ means the percent obtained by
18 dividing—

19 “(i) the net investment income on assets
20 held in the United States, by

21 “(ii) the mean of the assets held in the
22 United States during the taxable year.

23 “(B) DETERMINATIONS BASED ON AMOUNT
24 SET FORTH IN THE ANNUAL STATEMENT.—

25 Except as otherwise provided in regulations, de-

1 terminations under subparagraph (A) shall be
2 made on the basis of the amounts required to be
3 set forth on the annual statement approved by the
4 National Association of Insurance Commissioners.

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

7 “(A) SURPLUS HELD IN THE UNITED
8 STATES.—The surplus held in the United States
9 is the excess of the assets (determined under sec-
10 tion 806(b)(3)(C)) held in the United States over
11 the total insurance liabilities on United States
12 business.

13 “(B) TOTAL INSURANCE LIABILITIES.—For
14 purposes of this subsection, the term ‘total insur-
15 ance liabilities’ means the sum of the total re-
16 serves (as defined in section 816(c)) plus (to the
17 extent not included in total reserves) the items re-
18 ferred to in paragraphs (3), (4), (5), and (6) of sec-
19 tion 807(c).

20 “(5) REDUCTION OF SECTION 881 TAXES.—In
21 the case of any foreign company taxable under this
22 part, there shall be determined—

23 “(A) the amount which would be subject to
24 taxes under section 881 if the amount taxable

1 under such section were determined without
2 regard to sections 103 and 894, and

3 “(B) the amount of the increase provided by
4 paragraph (1).

5 The tax under section 881 (determined without regard
6 to this paragraph) shall be reduced (but not below zero)
7 by an amount which is the same proportion of such tax
8 as the amount referred to in subparagraph (B) is of the
9 amount referred to in subparagraph (A); but such re-
10 duction in taxes shall not exceed the increase in taxes
11 under this part by reason of the increase provided by
12 paragraph (1).

13 “(b) ADJUSTMENT TO LIMITATION ON DEDUCTION
14 FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN
15 MUTUAL LIFE INSURANCE COMPANIES.—For purposes of
16 section 809, the equity base of any foreign mutual life insur-
17 ance company as of the close of any taxable year shall be
18 increased by the amount of any excess determined under
19 paragraph (1) of subsection (a) with respect to such taxable
20 year.

21 “(c) CROSS REFERENCE.—

“For taxation of foreign corporations carrying on life insurance business within the United States, see section 842.

1 **“SEC. 814. CONTIGUOUS COUNTRY BRANCHES OF DOMESTIC**
2 **LIFE INSURANCE COMPANIES.**

3 **“(a) EXCLUSION OF ITEMS.—**In the case of a domestic
4 mutual insurance company which—

5 **“(1)** is a life insurance company,

6 **“(2)** has a contiguous country life insurance
7 branch, and

8 **“(3)** makes the election provided by subsection (g)
9 with respect to such branch,

10 there shall be excluded from each item involved in the deter-
11 mination of life insurance company taxable income the items
12 separately accounted for in accordance with subsection (c).

13 **“(b) CONTIGUOUS COUNTRY LIFE INSURANCE**
14 **BRANCH.—**For purposes of this section, the term contiguous
15 country life insurance branch means a branch which—

16 **“(1)** issues insurance contracts insuring risks in
17 connection with the lives or health of residents of a
18 country which is contiguous to the United States,

19 **“(2)** has its principal place of business in such
20 contiguous country, and

21 **“(3)** would constitute a mutual life insurance com-
22 pany if such branch were a separate domestic insur-
23 ance company.

1 For purposes of this section, the term 'insurance contract'
2 means any life, health, accident, or annuity contract or rein-
3 surance contract or any contract relating thereto.

4 “(c) SEPARATE ACCOUNTING REQUIRED.—Any tax-
5 payer which makes the election provided by subsection (g)
6 shall establish and maintain a separate account for the var-
7 ious income, exclusion, deduction, asset, reserve, liability,
8 and surplus items properly attributable to the contracts de-
9 scribed in subsection (b). Such separate accounting shall be
10 made—

11 “(1) in accordance with the method regularly em-
12 ployed by such company, if such method clearly re-
13 flects income derived from, and the other items attrib-
14 utable to, the contracts described in subsection (b), and

15 “(2) in all other cases, in accordance with regula-
16 tions prescribed by the Secretary.

17 “(d) RECOGNITION OF GAIN ON ASSETS IN BRANCH
18 ACCOUNT.—If the aggregate fair market value of all the in-
19 vested assets and tangible property which are separately ac-
20 counted for by the domestic life insurance company in the
21 branch account established pursuant to subsection (c) exceeds
22 the aggregate adjusted basis of such assets for purposes of
23 determining gain, then the domestic life insurance company
24 shall be treated as having sold all such assets on the first day
25 of the first taxable year for which the election is in effect at

1 their fair market value on such first day. Notwithstanding
 2 any other provision of this chapter, the net gain shall be rec-
 3 ognized to the domestic life insurance company on the
 4 deemed sale described in the preceding sentence.

5 “(e) TRANSACTIONS BETWEEN CONTIGUOUS COUN-
 6 TRY BRANCH AND DOMESTIC LIFE INSURANCE COM-
 7 PANY.—

8 “(1) REIMBURSEMENT FOR HOME OFFICE SERV-
 9 ICES, ETC.—Any payment, transfer, reimbursement,
 10 credit, or allowance which is made from a separate ac-
 11 count established pursuant to subsection (c) to one or
 12 more other accounts of a domestic life insurance com-
 13 pany as reimbursement for costs incurred for or with
 14 respect to the insurance (or reinsurance) of risks ac-
 15 counted for in such separate account shall be taken
 16 into account by the domestic life insurance company in
 17 the same manner as if such payment, transfer, reim-
 18 bursement, credit, or allowance had been received from
 19 a separate person.

20 “(2) REPATRIATION OF INCOME.—

21 “(A) IN GENERAL.—Except as provided in
 22 subparagraph (B), any amount directly or indirect-
 23 ly transferred or credited from a branch account
 24 established pursuant to subsection (c) to one or
 25 more other accounts of such company shall, unless

1 such transfer or credit is a reimbursement to
2 which paragraph (1) applies, be added to the
3 income of the domestic life insurance company.

4 “(B) LIMITATION.—The addition provided
5 by subparagraph (A) for the taxable year with re-
6 spect to any contiguous country life insurance
7 branch shall not exceed the amount by which—

8 “(i) the aggregate decrease in the tenta-
9 tive LICTI of the domestic life insurance
10 company for the taxable year and for all
11 prior taxable years resulting solely from the
12 application of subsection (a) of this section
13 with respect to such branch, exceeds

14 “(ii) the amount of additions to tentative
15 LICTI pursuant to subparagraph (A) with
16 respect to such contiguous country branch
17 for all prior taxable years.

18 “(C) TRANSITIONAL RULE.—For purposes
19 of this paragraph, in the case of a prior taxable
20 year beginning before January 1, 1984, the term
21 ‘tentative LICTI’ means life insurance company
22 taxable income determined under this part (as in
23 effect for such year) without regard to this
24 paragraph.

25 “(f) OTHER RULES.—

1 “(1) TREATMENT OF FOREIGN TAXES.—

2 “(A) IN GENERAL.—No income, war profits,
3 or excess profits taxes paid or accrued to any for-
4 eign country or possession of the United States
5 which is attributable to income excluded under
6 subsection (a) shall be taken into account for pur-
7 poses of subpart A of part III of subchapter N
8 (relating to foreign tax credit) or allowable as a
9 deduction.

10 “(B) TREATMENT OF REPATRIATED
11 AMOUNTS.—For purposes of sections 78 and 902,
12 where any amount is added to the life insurance
13 company taxable income of the domestic life in-
14 surance company by reason of subsection (e)(2),
15 the contiguous country life insurance branch shall
16 be treated as a foreign corporation. Any amount
17 so added shall be treated as a dividend paid by a
18 foreign corporation, and the taxes paid to any for-
19 eign country or possession of the United States
20 with respect to such amount shall be deemed to
21 have been paid by such branch.

22 “(2) UNITED STATES SOURCE INCOME ALLOCA-
23 BLE TO CONTIGUOUS COUNTRY BRANCH.—For pur-
24 poses of sections 881, 882, and 1442, each contiguous
25 country life insurance branch shall be treated as a for-

1 foreign corporation. Such sections shall be applied to each
2 such branch in the same manner as if such sections
3 contained the provisions of any treaty to which the
4 United States and the contiguous country are parties,
5 to the same extent such provisions would apply if such
6 branch were incorporated in such contiguous country.

7 “(g) ELECTION.—A taxpayer may make the election
8 provided by this subsection with respect to any contiguous
9 country for any taxable year. An election made under this
10 subsection for any taxable year shall remain in effect for all
11 subsequent taxable years, except that it may be revoked with
12 the consent of the Secretary. The election provided by this
13 subsection shall be made not later than the time prescribed
14 by law for filing the return for the taxable year (including
15 extensions thereof) with respect to which such election is
16 made, and such election and any approved revocation thereof
17 shall be made in the manner provided by the Secretary.

18 “(h) SPECIAL RULE FOR DOMESTIC STOCK LIFE IN-
19 SURANCE COMPANIES.—At the election of a domestic stock
20 life insurance company which has a contiguous country life
21 insurance branch described in subsection (b) (without regard
22 to the mutual requirement in subsection (b)(3)), the assets of
23 such branch may be transferred to a foreign corporation orga-
24 nized under the laws of the contiguous country without the
25 application of section 367 or 1491. Subsection (a) shall apply

1 to the stock of such foreign corporation as if such domestic
2 company were a mutual company and as if the stock were an
3 item described in subsection (c). Subsection (e)(2) shall apply
4 to amounts transferred or credited to such domestic company
5 as if such domestic company and such foreign corporation
6 constituted one domestic mutual life insurance company. The
7 insurance contracts which may be transferred pursuant to
8 this subsection shall include only those which are similar to
9 the types of insurance contracts issued by a mutual life insur-
10 ance company. Notwithstanding the first sentence of this sub-
11 section, if the aggregate fair market value of the invested
12 assets and tangible property which are separately accounted
13 for by the domestic life insurance company in the branch ac-
14 count exceeds the aggregate adjusted basis of such assets for
15 purposes of determining gain, the domestic life insurance
16 company shall be deemed to have sold all such assets on the
17 first day of the taxable year for which the election under this
18 subsection applies and the net gain shall be recognized to the
19 domestic life insurance company on the deemed sale, but not
20 in excess of the proportion of such net gain which equals the
21 proportion which the aggregate fair market value of such
22 assets which are transferred pursuant to this subsection is of
23 the aggregate fair market value of all such assets.

1 **“SEC. 815. DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984**
2 **POLICYHOLDERS’ SURPLUS ACCOUNT.**

3 “(a) **GENERAL RULE.**—The life insurance company
4 taxable income (within the meaning of section 801(b)) for any
5 taxable year of any stock life insurance company which has
6 an existing policyholders surplus account shall be increased
7 by any direct or indirect distribution to shareholders from
8 such account. For purposes of the preceding sentence, the life
9 insurance company taxable income (within the meaning of
10 section 801(b)) shall be treated as not less than zero.

11 “(b) **ORDERING RULE.**—For purposes of this section,
12 any distribution to shareholders shall be treated as made—

13 “(1) first out of the shareholders surplus account,
14 to the extent thereof,

15 “(2) then out of the policyholders surplus account,
16 to the extent thereof, and

17 “(3) finally, out of other accounts.

18 “(c) **SHAREHOLDERS SURPLUS ACCOUNT.**—

19 “(1) **IN GENERAL.**—Each stock life insurance
20 company which has an existing policyholders surplus
21 account shall continue its shareholders surplus account
22 for purposes of this part.

23 “(2) **ADDITIONS TO ACCOUNT.**—The amount
24 added to the shareholders surplus account for any tax-
25 able year beginning after December 31, 1983, shall be
26 the excess of—

1 “(A) the sum of—

2 “(i) the life insurance company’s taxable
3 income (determined without regard to this
4 section),

5 “(ii) the special deductions provided by
6 section 806, and

7 “(iii) the deductions for dividends re-
8 ceived provided by sections 243, 244, and
9 245 (as modified by section 805(a)(4)) and
10 the amount of interest excluded from gross
11 income under section 103, over

12 “(B) the taxes imposed for the taxable year
13 by section 801 (determined without regard to this
14 section).

15 “(3) SUBTRACTIONS FROM ACCOUNT.—There
16 shall be subtracted from the shareholders surplus ac-
17 count for any taxable year the amount which is treated
18 under this section as distributed out of such account.

19 “(d) POLICYHOLDERS SURPLUS ACCOUNT.—

20 “(1) IN GENERAL.—Each stock life insurance
21 company which has an existing policyholders surplus
22 account shall continue such account.

23 “(2) NO ADDITIONS TO ACCOUNT.—No amount
24 shall be added to the policyholders surplus account for
25 any taxable year beginning after December 31, 1983.

1 “(3) SUBTRACTIONS FROM ACCOUNT.—There
2 shall be subtracted from the policyholders surplus ac-
3 count for any taxable year an amount equal to the sum
4 of—

5 “(A) the amount which (without regard to
6 subparagraph (B)) is treated under this section as
7 distributed out of the policyholders surplus ac-
8 count, and

9 “(B) the amount by which the tax imposed
10 for the taxable year by section 801 is increased
11 by reason of this section.

12 “(e) EXISTING POLICYHOLDERS SURPLUS AC-
13 COUNT.—For purposes of this section, the term ‘existing
14 policyholders surplus account’ means any policyholders sur-
15 plus account which has a balance as of the close of December
16 31, 1983.

17 “(f) OTHER RULES APPLICABLE TO POLICYHOLDERS
18 SURPLUS ACCOUNT CONTINUED.—Except to the extent in-
19 consistent with the provisions of this part, the provisions of
20 subsections (d), (e), (f), and (g) of section 815 (and of sections
21 6501(c)(6), 6501(k), 6511(d)(6), 6601(d)(3), and 6611(f)(4)) as
22 in effect before the enactment of the Life Insurance Tax Act
23 of 1984 are hereby made applicable in respect of any policy-
24 holders surplus account for which there was a balance as of
25 December 31, 1983.

1 **“Subpart E—Definitions and Special Rules**

“Sec. 816. Life insurance company defined.

“Sec. 817. Treatment of variable contracts.

“Sec. 818. Other definitions and special rules.

2 **“SEC. 816. LIFE INSURANCE COMPANY DEFINED.**

3 **“(a) LIFE INSURANCE COMPANY DEFINED.—**For pur-
 4 poses of this subtitle, the term ‘life insurance company’
 5 means an insurance company which is engaged in the busi-
 6 ness of issuing life insurance and annuity contracts (either
 7 separately or combined with accident and health insurance),
 8 or noncancellable contracts of health and accident insurance,
 9 if—

10 “(1) its life insurance reserves (as defined in sub-
 11 section (b)), plus

12 “(2) unearned premiums, and unpaid losses
 13 (whether or not ascertained), on noncancellable life, ac-
 14 cident, or health policies not included in life insurance
 15 reserves,

16 comprise more than 50 percent of its total reserves (as de-
 17 fined in subsection (c)). For purposes of the preceding sen-
 18 tence, the term ‘insurance company’ means any company
 19 more than half of the business of which during the taxable
 20 year is the issuing of insurance or annuity contracts or the
 21 reinsuring of risks underwritten by insurance companies.

22 **“(b) LIFE INSURANCE RESERVES DEFINED.—**

23 “(1) **IN GENERAL.—**For purposes of this part, the
 24 term ‘life insurance reserves’ means amounts—

1 “(A) which are computed or estimated on the
2 basis of recognized mortality or morbidity tables
3 and assumed rates of interest, and

4 “(B) which are set aside to mature or liqui-
5 date, either by payment or reinsurance, future un-
6 accrued claims arising from life insurance, annu-
7 ity, and noncancellable accident and health insur-
8 ance contracts (including life insurance or annuity
9 contracts combined with noncancellable accident
10 and health insurance) involving, at the time with
11 respect to which the reserve is computed, life, ac-
12 cident, or health contingencies.

13 “(2) RESERVES MUST BE REQUIRED BY LAW.—
14 Except—

15 “(A) in the case of policies covering life, ac-
16 cident, and health insurance combined in one
17 policy issued on the weekly premium payment
18 plan, continuing for life and not subject to cancel-
19 lation, and

20 “(B) as provided in paragraph (3),
21 in addition to the requirements set forth in paragraph
22 (1), life insurance reserves must be required by law.

23 “(3) ASSESSMENT COMPANIES.—In the case of
24 an assessment life insurance company or association,
25 the term ‘life insurance reserves’ includes—

1 “(A) sums actually deposited by such compa-
2 ny or association with State officers pursuant to
3 law as guaranty or reserve funds, and

4 “(B) any funds maintained, under the charter
5 or articles of incorporation or association (or
6 bylaws approved by a State insurance commis-
7 sioner) of such company or association, exclusive-
8 ly for the payment of claims arising under certifi-
9 cates of membership or policies issued on the as-
10 sessment plan and not subject to any other use.

11 “(4) AMOUNT OF RESERVES.—For purposes of
12 this subsection, subsection (a), and subsection (c), the
13 amount of any reserve (or portion thereof) for any tax-
14 able year shall be the mean of such reserve (or portion
15 thereof) at the beginning and end of the taxable year.

16 “(c) TOTAL RESERVES DEFINED.—For purposes of
17 subsection (a), the term ‘total reserves’ means—

18 “(1) life insurance reserves,

19 “(2) unearned premiums, and unpaid losses
20 (whether or not ascertained), not included in life insur-
21 ance reserves, and

22 “(3) all other insurance reserves required by law.

23 The term ‘total reserves’ does not include deficiency reserves
24 (within the meaning of subsection (b)(4)).

1 “(d) ADJUSTMENTS IN RESERVES FOR POLICY
2 LOANS.—For purposes only of determining under subsection
3 (a) whether or not an insurance company is a life insurance
4 company, the life insurance reserves, and the total reserves,
5 shall each be reduced by an amount equal to the mean of the
6 aggregates, at the beginning and end of the taxable year, of
7 the policy loans outstanding with respect to contracts for
8 which life insurance reserves are maintained.

9 “(e) GUARANTEED RENEWABLE CONTRACTS.—For
10 purposes of this part, guaranteed renewable life, accident,
11 and health insurance shall be treated in the same manner as
12 noncancellable life, accident, and health insurance.

13 “(f) AMOUNTS NOT INVOLVING LIFE, ACCIDENT, OR
14 HEALTH CONTINGENCIES.—For purposes only of determin-
15 ing under subsection (a) whether or not an insurance com-
16 pany is a life insurance company, amounts set aside and held
17 at interest to satisfy obligations under contracts which do not
18 contain permanent guarantees with respect to life, accident,
19 or health contingencies shall not be included in life insurance
20 reserves or in total reserves.

21 “(g) BURIAL AND FUNERAL BENEFIT INSURANCE
22 COMPANIES.—A burial or funeral benefit insurance company
23 engaged directly in the manufacture of funeral supplies or the
24 performance of funeral services shall not be taxable under

1 this part but shall be taxable under section 821 or section
2 831.

3 **"SEC. 817. TREATMENT OF VARIABLE CONTRACTS.**

4 “(a) **INCREASES AND DECREASES IN RESERVES.**—For
5 purposes of subsections (a) and (b) of section 807, the sum of
6 the items described in section 807(c) taken into account as of
7 the close of the taxable year with respect to any variable
8 contract shall, under regulations prescribed by the Secretary,
9 be adjusted—

10 “(1) by subtracting therefrom an amount equal to
11 the sum of the amounts added from time to time (for
12 the taxable year) to the reserves separately accounted
13 for in accordance with subsection (c) by reason of ap-
14 preciation in value of assets (whether or not the assets
15 have been disposed of), and

16 “(2) by adding thereto an amount equal to the
17 sum of the amounts subtracted from time to time (for
18 the taxable year) from such reserves by reason of de-
19 preciation in value of assets (whether or not the assets
20 have been disposed of).

21 The deduction allowable for items described in paragraphs (1)
22 and (6) of section 805(a) with respect to variable contracts
23 shall be reduced to the extent that the amount of such items
24 is increased for the taxable year by appreciation (or increased
25 to the extent that the amount of such items is decreased for

1 the taxable year by depreciation) not reflected in adjustments
2 under the preceding sentence.

3 “(b) ADJUSTMENT TO BASIS OF ASSETS HELD IN
4 SEGREGATED ASSET ACCOUNT.—In the case of variable
5 contracts, the basis of each asset in a segregated asset ac-
6 count shall (in addition to all other adjustments to basis) be—

7 “(1) increased by the amount of any appreciation
8 in value, and

9 “(2) decreased by the amount of any depreciation
10 in value,

11 to the extent such appreciation and depreciation are from
12 time to time reflected in the increases and decreases in re-
13 serves or other items referred to in subsection (a) with re-
14 spect to such contracts.

15 “(c) SEPARATE ACCOUNTING.—For purposes of this
16 part (other than section 809), a life insurance company which
17 issues variable contracts shall separately account for the var-
18 ious income, exclusion, deduction, asset, reserve, and other
19 liability items properly attributable to such variable contracts.
20 For such items as are not accounted for directly, separate
21 accounting shall be made—

22 “(1) in accordance with the method regularly em-
23 ployed by such company, if such method is reasonable,
24 and

1 “(2) in all other cases, in accordance with regula-
2 tions prescribed by the Secretary.

3 “(d) VARIABLE CONTRACT DEFINED.—For purposes
4 of this part, the term ‘variable contract’ means a contract—

5 “(1) which provides for the allocation of all or
6 part of the amounts received under the contract to an
7 account which, pursuant to State law or regulation, is
8 segregated from the general asset accounts of the
9 company,

10 “(2) which—

11 “(A) provides for the payment of annuities,

12 or

13 “(B) is a life insurance contract, and

14 “(3) under which—

15 “(A) in the case of an annuity contract, the
16 amounts paid in, or the amount paid out, reflect
17 the investment return and the market value of the
18 segregated asset account, or

19 “(B) in the case of a life insurance contract,
20 the amount of the death benefit (or the period of
21 coverage) is adjusted on the basis of the invest-
22 ment return and the market value of the segre-
23 gated asset account.

24 If a contract ceases to reflect current investment return and
25 current market value, such contract shall not be considered

1 as meeting the requirements of paragraph (3) after such
2 cessation.

3 “(e) PENSION PLAN CONTRACTS TREATED AS PAYING
4 ANNUITY.—A pension plan contract which is not a life, acci-
5 dent, or health, property, casualty, or liability insurance con-
6 tract shall be treated as a contract which provides for the
7 payments of annuities for purposes of subsection (d).

8 “(f) OTHER SPECIAL RULES.—

9 “(1) LIFE INSURANCE RESERVES.—For purposes
10 of subsection (b)(1)(A) of section 816, the reflection of
11 the investment return and the market value of the seg-
12 regated asset account shall be considered an assumed
13 rate of interest.

14 “(2) ADDITIONAL SEPARATE COMPUTATIONS.—
15 Under regulations prescribed by the Secretary, such
16 additional separate computations shall be made, with
17 respect to the items separately accounted for in accord-
18 ance with subsection (c), as may be necessary to carry
19 out the purposes of this section and this part.

20 “(g) VARIABLE ANNUITY CONTRACTS TREATED AS
21 ANNUITY CONTRACTS.—For purposes of this part, the term
22 ‘annuity contract’ includes a contract which provides for the
23 payment of a variable annuity computed on the basis of—

24 “(1) recognized mortality tables, and

1 “(2)(A) the investment experience of a segregated
2 asset account, or

3 “(B) the company-wide investment experience of
4 the company.

5 Paragraph (2)(B) shall not apply to any company which
6 issues contracts which are not variable contracts.

7 “(h) TREATMENT OF CERTAIN NONDIVERSIFIED CON-
8 TRACTS.—

9 “(1) IN GENERAL.—For purposes of subchapter
10 L, section 72 (relating to annuities), and section
11 7702(a) (relating to definition of life insurance con-
12 tract), a variable contract which is otherwise described
13 in this section and which is based on a segregated
14 asset account shall not be treated as an annuity, en-
15 dowment, or life insurance contract unless the invest-
16 ments made by such account are, in accordance with
17 regulations prescribed by the Secretary, adequately di-
18 versified. For purposes of the preceding sentence,
19 beneficial interests in a regulated investment company
20 or in a trust shall not be treated as 1 investment if all
21 of the beneficial interests in such company or trust are
22 held by 1 or more segregated asset accounts of the
23 company issuing the contract.

24 “(2) SPECIAL RULE FOR VARIABLE LIFE INSUR-
25 ANCE CONTRACTS INVESTING IN UNITED STATES OB-

1 LIGATIONS.—In the case of a segregated asset account
2 with respect to variable life insurance contracts, para-
3 graph (1) shall not apply in the case of securities issued
4 by the United States Treasury which are owned by a
5 regulated investment company or by a trust all the
6 beneficial interests in which are held by 1 or more seg-
7 regated asset accounts of the company issuing the con-
8 tract.

9 “(3) INDEPENDENT INVESTMENT ADVISORS PER-
10 MITTED.—Nothing in this subsection shall be con-
11 strued as prohibiting the use of independent investment
12 advisors.

13 **“SEC. 818. OTHER DEFINITIONS AND SPECIAL RULES.**

14 “(a) PENSION PLAN CONTRACTS.—For purposes of
15 this part, the term ‘pension plan contract’ means any
16 contract—

17 “(1) entered into with trusts which (as of the time
18 the contracts were entered into) were deemed to be
19 trusts described in section 401(a) and exempt from tax
20 under section 501(a), (or trusts exempt from tax under
21 section 165 of the Internal Revenue Code of 1939 or
22 the corresponding provisions of prior revenue laws);

23 “(2) entered into under plans which (as of the
24 time the contracts were entered into) were deemed to
25 be plans described in section 403(a), or plans meeting

1 the requirements of paragraphs (3), (4), (5), and (6) of
2 section 165(a) of the Internal Revenue Code of 1939;

3 “(3) provided for employees of the life insurance
4 company under a plan which, for the taxable year,
5 meets the requirements of paragraphs (3), (4), (5), (6),
6 (7), (8), (11), (12), (13), (14), (15), (16), (19), (20), and
7 (22) of section 401(a);

8 “(4) purchased to provide retirement annuities for
9 its employees by an organization which (as of the time
10 the contracts were purchased) was an organization de-
11 scribed in section 501(c)(3) which was exempt from tax
12 under section 501(a) (or was an organization exempt
13 from tax under section 101(6) of the Internal Revenue
14 Code of 1939 or the corresponding provisions of prior
15 revenue laws), or purchased to provide retirement an-
16 nuities for employees described in section
17 403(b)(1)(A)(ii) by an employer which is a State, a po-
18 litical subdivision of a State, or an agency or instru-
19 mentality of any one or more of the foregoing;

20 “(5) entered into with trusts which (at the time
21 the contracts were entered into) were individual retire-
22 ment accounts described in section 408(a) or under
23 contracts entered into with individual retirement annu-
24 ities described in section 408(b); or

25 “(6) purchased by—

1 “(A) a governmental plan (within the mean-
2 ing of section 414(d)), or

3 “(B) the Government of the United States,
4 the government of any State or political subdivi-
5 sion thereof, or by any agency or instrumentality
6 of the foregoing, for use in satisfying an obligation
7 of such government, political subdivision, or
8 agency or instrumentality to provide a benefit
9 under a plan described in subparagraph (A).

10 “(b) TREATMENT OF CAPITAL GAINS AND LOSSES,
11 ETC.—In the case of a life insurance company—

12 “(1) in applying section 1231(a), the term ‘proper-
13 ty used in the trade or business’ shall be treated as in-
14 cluding only—

15 “(A) property used in carrying on an insur-
16 ance business, of a character which is subject to
17 the allowance for depreciation provided in section
18 167, held for more than 1 year, and real property
19 used in carrying on an insurance business, held
20 for more than 1 year, which is not described in
21 section 1231(b)(1)(A), (B), or (C), and

22 “(B) property described in section 1231(b)(2),
23 and

24 “(2) in applying section 1221(2), the reference to
25 property used in trade or business shall be treated as

1 including only property used in carrying on an insur-
2 ance business.

3 “(c) GAIN ON PROPERTY HELD ON DECEMBER 31,
4 1958 AND CERTAIN SUBSTITUTED PROPERTY ACQUIRED
5 AFTER 1958.—

6 “(1) PROPERTY HELD ON DECEMBER 31,
7 1958.—In the case of property held by the taxpayer
8 on December 31, 1958, if—

9 “(A) the fair market value of such property
10 on such date exceeds the adjusted basis for deter-
11 mining gain as of such date, and

12 “(B) the taxpayer has been a life insurance
13 company at all times on and after December 31,
14 1958,

15 the gain on the sale or other disposition of such prop-
16 erty shall be treated as an amount (not less than zero)
17 equal to the amount by which the gain (determined
18 without regard to this subsection) exceeds the differ-
19 ence between the fair market value on December 31,
20 1958, and the adjusted basis for determining gain as of
21 such date.

22 “(2) CERTAIN PROPERTY ACQUIRED AFTER DE-
23 CEMBER 31, 1958.—In the case of property acquired
24 after December 31, 1958, and having a substituted
25 basis (within the meaning of section 1016(b))—

1 “(A) for purposes of paragraph (1), such
2 property shall be deemed held continuously by the
3 taxpayer since the beginning of the holding period
4 thereof, determined with reference to section
5 1223,

6 “(B) the fair market value and adjusted basis
7 referred to in paragraph (1) shall be that of that
8 property for which the holding period taken into
9 account includes December 31, 1958,

10 “(C) paragraph (1) shall apply only if the
11 property or properties the holding periods of
12 which are taken into account were held only by
13 life insurance companies after December 31,
14 1958, during the holding periods so taken into
15 account,

16 “(D) the difference between the fair market
17 value and adjusted basis referred to in paragraph
18 (1) shall be reduced (to not less than zero) by the
19 excess of (i) the gain that would have been recog-
20 nized but for this subsection on all prior sales or
21 dispositions after December 31, 1958, of proper-
22 ties referred to in subparagraph (C), over (ii) the
23 gain which was recognized on such sales or other
24 dispositions, and

1 “(E) the basis of such property shall be de-
2 termined as if the gain which would have been
3 recognized but for this subsection were recognized
4 gain.

5 “(3) PROPERTY DEFINED.—For purposes of para-
6 graphs (1) and (2), the term ‘property’ does not include
7 insurance and annuity contracts and property described
8 in paragraph (1) of section 1221.

9 “(d) INSURANCE OR ANNUITY CONTRACT INCLUDES
10 CONTRACTS SUPPLEMENTARY THERETO.—For purposes of
11 this part, the term ‘insurance or annuity contract’ includes
12 any contract supplementary thereto.

13 “(e) SPECIAL RULE FOR CONSOLIDATED RETURNS.—
14 If an election under section 1504(c)(2) is in effect with re-
15 spect to an affiliated group for the taxable year, all items of
16 the members of such group which are not life insurance com-
17 panies shall not be taken into account in determining the
18 amount of the tentative LICTI of members of such group
19 which are life insurance companies.

20 “(f) ALLOCATION OF CERTAIN ITEMS FOR PURPOSES
21 OF FOREIGN TAX CREDIT, ETC.—

22 “(1) IN GENERAL.—Under regulations, in apply-
23 ing sections 861, 862, and 863 to a life insurance com-
24 pany, the deduction for policyholder dividends (deter-
25 mined under section 803(c)), reserve adjustments under

1 subsections (a) and (b) of section 807, and death bene-
2 fits and other amounts described in section 805(a)(1)
3 shall be treated as items which cannot definitely be al-
4 located to an item or class of gross income.

5 “(2) ELECTION OF ALTERNATIVE ALLOCA-
6 TION.—

7 “(A) IN GENERAL.—On or before September
8 15, 1984, any life insurance company may elect
9 to treat items described in paragraph (1) as prop-
10 erly apportioned or allocated among items of
11 gross income to the extent (and in the manner)
12 prescribed in regulations.

13 “(B) ELECTION IRREVOCABLE.—Any elec-
14 tion under subparagraph (A), once made, may be
15 revoked only with the consent of the Secretary.”

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) Subclause (IV) of section 72(e)(5)(D)(i) is
18 amended by striking out “section 805(d)(3)” and insert-
19 ing in lieu thereof “section 818(a)(3)”.

20 (2) Subsection (a) of section 80 (relating to resto-
21 ration of value of certain securities) is amended by
22 striking out “802” and inserting in lieu thereof “801”.

23 (3)(A) Subparagraph (C) of section 243(b)(3) (re-
24 lating to effect of election) is amended by striking out

1 clause (iii), by adding “and” at the end of clause (ii),
2 and by redesignating clause (iv) as clause (iii).

3 (B) Paragraph (6) of section 243(b) (relating to
4 special rules for insurance companies) is amended by
5 striking out “section 802” and inserting in lieu thereof
6 “section 801”.

7 (4) Subsection (d) of section 381 (relating to car-
8 ryover in certain corporate acquisitions) is amended by
9 striking out “section 812(f)” and inserting in lieu
10 thereof “section 810”.

11 (5) Paragraph (24) of section 401(a) (relating to
12 qualified pension, profit-sharing, and stock bonus plans)
13 is amended by striking out “section 805(d)(6)” and in-
14 serting in lieu thereof “section 818(a)(6)”.

15 (6)(A) Paragraph (1) of section 453B(e) (relating
16 to life insurance companies) is amended by striking out
17 “section 801(a)” and inserting in lieu thereof “section
18 816(a)”.

19 (B) Paragraph (2) of section 453B(e) is amended
20 to read as follows:

21 “(2) SPECIAL RULE WHERE LIFE INSURANCE
22 COMPANY ELECTS TO TREAT INCOME AS NOT RELAT-
23 ED TO INSURANCE BUSINESS.—Paragraph (1) shall
24 not apply to any transfer or deemed transfer of an in-
25 stallment obligation if the life insurance company elects

1 (at such time and in such manner as the Secretary may
2 by regulations prescribe) to determine its life insurance
3 company taxable income—

4 “(A) by returning the income on such install-
5 ment obligation under the installment method pre-
6 scribed in section 453, and

7 “(B) as if such income were an item attribut-
8 able to a noninsurance business (as defined in sec-
9 tion 806(c)(3)).”

10 (7) Paragraph (5) of section 542(b) (relating to
11 certain dividend income received from a nonincludible
12 life insurance company) is amended by striking out
13 “section 802” and inserting in lieu thereof “section
14 801”.

15 (8) Subsection (b) of section 594 (relating to alter-
16 native tax for mutual savings banks conducting life in-
17 surance business) is amended by striking out “section
18 801” and inserting in lieu thereof “section 816”.

19 (9) Paragraph (4) of section 832(b) (defining pre-
20 miums earned) is amended by striking out “section
21 801(b)” and inserting in lieu thereof “section 816(b)
22 but determined as provided in section 807” and by
23 striking out “section 801” and inserting in lieu thereof
24 “section 816”.

1 (10) Section 841 (relating to credit for foreign
2 taxes) is amended—

3 (A) by striking out “section 802,” each place
4 it appears and inserting in lieu thereof “section
5 801,” and

6 (B) by striking out “section 802(b)” and in-
7 serting in lieu thereof “section 801(b)”.

8 (11)(A) Subsection (a) of section 844 (relating to
9 special loss carryover rules) is amended—

10 (i) by striking out “section 812,” and insert-
11 ing in lieu thereof “section 810 (or the corre-
12 sponding provisions of prior law),” and

13 (ii) by striking out “section 812(a)” and in-
14 serting in lieu thereof “section 810(a)”.

15 (B) Subsection (b) of section 844 is amended—

16 (i) by striking out “section 812(a)” and in-
17 serting in lieu thereof “section 810(a),” and

18 (ii) by striking out “section 812(b)(1)(C)” in
19 paragraph (2) and inserting in lieu thereof “sec-
20 tion 810(b)(1)(C)”.

21 (12) Section 891 (relating to doubling of rates of
22 tax on citizens and corporations of certain foreign
23 countries) is amended by striking out “802” and insert-
24 ing in lieu thereof “801”.

1 (13)(A) Subsection (b) of section 953 (relating to
2 income from insurance of United States risks) is
3 amended by striking out paragraph (1) and by redesi-
4 gnating paragraphs (2), (3), (4), and (5) as paragraphs
5 (1), (2), (3), and (4), respectively.

6 (B) Paragraph (2) of section 953(b), as redesignat-
7 ed by subparagraph (A), is amended to read as follows:

8 “(2) The following provisions of subchapter L
9 shall not apply:

10 “(A) The special life insurance company
11 deduction and the small life insurance company
12 deduction.

13 “(B) Section 805(a)(5) (relating to operations
14 loss deduction).

15 “(C) Section 832(c)(5) (relating to certain
16 capital losses).”

17 (C) Paragraph (3) of section 953(b), as redesignat-
18 ed by subparagraph (A), is amended by—

19 (i) striking out “section 309(c)(1)” and insert-
20 ing in lieu thereof “section 803(a)(1)”, and

21 (ii) by striking out “section 809(c)(2)” and
22 inserting in lieu thereof “section 803(a)(2)”, and

23 (iii) by striking out “section 809(d)(2)” and
24 inserting in lieu thereof “section 805(a)(2)”.

1 (D) Paragraph (2) of section 953(a) is amended by
2 striking out “, (2), and (3)” and inserting in lieu there-
3 of “and (2)”.

4 (E) Paragraph (4) of section 953(b), as redesignat-
5 ed by subparagraph (A), is amended by striking out
6 “paragraph (4)” and inserting in lieu thereof “para-
7 graph (3)”.

8 (14) Paragraph (17) of section 1016(a) is amended
9 by striking out “section 818(b)” each place it appears
10 and inserting in lieu thereof “section 811(b)”.

11 (15) Paragraph (1) of section 1035(b) (defining en-
12 dowment contract) is amended by striking out “section
13 801” and inserting in lieu thereof “section 816”.

14 (16) Paragraph (1) of section 1201(b) (relating to
15 cross references) is amended by striking out “section
16 802(a)(2)” and inserting in lieu thereof “section
17 801(a)(2)”.

18 (17) Subparagraph (B) of section 1232A(c)(4) (re-
19 lating to original issue discount) is amended by striking
20 out “section 818(b)” and inserting in lieu thereof “sec-
21 tion 811(b)”.

22 (18)(A) Paragraph (1) of section 1351(a) (relating
23 to treatment of recoveries of foreign expropriation
24 losses) is amended by striking out “802” each place it
25 appears and inserting in lieu thereof “801”.

1 (B) Paragraph (2) of section 1351(c) (relating to
2 amount of recovery) is amended by striking out “sec-
3 tion 810(c)” and inserting in lieu thereof “section
4 807(c)”.

5 (C) Paragraph (3) of section 1351(i) (relating to
6 adjustments for succeeding years) is amended by strik-
7 ing out “section 812” and inserting in lieu thereof
8 “section 810”.

9 (19)(A) Subsection (c) of section 1503 (relating to
10 special rules for application of certain losses against
11 income of insurance companies taxed under section
12 802) is amended by striking out “section 802” each
13 place it appears and inserting in lieu thereof “section
14 801”.

15 (B) Paragraph (1) of section 1503(c) is amended
16 by striking out the third sentence.

17 (C) The subsection heading of section 1503(c) is
18 amended by striking out “SECTION 802” and inserting
19 in lieu thereof “SECTION 801”.

20 (20) Subsections (b)(2), (c)(1), and (c)(2)(A) of sec-
21 tion 1504 (defining affiliated group) are each amended
22 by striking out “section 802” and inserting in lieu
23 thereof “section 801”.

1 (21)(A) Subsection (a) of section 1561 (relating to
2 limitations on certain multiple tax benefits in the case
3 of certain controlled corporations) is amended—

4 (i) by striking out paragraphs (3) and (4), by
5 adding “and” at the end of paragraph (1), and by
6 striking out the comma at the end of paragraph
7 (2) and inserting in lieu thereof a period, and

8 (ii) by striking out “paragraphs (2), (3), and
9 (4)” in the last sentence and inserting in lieu
10 thereof “paragraph (2)”.

11 (B) Subsection (b) of section 1561 is amended—

12 (i) by striking out paragraphs (3) and (4) and
13 by adding “and” at the end of paragraph (1), and

14 (ii) by striking out “, (2), (3), or (4)” and in-
15 serting in lieu thereof “or (2)”.

16 (22) Subsections (a)(4) and (b)(2)(D) of section
17 1563 (defining controlled group of corporations) are
18 each amended by striking out “section 802” and in-
19 serting in lieu thereof “section 801”.

20 (23) Paragraph (2) of section 4371 (relating to im-
21 position of tax on policies issued by foreign insurers) is
22 amended by striking out “section 819” and inserting in
23 lieu thereof “section 813”.

24 (24)(A) Subsection (c) of section 6501 (relating to
25 limitations on assessment and collection) is amended by

1 striking out paragraph (6) and by redesignating para-
2 graph (7) as paragraph (6).

3 (B) Subsection (k) of section 6501 (relating to re-
4 ductions of policyholders surplus account of life insur-
5 ance companies) is hereby repealed.

6 (25) Subsection (d) of section 6511 (relating to
7 limitations on credit or refund) is amended by striking
8 out paragraph (6) and by redesignating paragraph (7)
9 as paragraph (6).

10 (26) Subsection (d) of section 6601 (relating to in-
11 terest on underpayments, etc.) is amended by striking
12 out paragraph (3) and by redesignating paragraph (4)
13 as paragraph (3).

14 (27) Subsection (f) of section 6611 (relating to in-
15 terest on overpayments) is amended by striking out
16 paragraph (4).

17 **PART II—EFFECTIVE DATE; TRANSITIONAL RULES**

18 **Subpart A—Effective Date**

19 **SEC. 215. EFFECTIVE DATE.**

20 The amendments made by this subtitle shall apply to
21 taxable years beginning after December 31, 1983.

1 Subpart B—Transitional Rules**2 SEC. 216. RESERVES COMPUTED ON NEW BASIS; FRESH
3 START.**

4 (a) **IN GENERAL.**—As of the beginning of the first tax-
5 able year beginning after December 31, 1983, for purposes of
6 subchapter L of the Internal Revenue Code of 1954 (other
7 than section 816 thereof), the reserve for any contract shall
8 be recomputed as if the amendments made by this subtitle
9 had applied to such contract when it was issued.

10 (b) FRESH START.—

11 (1) **IN GENERAL.**—Except as provided in para-
12 graph (2), in the case of any life insurance company,
13 any change in the method of accounting (and any
14 change in the method of computing reserves) between
15 such company's first taxable year beginning after De-
16 cember 31, 1983, and the preceding taxable year
17 which is required solely by the amendments made by
18 this subtitle shall be treated as not being a change in
19 the method of accounting (or change in the method of
20 computing reserves) for purposes of the Internal Reve-
21 nue Code of 1954.

**22 (2) TREATMENT OF ADJUSTMENTS FROM YEARS
23 BEFORE 1984.—**

24 (A) **ADJUSTMENTS ATTRIBUTABLE TO DE-**
25 **CREASES IN RESERVES.**—No adjustment under
26 section 810(d) of the Internal Revenue Code of

1 1954 (as in effect on the day before the date of
2 the enactment of this Act) attributable to any de-
3 crease in reserves as a result of a change in a
4 taxable year beginning before 1984 shall be taken
5 into account in any taxable year beginning after
6 1983.

7 (B) ADJUSTMENTS ATTRIBUTABLE TO IN-
8 CREASES IN RESERVES.—

9 (i) IN GENERAL.—Any adjustment
10 under section 810(d) of the Internal Revenue
11 Code of 1954 (as so in effect) attributable to
12 an increase in reserves as a result of a
13 change in a taxable year beginning before
14 1984 shall be taken into account in taxable
15 years beginning after 1983 to the extent
16 that—

17 (I) the amount of the adjustments
18 which would be taken into account
19 under such section in taxable years be-
20 ginning after 1983 without regard to
21 this subparagraph, exceeds

22 (II) the amount of any fresh start
23 adjustment attributable to contracts for
24 which there was such an increase in re-
25 serves as a result of such change.

1 (ii) FRESH START ADJUSTMENT.—For
2 purposes of clause (i), the fresh start adjust-
3 ment with respect to any contract is the
4 excess (if any) of—

5 (I) the reserve attributable to such
6 contract as of the close of the taxpay-
7 er's last taxable year beginning before
8 January 1, 1984, over

9 (II) the reserve for such contract
10 as of the beginning of the taxpayer's
11 first taxable year beginning after 1983
12 as recomputed under subsection (a) of
13 this section.

14 (C) RELATED INCOME INCLUSIONS NOT
15 TAKEN INTO ACCOUNT TO THE EXTENT DEDUC-
16 TION DISALLOWED UNDER SUBPARAGRAPH
17 (b).—No premium shall be included in income to
18 the extent such premium is directly related to an
19 increase in a reserve for which a deduction is dis-
20 allowed by subparagraph (B).

21 (3) REINSURANCE TRANSACTIONS AND RESERVE
22 STRENGTHENING AFTER SEPTEMBER 27, 1983.—

23 (A) IN GENERAL.—Except as provided in
24 this paragraph—

1 (i) any reinsurance agreement entered
2 into after September 27, 1983, and before
3 the first day of the first taxable year begin-
4 ning after December 31, 1983,

5 (ii) any modification of any reinsurance
6 agreement after September 27, 1983, and
7 before such first day, and

8 (iii) any reserve strengthening reported
9 for Federal income tax purposes after Sep-
10 tember 27, 1983, for a taxable year ending
11 before such first day,

12 shall not be taken into account for Federal income
13 tax purposes until such first day.

14 (B) EXCEPTIONS FOR DETERMINING
15 WHETHER COMPANY IS A LIFE INSURANCE COM-
16 PANY, ETC.—Subparagraph (A) shall not apply
17 for purposes of sections 801 and 815 of the Inter-
18 nal Revenue Code of 1954 (as in effect on the
19 day before the date of the enactment of this Act).

20 (C) EXCEPTION FOR COMPUTATION OF RE-
21 SERVES ON NEW CONTRACTS IN CUSTOMARY
22 MANNER.—Subparagraph (A)(iii) shall not apply
23 to the computation of reserves on any contract
24 issued if such computation employs the reserve
25 practice used for purposes of the most recent

1 annual statement filed before September 27,
2 1983, for the type of contract with respect to
3 which such reserves are set up.

4 (4) ELECTIONS UNDER SECTION 818(C) AFTER
5 SEPTEMBER 27, 1983, NOT TO TAKE EFFECT.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), any election after September
8 27, 1983, under section 818(c) of the Internal
9 Revenue Code of 1954 (as in effect on the day
10 before the date of the enactment of this Act) shall
11 not take effect.

12 (B) EXCEPTION FOR CERTAIN CONTRACTS
13 ISSUED UNDER PLAN OF INSURANCE FIRST
14 FILED AFTER MARCH 1, 1982, AND BEFORE
15 SEPTEMBER 28, 1983.—Subparagraph (A) shall
16 not apply to any election under such section
17 818(c) if more than 95 percent of the reserves
18 computed in accordance with such election are at-
19 tributable to risks under life insurance contracts
20 issued by the taxpayer under a plan of insurance
21 first filed after March 1, 1982, and before Sep-
22 tember 28, 1983.

23 (5) RECAPTURE OF REINSURANCE AFTER DE-
24 CEMBER 31, 1983.—If (A) insurance or annuity con-
25 tracts in force on December 31, 1983, are subject to

1 an indemnity reinsurance agreement entered into after
2 December 31, 1981, (B) paragraph (3) of this subsec-
3 tion does not apply, and (C) such contracts are recap-
4 tured by the reinsured in any taxable year beginning
5 after December 31, 1983, then—

6 (i) if the amount of the reserves with respect
7 to the recaptured contracts, computed at the date
8 of recapture, that the reinsurer would have taken
9 into account under section 810(c) of the Internal
10 Revenue Code of 1954 (as in effect on the day
11 before the date of the enactment of this Act) ex-
12 ceeds the amount of the reserves with respect to
13 the recaptured contracts, computed at the date of
14 recapture, taken into account by the reinsurer
15 under section 807(c) of the Internal Revenue
16 Code of 1954 (as amended by this subtitle), such
17 excess (but not greater than the amount of such
18 excess if computed on January 1, 1984) shall be
19 taken into account by the reinsurer under the
20 method described in section 807(f)(1)(B)(ii) of the
21 Internal Revenue Code of 1954 (as amended by
22 this subtitle) commencing with the taxable year of
23 recapture, and

24 (ii) the amount, if any, taken into account by
25 the reinsurer under clause (i) for purposes of part

1 I of subchapter L of chapter 1 of the Internal
2 Revenue Code of 1954 shall be taken into ac-
3 count by the reinsured under the method de-
4 scribed in section 807(f)(1)(B)(i) of the Internal
5 Revenue Code of 1954 (as amended by this subti-
6 tle) commencing with the taxable year of recap-
7 ture.

8 (c) ELECTION NOT TO HAVE RESERVES RECOMPUT-
9 ED.— *

10 (1) IN GENERAL.—If a qualified life insurance
11 company makes an election under this paragraph—

12 (A) subsection (a) shall not apply to such
13 company, and

14 (B) as of the beginning of the first taxable
15 year beginning after December 31, 1983, and
16 thereafter, the reserve for any contract issued
17 before the first day of such taxable year by such
18 company shall be the statutory reserve for such
19 contract (within the meaning of section
20 809(b)(4)(B)(i) of the Internal Revenue Code of
21 1954).

22 (2) ELECTION WITH RESPECT TO CONTRACTS
23 ISSUED AFTER 1983 AND BEFORE 1989.—

24 (A) IN GENERAL.—If—

1 (i) a qualified life insurance company
2 makes an election under paragraph (1), and

3 (ii) the tentative LICTI (within the
4 meaning of section 806(c) of such Code) of
5 such company for its first taxable year begin-
6 ning after December 31, 1983, does not
7 exceed \$3,000,000,

8 such company may elect under this paragraph to
9 have the reserve for any contract issued on or
10 after the first day of such first taxable year and
11 before January 1, 1989, be equal to the statutory
12 reserve for such contract, adjusted as provided in
13 subparagraph (B).

14 (B) ADJUSTMENT TO RESERVES.—If this
15 paragraph applies to any contract, the statutory
16 reserves for such contract shall be adjusted as
17 provided under section 805(c)(1) of such Code (as
18 in effect for taxable years beginning in 1982 and
19 1983), except that section 805(c)(1)(B)(ii) of such
20 Code (as so in effect) shall be applied by substitut-
21 ing—

22 (i) the prevailing State assumed interest
23 rate (within the meaning of section 807(c)(4)
24 of such Code), for

25 (ii) the adjusted reserves rate.

1 (3) QUALIFIED LIFE INSURANCE COMPANY.—For
2 purposes of this subsection, the term “qualified life in-
3 surance company” means any life insurance company
4 which, as of December 31, 1983, had assets of less
5 than \$500,000,000 (determined in the same manner as
6 under section 806(b)(3) of such Code).

7 (4) SPECIAL RULES FOR CONTROLLED
8 GROUPS.—For purposes of applying the dollar limita-
9 tions of paragraphs (2) and (3), rules similar to the
10 rules of section 806(d) of such Code shall apply.

11 (5) ELECTIONS.—Any election under paragraph
12 (1) or (2)—

13 (A) shall be made at such time and in such
14 manner as the Secretary of the Treasury may
15 prescribe, and

16 (B) once made, shall be irrevocable.

17 **SEC. 217. OTHER SPECIAL RULES.**

18 (a) NEW SECTION 814 TREATED AS CONTINUATION
19 OF SECTION 819A.—For purposes of section 814 of the In-
20 ternal Revenue Code of 1954 (relating to contiguous country
21 branches of domestic life insurance companies)—

22 (1) any election under section 819A of such Code
23 (as in effect on the day before the date of the enact-
24 ment of this Act) shall be treated as an election under
25 such section 814, and

1 (2) any reference to a provision of such section
2 814 shall be treated as including a reference to the
3 corresponding provision of such section 819A.

4 (b) TREATMENT OF ELECTIONS UNDER SECTION
5 453B(e)(2).—If an election is made under section 453B(e)(2)
6 before January 1, 1984, with respect to any installment obli-
7 gation, any income from such obligation shall be treated as
8 attributable to a noninsurance business (as defined in section
9 806(c)(3) of the Internal Revenue Code of 1954).

10 (c) DETERMINATION OF TENTATIVE LICTI WHERE
11 CORPORATION MADE CERTAIN ACQUISITIONS IN 1980,
12 1981, 1982, AND 1983.—If—

13 (1) a corporation domiciled in Alabama, Oklaho-
14 ma, or Texas acquired the assets of 1 or more insur-
15 ance companies after 1979 and before April 1, 1983,
16 and

17 (2) the bases of such assets in the hands of the
18 corporation were determined under section 334(b)(2) of
19 the Internal Revenue Code of 1954 or such corpora-
20 tion made an election under section 338 of such Code
21 with respect to such assets,

22 then the tentative LICTI of the corporation holding such
23 assets for taxable years beginning after December 31, 1983,
24 shall, for purposes of determining the amount of the special
25 deductions under section 806 of such Code, be increased by

1 the deduction allowable under chapter 1 of such Code for the
2 amortization of the cost of insurance contracts acquired in
3 such asset acquisition (and any portion of any operations loss
4 deduction attributable to such amortization).

5 (d) SPECIAL RULE FOR ALLOCATION IN CASE OF RE-
6 INSURANCE AGREEMENTS.—Subsection (d) of section 811 of
7 the Internal Revenue Code of 1954 (as amended by this title)
8 shall not apply with respect to any risk arising and reinsured
9 before September 27, 1983, under a reinsurance agreement
10 entered into before such date.

11 (e) TREATMENT OF CERTAIN COMPANIES OPERATING
12 BOTH AS STOCK AND MUTUAL COMPANY.—If, during the
13 10-year period ending on December 31, 1983, a company
14 has, as authorized by the law of the State in which the com-
15 pany is domiciled, been operating as a mutual life insurance
16 company with shareholders, such company shall be treated as
17 a stock life insurance company.

18 (f) TREATMENT OF CERTAIN ASSESSMENT LIFE IN-
19 SURANCE COMPANIES.—

20 (1) MORTALITY AND MORBIDITY TABLES.—In
21 the case of a contract issued by an assessment life in-
22 surance company, the mortality and morbidity tables
23 used in computing statutory reserves for such contract
24 shall be used for purposes of paragraph (2)(C) of sec-

1 tion 807(d) of the Internal Revenue Code of 1954 (as
2 amended by this subtitle) if such tables were—

3 (A) in use since 1965, and

4 (B) developed on the basis of the experience
5 of assessment life insurance companies in the
6 State in which such assessment life insurance
7 company is domiciled.

8 (2) TREATMENT OF CERTAIN MUTUAL ASSESS-
9 MENT LIFE INSURANCE COMPANIES.—In the case of
10 any contract issued by a mutual assessment life insur-
11 ance company which—

12 (A) has been in existence since 1965, and

13 (B) operates under chapter 13 or 14 of the
14 Texas Insurance Code,

15 for purposes of part I of subchapter L of chapter 1 of
16 the Internal Revenue Code of 1954, the amount of the
17 life insurance reserves for such contract shall be equal
18 to the amount taken into account with respect to such
19 contract in determining statutory reserves.

20 (3) STATUTORY RESERVES.—For purposes of this
21 subsection, the term “statutory reserves” has the
22 meaning given to such term by section 809(b)(4)(B) of
23 such Code.

24 (g) TREATMENT OF REINSURANCE AGREEMENTS RE-
25 QUIRED BY NAIC.—Effective for taxable years beginning

1 after December 31, 1981, and before January 1, 1984, sub-
2 sections (c)(1)(F) and (d)(12) of section 809 of the Internal
3 Revenue Code of 1954 (as in effect on the day before the
4 date of the enactment of this Act) shall not apply to dividends
5 to policyholders reimbursed to the taxpayer by a reinsurer in
6 respect of accident and health policies reinsured under a rein-
7 surance agreement entered into before June 30, 1955, pursu-
8 ant to the direction of the National Association of Insurance
9 Commissioners and approved by the State insurance commis-
10 sioner of the taxpayer's State of domicile. For purposes of
11 subchapter L of chapter 1 of such Code (as in effect on the
12 day before the date of the enactment of this Act) any such
13 dividends shall be treated as dividends of the reinsurer and
14 not the taxpayer.

15 (h) SPECIAL RULE FOR INSURANCE COMPANIES RE-
16 QUIRED TO DIVEST REINSURANCE BUSINESS.—No amount
17 shall be required to be included in life insurance company
18 taxable income (within the meaning of section 801(b) of the
19 Internal Revenue Code of 1954) under section 815 of such
20 Code by reason of the divestiture of the reinsurance business
21 of a life insurance company, pursuant to an order by the
22 Board of Governors of the Federal Reserve System requiring
23 such divestiture by September 1, 1984.

1 (i) DETERMINATION OF ASSETS OF CONTROLLED
2 GROUP FOR PURPOSES OF SMALL LIFE INSURANCE COM-
3 PANY DEDUCTION FOR 1984.—

4 (1) IN GENERAL.—For purposes of applying para-
5 graph (2) of section 806(d) of the Internal Revenue
6 Code of 1954 (relating to nonlife insurance members
7 included for asset test) for the first taxable year begin-
8 ning after December 31, 1983, the members of the
9 controlled group referred to in such paragraph shall be
10 treated as including only those members of such group
11 which are described in paragraph (2) of this subsection
12 if—

13 (A) an election under section 1504(c)(2) of
14 such Code is not in effect for the controlled group
15 for such taxable year,

16 (B) during such taxable year, the controlled
17 group does not include a member which is taxable
18 under part I of subchapter L of chapter 1 of such
19 Code and which became a member of such group
20 after September 27, 1983, and

21 (C) the sum of the contributions to capital re-
22 ceived by members of the controlled group which
23 are taxable under such part I during such taxable
24 year from the members of the controlled group
25 which are not taxable under such part does not

1 exceed the aggregate dividends paid during such
2 taxable year by the members of such group which
3 are taxable under such part I.

4 (2) MEMBERS OF GROUP TAKEN INTO AC-
5 COUNT.—For purposes of paragraph (1), the members
6 of the controlled group which are described in this
7 paragraph are—

8 (A) any financial institution to which section
9 585 or 593 of such Code applies,

10 (B) any lending or finance business (as de-
11 fined by section 542(d)),

12 (C) any insurance company subject to tax im-
13 posed by subchapter L of chapter 1 of such Code,
14 and

15 (D) any securities broker.

16 (j) SPECIAL ELECTION TO TREAT INDIVIDUAL NON-
17 CANCELLABLE ACCIDENT AND HEALTH CONTRACTS AS
18 CANCELLABLE.—

19 (1) IN GENERAL.—A mutual life insurance com-
20 pany may elect to treat all individual noncancellable
21 (or guaranteed renewable) accident and health insur-
22 ance contracts as though they were cancellable for pur-
23 poses of subchapter L of chapter 1 of the Internal Rev-
24 enue Code of 1954.

1 (2) EFFECT OF ELECTION ON SUBSIDIARIES OF
2 ELECTING PARENT.—

3 (A) TREATED AS MUTUAL LIFE INSURANCE
4 COMPANY.—Any stock life insurance company
5 which is a member of an affiliated group which
6 has a common parent which made an election
7 under paragraph (1), for purposes of part I of sub-
8 chapter L of the Internal Revenue Code of 1954,
9 such stock life insurance company shall be treated
10 as though it were a mutual life insurance compa-
11 ny.

12 “(B) INCOME OF ELECTING PARENT TAKEN
13 INTO ACCOUNT IN DETERMINING SMALL LIFE IN-
14 SURANCE COMPANY DEDUCTION OF ANY SUBSID-
15 IARY.—For purposes of determining the amount
16 of the small life insurance company deduction of
17 any controlled group which includes a mutual
18 company which made an election under paragraph
19 (1), the taxable income of such electing company
20 shall be taken into account under section
21 806(b)(2) of the Internal Revenue Code of 1954
22 (relating to phase-out of small life insurance com-
23 pany deduction).

24 (3) ELECTION.—An election under paragraph (1)
25 shall apply to the company's first taxable year begin-

1 ning after December 31, 1983, and all taxable years
2 thereafter.

3 (4) **TIME AND MANNER.**—An election under para-
4 graph (1) shall be made at such time and in such
5 manner as the Secretary of the Treasury or his dele-
6 gate may prescribe.

7 **SEC. 218. UNDERPAYMENTS OF ESTIMATED TAX FOR 1984.**

8 No addition to the tax shall be made under section 6655
9 of the Internal Revenue Code of 1954 (relating to failure by
10 corporation to pay estimated tax) with respect to any under-
11 payment of an installment required to be paid before the date
12 of the enactment of this Act to the extent—

13 (1) such underpayment was created or increased
14 by any provision of this subtitle, and

15 (2) such underpayment is paid in full on or before
16 the last date prescribed for payment of the first install-
17 ment of estimated tax required to be paid after the
18 date of the enactment of this Act.

19 **Subtitle B—Taxation of Life**
20 **Insurance Products**

21 **SEC. 221. DEFINITION OF LIFE INSURANCE CONTRACT.**

22 (a) **GENERAL RULE.**—Chapter 79 (relating to defini-
23 tions) is amended by adding at the end thereof the following
24 new section:

1 **"SEC. 7702. LIFE INSURANCE CONTRACT DEFINED.**

2 “(a) **GENERAL RULE.**—For purposes of this title, the
3 term ‘life insurance contract’ means any contract which is a
4 life insurance contract under the applicable law, but only if
5 such contract—

6 “(1) meets the cash value accumulation test of
7 subsection (b), or

8 “(2)(A) meets the guideline premium requirements
9 of subsection (c), and

10 “(B) falls within the cash value corridor of subsec-
11 tion (d).

12 “(b) **CASH VALUE ACCUMULATION TEST FOR SUB-**
13 **SECTION (a)(1).**—

14 “(1) **IN GENERAL.**—A contract meets the cash
15 value accumulation test of this subsection if, by the
16 terms of the contract, the cash surrender value of such
17 contract may not at any time exceed the net single
18 premium which would have to be paid at such time to
19 fund future benefits under the contract.

20 “(2) **RULES FOR APPLYING PARAGRAPH (1).**—
21 Determinations under paragraph (1) shall be made—

22 “(A) on the basis of interest at the greater of
23 an annual effective rate of 4 percent or the rate
24 or rates guaranteed on issuance of the contract,

25 “(B) on the basis of the rules of subpara-
26 graph (B)(i) (and, in the case of qualified addition-

1 al benefits, subparagraph (B)(ii) of subsection
2 (c)(3). and

3 “(C) by taking into account under subpara-
4 graphs (A) and (C) of subsection (e)(1) only cur-
5 rent and future death benefits and qualified addi-
6 tional benefits.

7 “(c) **GUIDELINE PREMIUM REQUIREMENTS.**—For pur-
8 poses of this section—

9 “(1) **IN GENERAL.**—A contract meets the guide-
10 line premium requirements of this subsection if the sum
11 of the premiums paid under such contract does not at
12 any time exceed the guideline premium limitation as of
13 such time.

14 “(2) **GUIDELINE PREMIUM LIMITATION.**—The
15 term ‘guideline premium limitation’ means, as of any
16 date, the greater of—

17 “(A) the guideline single premium, or

18 “(B) the sum of the guideline level premiums
19 to such date.

20 “(3) **GUIDELINE SINGLE PREMIUM.**—

21 “(A) **IN GENERAL.**—The term ‘guideline
22 single premium’ means the premium at issue with
23 respect to future benefits under the contract.

1 “(B) BASIS ON WHICH DETERMINATION IS
2 MADE.—The determination under subparagraph
3 (A) shall be based on—

4 “(i) the mortality charges specified in
5 the contract (or, if none is specified, the mor-
6 tality charges used in determining the statu-
7 tory reserves for such contract),

8 “(ii) any charges (not taken into account
9 under clause (i)) specified in the contract (the
10 amount of any charge not so specified shall
11 be treated as zero), and

12 “(iii) interest at the greater of an annual
13 effective rate of 6 percent or the minimum
14 rate or rates guaranteed on issuance of the
15 contract.

16 “(C) WHEN DETERMINATION MADE.—
17 Except as provided in subsection (f)(7), the deter-
18 mination under subparagraph (A) shall be made as
19 of the time the contract is issued.

20 “(4) GUIDELINE LEVEL PREMIUM.—The term
21 ‘guideline level premium’ means the level annual
22 amount, payable over a period not ending before the
23 insured attains age 95, computed on the same basis as
24 the guideline single premium, except that paragraph

1 (3)(B)(iii) shall be applied by substituting ‘4 percent’ for
 2 ‘6 percent’.

3 “(d) CASH VALUE CORRIDOR FOR PURPOSES OF SUB-
 4 SECTION (a)(2)(B).—For purposes of this section—

5 “(1) IN GENERAL.—A contract falls within the
 6 cash value corridor of this subsection if the death bene-
 7 fit under the contract at any time is not less than the
 8 applicable percentage of the cash surrender value.

9 “(2) APPLICABLE PERCENTAGE.—

“In the case of an insured with
 an attained age as of the be-
 ginning of the contract year
 of:

The applicable percentage shall
 decrease by a ratable portion
 for each full year:

More than:	But not more than:	From:	To:
0	40	250	250
40	45	250	250
45	50	215	185
50	55	185	150
55	60	150	130
60	65	130	120
65	70	120	115
70	75	115	105
75	90	105	105
90	95	105	100.

10 “(e) COMPUTATIONAL RULES.—

11 “(1) IN GENERAL.—For purposes of this sec-
 12 tion—

13 “(A) the death benefit (and any qualified ad-
 14 ditional benefit) shall be deemed not to increase,

15 “(B) the maturity date, including the date on
 16 which any benefit described in subparagraph (C) is

1 payable, shall be no earlier than the day on which
2 the insured attains age 95, and no later than the
3 day on which the insured attains age 100, and

4 “(C) the amount of any endowment benefit
5 (or sum of endowment benefits, including any cash
6 surrender value on the maturity date described in
7 subparagraph (B)) shall be deemed not to exceed
8 the least amount payable as a death benefit at
9 any time under the contract.

10 “(2) LIMITED INCREASES IN DEATH BENEFIT
11 PERMITTED.—Notwithstanding paragraph (1)(A)—

12 “(A) for purposes of computing the guideline
13 level premium, an increase in the death benefit
14 which is provided in the contract may be taken
15 into account but only to the extent necessary to
16 prevent a decrease in the excess of the death
17 benefit over the cash surrender value of the con-
18 tract, and

19 “(B) for purposes of the cash value accumu-
20 lation test, the increase described in subparagraph
21 (A) may be taken into account if the contract will
22 meet such test at all times assuming that the net
23 level reserve (determined as if level annual premi-
24 ums were paid for the contract over a period not

1 ending before the insured attains age 95) is substi-
2 tuted for the net single premium.

3 “(f) OTHER DEFINITIONS AND SPECIAL RULES.—For
4 purposes of this section—

5 “(1) PREMIUMS PAID.—

6 “(A) IN GENERAL.—The term ‘premiums
7 paid’ means the premiums paid under the contract
8 less amounts (other than amounts includible in
9 gross income) to which section 72(e) applies and
10 less any other amounts received with respect to
11 the contract which are specified in regulations.

12 “(B) TREATMENT OF CERTAIN PREMIUMS
13 RETURNED TO POLICYHOLDER.—If, in order to
14 comply with the requirements of subsection
15 (a)(2)(A), any portion of any premium paid during
16 any contract year is returned by the insurance
17 company (with interest) within 60 days after the
18 end of a contract year, the amount so returned
19 (excluding interest) shall be deemed to reduce the
20 sum of the premiums paid under the contract
21 during such year.

22 “(C) INTEREST RETURNED INCLUDIBLE IN
23 GROSS INCOME.—Notwithstanding the provisions
24 of section 72(e), the amount of any interest re-

1 turned as provided in subparagraph (B) shall be
2 includible in the gross income of the recipient.

3 “(2) CASH VALUES.—

4 “(A) CASH SURRENDER VALUE.—The cash
5 surrender value of any contract shall be its cash
6 value determined without regard to any surrender
7 charge, policy loan, or reasonable termination
8 dividends.

9 “(B) NET SURRENDER VALUE.—The net
10 surrender value of any contract shall be deter-
11 mined with regard to surrender charges but with-
12 out regard to any policy loan.

13 “(3) DEATH BENEFIT.—The term ‘death benefit’
14 means the amount payable by reason of the death of
15 the insured (determined without regard to any qualified
16 additional benefits).

17 “(4) FUTURE BENEFITS.—The term ‘future bene-
18 fits’ means death benefits and endowment benefits.

19 “(5) QUALIFIED ADDITIONAL BENEFITS.—

20 “(A) IN GENERAL.—The term ‘qualified ad-
21 ditional benefits’ means any—

22 “(i) guaranteed insurability,

23 “(ii) accidental death or disability bene-
24 fit,

25 “(iii) family term coverage,

1 “(iv) disability waiver benefit, or
2 “(v) other benefit prescribed under regu-
3 lations.

4 “(B) TREATMENT OF QUALIFIED ADDITION-
5 AL BENEFITS.—For purposes of this section,
6 qualified additional benefits shall not be treated as
7 future benefits under the contract, but the charges
8 for such benefits shall be treated as future bene-
9 fits.

10 “(C) TREATMENT OF OTHER ADDITIONAL
11 BENEFITS.—In the case of any additional benefit
12 which is not a qualified additional benefit—

13 “(i) such benefit shall not be treated as
14 a future benefit, and

15 “(ii) any charge for such benefit which
16 is not prefunded shall not be treated as a
17 premium.

18 “(6) PREMIUM PAYMENTS NOT DISQUALIFYING
19 CONTRACT.—The payment of a premium which would
20 result in the sum of the premiums paid exceeding the
21 guideline premium limitation shall be disregarded for
22 purposes of subsection (a)(2) if the amount of such pre-
23 mium does not exceed the amount necessary to prevent
24 the termination of the contract on or before the end of
25 the contract year (but only if the contract will have no

1 cash surrender value at the end of such extension
2 period).

3 “(7) ADJUSTMENTS.—

4 “(A) IN GENERAL.—In the event of a
5 change in the future benefits or any qualified addi-
6 tional benefit (or in any other terms) under the
7 contract which was not reflected in any previous
8 determination made under this section, under reg-
9 ulations prescribed by the Secretary there shall be
10 proper adjustments in future determinations made
11 under this section.

12 “(B) CERTAIN CHANGES TREATED AS EX-
13 CHANGE.—In the case of any change which re-
14 duces the future benefits under the contract, such
15 change shall be treated as an exchange of the
16 contract for another contract.

17 “(8) CORRECTION OF ERRORS.—If the taxpayer
18 establishes to the satisfaction of the Secretary that—

19 “(A) the requirements described in subsection
20 (a) for any contract year were not satisfied due to
21 reasonable error, and

22 “(B) reasonable steps are being taken to
23 remedy the error,

24 the Secretary may waive the failure to satisfy such
25 requirements.

1 “(9) SPECIAL RULE FOR VARIABLE LIFE INSUR-
2 ANCE CONTRACTS.—In the case of any contract which
3 is a variable contract (as defined in section 817), the
4 determination of whether such contract meets the re-
5 quirements of subsection (a) shall be made whenever
6 the death benefits under such contract change but not
7 less frequently than once during each 12-month period.

8 “(g) TREATMENT OF CONTRACTS WHICH DO NOT
9 MEET SUBSECTION (a) TEST.—

10 “(1) POLICYHOLDER’S CONTRACT TREATED AS
11 ANNUITY CONTRACT.—

12 “(A) IN GENERAL.—If, during any taxable
13 year of the policyholder, a contract which is a life
14 insurance contract under the applicable law ceases
15 to meet the definition of life insurance contract
16 under subsection (a), such policyholder shall, for
17 purposes of this title for such taxable year and
18 any succeeding taxable year, be treated as having
19 purchased an annuity contract for an amount
20 equal to the cash value of such contract as of the
21 beginning of such taxable year (or, if lesser, the
22 investment in the contract as of such date).

23 “(B) TREATMENT OF AMOUNTS USED TO
24 PAY COSTS OF LIFE INSURANCE PROTECTION.—

25 In the case of any taxable year for which a con-

1 tract is treated as an annuity contract under sub-
2 paragraph (A), the excess (if any) of—

3 “(i) the cost of life insurance protection
4 provided under the contract for such taxable
5 year, over

6 “(ii) the amount of premiums paid under
7 the contract during such taxable year re-
8 duced by any policyholder dividends received
9 during such taxable year,

10 shall be treated as an amount received by the tax-
11 payer during such taxable year to which section
12 72(e) applies.

13 “(C) COST OF LIFE INSURANCE PROTEC-
14 TION.—For purposes of this paragraph, the cost
15 of life insurance protection provided under the
16 contract shall be the lesser of—

17 “(i) the cost of individual insurance on
18 the life of the insured as determined on the
19 basis of uniform premiums (computed on the
20 basis of 5-year age brackets) prescribed by
21 the Secretary by regulations, or

22 “(ii) the mortality charge (if any) stated
23 in the contract.

24 “(2) IMPOSITION OF 10-PERCENT EXCISE TAX
25 ON LIFE INSURANCE COMPANY.—

1 “(A) IN GENERAL.—If at any time any con-
2 tract which is a life insurance contract under the
3 applicable law does not meet the definition of life
4 insurance contract under subsection (a), there is
5 hereby imposed on the person issuing such con-
6 tract a tax equal to the sum of—

7 “(i) 10 percent of the net surrender
8 value of such contract as of such time, and

9 “(ii) 100 percent of any tax imposed by
10 clause (i) which is passed on to the policy-
11 holder.

12 “(B) TAX TREATED AS IMPOSED UNDER
13 SUBTITLE D.—For purposes of this title, any tax
14 imposed under subparagraph (A) shall be treated
15 as a tax imposed under subtitle D.

16 “(3) TREATMENT OF AMOUNT PAID ON DEATH
17 OF INSURED.—If any contract which is a life insurance
18 contract under the applicable law does not meet the
19 definition of life insurance contract under subsection
20 (a), the excess of the amount paid by the reason of the
21 death of the insured over the net surrender value of
22 the contract shall be deemed to be paid under a life
23 insurance contract for purposes of section 101 and sub-
24 title B.

1 “(h) ENDOWMENT CONTRACTS RECEIVE SAME
2 TREATMENT.—

3 “(1) IN GENERAL.—References in subsections (a)
4 and (g) to a life insurance contract shall be treated as
5 including references to a contract which is an endow-
6 ment contract under the applicable law.

7 “(2) DEFINITION OF ENDOWMENT CONTRACT.—
8 For purposes of this title (other than paragraph (1)),
9 the term ‘endowment contract’ means a contract which
10 is an endowment contract under the applicable law and
11 which meets the requirements of subsection (a).

12 “(i) TRANSITIONAL RULE FOR CERTAIN 20-PAY CON-
13 TRACTS.—

14 “(1) IN GENERAL.—In the case of a qualified 20-
15 pay contract, this section shall be applied by substitut-
16 ing ‘3 percent’ for ‘4 percent’ in subsection (b)(2).

17 “(2) QUALIFIED 20-PAY CONTRACT.—For purposes
18 of paragraph (1), the term ‘qualified 20-pay contract’
19 means any contract which—

20 “(A) requires at least 20 nondecreasing
21 annual premium payments, and

22 “(B) is issued pursuant to an existing plan of
23 insurance.

24 “(3) EXISTING PLAN OF INSURANCE.—For pur-
25 poses of this subsection, the term ‘existing plan of in-

1 surance' means, with respect to any contract, any plan
2 of insurance which was filed by the company issuing
3 such contract in 1 or more States before September
4 28, 1983, and is on file in the appropriate State for
5 such contract.

6 “(j) REGULATIONS.—The Secretary shall prescribe
7 such regulations as may be necessary or appropriate to carry
8 out the purposes of this section.”.

9 (b) 1-YEAR EXTENSION OF FLEXIBLE PREMIUM CON-
10 TRACT PROVISIONS.—

11 (1) IN GENERAL.—Paragraph (1) of section
12 266(c) of the Tax Equity and Fiscal Responsibility Act
13 of 1982 is amended by striking out “January 1, 1984”
14 and inserting in lieu thereof “January 1, 1985”.

15 (2) TECHNICAL AMENDMENTS.—

16 (A) Paragraph (1) of section 101(f) is amend-
17 ed by striking out “flexible premium life insurance
18 contract” and inserting in lieu thereof “flexible
19 premium life insurance contract issued before Jan-
20 uary 1, 1984”.

21 (B) The subsection heading of subsection (f)
22 of section 101 is amended by striking out
23 “FLEXIBLE PREMIUM CONTRACTS” and insert-
24 ing in lieu thereof “FLEXIBLE PREMIUM CON-
25 TRACTS ISSUED BEFORE JANUARY 1, 1984”.

1 (c) CLERICAL AMENDMENT.—The table of sections for
2 chapter 79 is amended by adding at the end thereof the fol-
3 lowing new item:

“Sec. 7702. Life insurance contract defined.”.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise provided
6 in this subsection, the amendments made by this sec-
7 tion shall apply to contracts issued after December 31,
8 1984, in taxable years ending after such date.

9 (2) SPECIAL RULE FOR CERTAIN CONTRACTS
10 ISSUED DURING 1984.—

11 (A) IN GENERAL.—The amendments made
12 by this section shall also apply to any contract
13 issued during 1984 if—

14 (i) such contract was not issued to a
15 pre-March 15, 1984, plan of insurance, or

16 (ii) such contract provides an increasing
17 death benefit and has premium funding more
18 rapid than 10-year level premium payments.

19 (B) PRE-MARCH 15, 1984, PLAN OF INSUR-
20 ANCE.—For purposes of subparagraph (A), the
21 term ‘pre-March 15, 1984, plan of insurance’
22 means, with respect to any contract, any plan of
23 insurance which was filed by the company issuing
24 such contract in 1 or more States before March

1 15, 1984, and which is on file in the appropriate
2 State for such contract.

3 (3) **EXTENSION OF FLEXIBLE PREMIUM CON-**
4 **TRACT PROVISIONS.**—The amendments made by sub-
5 section (b) shall take effect on January 1, 1984.

6 (4) **SPECIAL RULE FOR MASTER CONTRACT.**—
7 For purposes of this subsection, in the case of a master
8 contract, the date taken into account with respect to
9 any insured shall be the first date on which such in-
10 sured is covered under such contract.

11 **SEC. 222. TREATMENT OF CERTAIN ANNUITY CONTRACTS.**

12 (a) **PENALTY ON PREMATURE DISTRIBUTIONS.**—Para-
13 graph (1) of section 72(q) (relating to 5-percent penalty for
14 premature distributions from annuity contracts) is amended to
15 read as follows:

16 “(1) **IMPOSITION OF PENALTY.**—If any taxpayer
17 receives any amount under an annuity contract, the
18 taxpayer’s tax under this chapter for the taxable year
19 in which such amount is received shall be increased by
20 an amount equal to 5 percent of the portion of such
21 amount which is includible in gross income.”

22 (b) **REQUIRED DISTRIBUTIONS WHERE HOLDER DIES**
23 **BEFORE ANNUITY STARTING DATE.**—Section 72 (relating
24 to annuities; certain proceeds of endowment, and life insur-
25 ance contracts) is amended by redesignating subsection (s) as

1 subsection (t) and by inserting after subsection (r) the follow-
2 ing new subsection:

3 “(s) REQUIRED DISTRIBUTIONS WHERE HOLDER
4 DIES BEFORE ANNUITY STARTING DATE.—

5 “(1) IN GENERAL.—A contract shall not be treat-
6 ed as an annuity contract for purposes of this title
7 unless it provides that, if the holder of such contract
8 dies before the annuity starting date—

9 “(A) except as provided in subparagraphs (B)
10 and (C), the entire interest in such contract will
11 be distributed within 5 years after his death,

12 “(B) in the case of any interest in the con-
13 tract to which the surviving spouse of the dece-
14 dent succeeds, the entire amount of such interest
15 will be distributed not later than the date 5 years
16 after the death of the surviving spouse, and

17 “(C) in the case of any interest in the con-
18 tract to which a qualified dependent succeeds, the
19 entire amount of such interest will be distributed
20 to such qualified dependent not later than the date
21 on which such dependent attains age 26.

22 Nothing in subparagraph (B) or (C) shall require a dis-
23 tribution to be made earlier than the time on which
24 such distribution is required to be made under subpara-
25 graph (A).

1 “(2) SPECIAL RULE FOR HANDICAPPED DEPEND-
2 ENTS.—If—

3 “(A) a qualified dependent who is a handi-
4 capped individual succeeds to the decedent’s inter-
5 est in the contract, and

6 “(B) the distribution of such qualified de-
7 pendent’s interest begins before such dependent
8 attains age 26 and is over a period not in excess
9 of the life of such dependent,

10 for purposes of paragraph (1)(C), the qualified depend-
11 ent’s interest in the contract shall be treated as if it
12 were distributed to such dependent before the date on
13 which he attains age 26.

14 “(3) DEFINITIONS.—For purposes of this subsec-
15 tion—

16 “(A) QUALIFIED DEPENDENT.—The term
17 ‘qualified dependent’ means any dependent (as de-
18 fined in section 152) of the holder of the contract
19 (or his surviving spouse) for any 2 of the last 5
20 taxable years of such holder (or surviving spouse).

21 “(B) HANDICAPPED INDIVIDUAL.—The term
22 ‘handicapped individual’ means any individual who
23 is permanently and totally disabled (within the
24 meaning of section 37(d)(3)).”.

1 (c) **EFFECTIVE DATE.**—The amendments made by this
2 section shall apply to contracts issued after the day which is
3 6 months after the date of the enactment of this Act in tax-
4 able years ending after such date.

5 **SEC. 223. GROUP-TERM LIFE INSURANCE PURCHASED FOR**
6 **EMPLOYEES.**

7 (a) **SECTION 79 EXTENDED TO FORMER EM-**
8 **PLOYEES.**—

9 (1) Section 79 (relating to group-term insurance
10 purchased for employees) is amended by adding at the
11 end thereof the following new subsection:

12 “(e) **EMPLOYEE INCLUDES FORMER EMPLOYEE.**—For
13 purposes of this section, the term ‘employee’ includes a
14 former employee.”

15 (2) Paragraph (1) of section 79(b) is amended to
16 read as follows:

17 “(1) the cost of group-term life insurance on the
18 life of an individual which is provided under a policy
19 carried directly or indirectly by an employer after such
20 individual has terminated his employment with such
21 employer and is disabled (within the meaning of section
22 72(m)(7)),”.

23 (b) **AMOUNT OF INCLUSION IN CASE OF DISCRIMINA-**
24 **TORY PLANS.**—Paragraph (1) of section 79(d) (relating to

1 nondiscrimination requirements) is amended to read as
2 follows:

3 “(1) IN GENERAL.—In the case of a discrimina-
4 tory group-term life insurance plan—

5 “(A) subsection (a)(1) shall not apply with re-
6 spect to any key employee, and

7 “(B) the cost of group-term life insurance on
8 the life of any key employee shall be determined
9 without regard to subsection (c).”

10 (c) CLARIFICATION OF COORDINATION WITH SECTION
11 83.—Subsection (e) of section 83 (relating to application of
12 section) is amended by striking out “or” at the end of para-
13 graph (3), by striking out the period at the end of paragraph
14 (4) and inserting in lieu thereof “, or”, and by adding at the
15 end thereof the following new paragraph:

16 “(5) the cost of group-term life insurance to which
17 section 79 applies.”.

18 (d) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), the amendments made by this section shall
21 apply to taxable years beginning after December 31,
22 1983.

23 (2) INCLUSION OF FORMER EMPLOYEES IN THE
24 CASE OF EXISTING GROUP-TERM INSURANCE
25 PLANS.—

1 (A) IN GENERAL.—The amendments made
2 by subsection (a) shall not apply—

3 (i) to any group-term life insurance plan
4 of the employer in existence on January 1,
5 1984, or

6 (ii) to any group-term life insurance
7 plan of the employer (or a successor employ-
8 er) which is a comparable successor to a plan
9 described in clause (i),

10 but only with respect to an individual who at-
11 tained age 55 on or before January 1, 1984.

12 (B) SPECIAL RULE IN THE CASE OF DIS-
13 CRIMINATORY GROUP-TERM LIFE INSURANCE
14 PLAN.—In the case of any plan which, after
15 March 15, 1987, is a discriminatory group-term
16 life insurance plan (as defined in section 79(d) of
17 the Internal Revenue Code of 1954), subpara-
18 graph (A) shall not apply in the case of any indi-
19 vidual retiring under such plan after March 15,
20 1987.

21 (C) BENEFITS TO CERTAIN RETIRED INDI-
22 VIDUALS NOT TAKEN INTO ACCOUNT FOR PUR-
23 POSES OF DETERMINING WHETHER PLAN IS DIS-
24 CRIMINATORY.—For purposes of determining
25 whether after March 15, 1987, a plan described in

1 subparagraph (A) meets the requirements of sec-
2 tion 79(d) of the Internal Revenue Code of 1954
3 with respect to group-term life insurance for
4 former employees, coverage provided to employ-
5 ees who retired on or before March 15, 1987,
6 shall not be taken into account.

7 **SEC. 224. TREATMENT OF CERTAIN EXCHANGES OF INSUR-**
8 **ANCE POLICIES.**

9 (a) **GENERAL RULE.**—Paragraph (1) of section 1035(b)
10 (defining endowment contract) is amended by striking out “a
11 life insurance company as defined in section 801” and insert-
12 ing in lieu thereof “an insurance company subject to tax
13 under subchapter L”.

14 (b) **EFFECTIVE DATE.**—The amendment made by sub-
15 section (a) shall apply to all exchanges whether before, on, or
16 after the date of the enactment of this Act.

17 **Subtitle C—Studies**

18 **SEC. 231. STUDIES.**

19 (a) **REVENUE REPORTS.**—Not later than July 1, 1984,
20 and July 1 of each calendar year thereafter, the Secretary of
21 the Treasury shall submit to the Committee on Ways and
22 Means of the House of Representatives and the Committee
23 on Finance of the Senate a report on—

24 (1) the aggregate amount of revenue received
25 under part I of subchapter L of chapter 1 of the Inter-

1 nal Revenue Code of 1954 for the most recent taxable
2 years for which data are available,

3 (2) a comparison between the amount of such rev-
4 enue and the amount anticipated by reason of changes
5 made by the Tax Equity and Fiscal Responsibility Act
6 of 1982 or the Life Insurance Tax Act of 1984, and

7 (3) the reasons for any difference between such
8 aggregate revenues and anticipated revenues.

9 (b) REPORT WITH RESPECT TO SEGMENT BALANCE,
10 ETC.—

11 (1) IN GENERAL.—The Secretary of the Treasury
12 shall conduct a full and complete study of the operation
13 of part I of subchapter L of chapter 1 of the Internal
14 Revenue Code of 1954 during 1984, 1985, and 1986.
15 Such study shall also include an analysis of life insur-
16 ance products and the taxation thereof. Such study
17 shall also include an analysis of whether part I of such
18 subchapter L operates as a disincentive to growing
19 companies.

20 (2) ITEMS TO BE INCLUDED.—The study con-
21 ducted under paragraph (1) shall include—

22 (A) an analysis of the portion of the taxes
23 paid by mutual life insurance companies and stock
24 life insurance companies, and

1 (B) any other data considered relevant by
2 either stock life insurance companies or mutual
3 life insurance companies in determining appropri-
4 ate segment balance, such as the respective
5 amounts of the following items held by each seg-
6 ment of the industry—

7 (i) equity,

8 (ii) life insurance reserves,

9 (iii) other types of reserves,

10 (iv) dividends paid to policyholders and
11 shareholders,

12 (v) pension business,

13 (vi) total assets, and

14 (vii) gross receipts.

15 Such report shall also include an analysis of the extent
16 to which taxes paid by stockholders of life insurance
17 companies shall be included in analyzing segment
18 balance.

19 (3) REPORTS.—

20 (A) INTERIM REPORTS.—The Secretary of
21 the Treasury shall submit interim reports on the
22 study conducted under this subsection to the Com-
23 mittee on Ways and Means of the House of Rep-
24 resentatives and the Committee on Finance of the

1 Senate not later than July 1, 1986, 1987, and
2 1988.

3 (B) FINAL REPORT.—Not later than Janu-
4 ary 1, 1989, the Secretary of the Treasury shall
5 submit a final report on the study conducted
6 under this subsection to the Committee on Ways
7 and Means of the House of Representatives and
8 the Committee on Finance of the Senate.

9 (c) AUTHORITY TO REQUIRE DATA.—The Secretary
10 of the Treasury shall have authority to require reporting of
11 such data with respect to life insurance companies and their
12 products as may be necessary to carry out the purposes of
13 this section.

14 **TITLE III—REVISION OF PRIVATE** 15 **FOUNDATION PROVISIONS**

16 **SEC. 301. SHORT TITLE.**

17 This title may be cited as the “Private Foundation Tax
18 Treatment Revision Act of 1984”.

19 **SEC. 302. LIMITATIONS ON DEDUCTION FOR CONTRIBUTIONS** 20 **TO PRIVATE FOUNDATIONS.**

21 (a) INCREASE IN PERCENTAGE LIMITATION FOR INDIVIDUALS.—
22 Paragraph (1) of section 170(b) (relating to per-
23 centage limitations for individuals) is amended—

1 (1) by striking out “described in subparagraph
2 (D)” in subparagraph (A)(vii) and inserting in lieu
3 thereof “as defined in section 509(a)”,

4 (2) by striking out subparagraph (D), and

5 (3) by redesignating subparagraph (E) as subpara-
6 graph (D).

7 (b) CONTRIBUTIONS OF CAPITAL GAIN PROPERTY.—

8 The first sentence of section 170(e)(1) (relating to certain
9 contributions of ordinary income and capital gain property) is
10 amended by striking out subparagraph (B) and inserting in
11 lieu thereof the following:

12 “(B) in the case of a charitable contribution
13 of tangible personal property, if the use by the
14 donee is unrelated to the purpose or function con-
15 stituting the basis for its exemption under section
16 501 (or, in the case of a governmental unit, to
17 any purpose or function described in subsection
18 (c)), 40 percent (28/46 in the case of a corpora-
19 tion) of the amount of gain which would have
20 been long-term capital gain if the property con-
21 tributed had been sold by the taxpayer at its fair
22 market value (determined at the time of such con-
23 tribution).”.

1 (c) EFFECTIVE DATE.—The amendments made by this
2 section shall apply to contributions made in taxable years be-
3 ginning after December 31, 1984.

4 SEC. 303. EXEMPTION FOR CERTAIN OPERATING FOUNDA-
5 TIONS FROM EXCISE TAX ON INVESTMENT
6 INCOME.

7 (a) GENERAL RULE.—Section 4940 (relating to excise
8 tax based on investment income) is amended by adding at the
9 end thereof the following new subsection:

10 “(d) EXEMPTION FOR CERTAIN OPERATING FOUNDA-
11 TIONS.—

12 “(1) IN GENERAL.—No tax shall be imposed by
13 this section on any private foundation which is an
14 exempt operating foundation for the taxable year.

15 “(2) EXEMPT OPERATING FOUNDATION.—For
16 purposes of this subsection, the term ‘exempt operating
17 foundation’ means, with respect to any taxable year,
18 any private foundation if—

19 “(A) such foundation is an operating founda-
20 tion (as defined in section 4942(j)(3)),

21 “(B) such foundation has been publicly sup-
22 ported for at least 10 taxable years,

23 “(C) at all times during the taxable year, the
24 governing body of such foundation—

1 “(i) consists of individuals at least 75
2 percent of whom are not disqualified individ-
3 uals, and

4 “(ii) is broadly representative of the
5 general public, and

6 “(D) at no time during the taxable year does
7 such foundation have an officer who is a disquali-
8 fied individual.

9 “(3) DEFINITIONS.—For purposes of this subsec-
10 tion—

11 “(A) PUBLICLY SUPPORTED.—A private
12 foundation is publicly supported for a taxable year
13 if it meets the requirements of section
14 170(b)(1)(A)(vi) or 509(a)(2) for such taxable year.

15 “(B) DISQUALIFIED INDIVIDUAL.—The term
16 ‘disqualified individual’ means, with respect to any
17 private foundation, an individual who is—

18 “(i) a substantial contributor to the
19 foundation,

20 “(ii) an owner of more than 20 percent
21 of—

22 “(I) the total combined voting
23 power of a corporation,

24 “(II) the profits interest of a part-
25 nership, or

1 “(III) the beneficial interest of a
2 trust or unincorporated enterprise,
3 which is a substantial contributor to the
4 foundation, or

5 “(iii) a member of the family of any in-
6 dividual described in clause (i) or (ii).

7 “(C) SUBSTANTIAL CONTRIBUTOR.—The
8 term ‘substantial contributor’ means a person who
9 is described in section 507(d)(2).

10 “(D) FAMILY.—The term ‘family’ has the
11 meaning given to such term by section 4946(d).

12 “(E) CONSTRUCTIVE OWNERSHIP.—The
13 rules of paragraphs (3) and (4) of section 4946(a)
14 shall apply for purposes of subparagraph (B)(ii).”.

15 (b) REQUIREMENT OF EXPENDITURE RESPONSIBILITY
16 NOT TO APPLY TO CERTAIN OPERATING FOUNDATIONS.—
17 Paragraph (4) of section 4945(d) (defining taxable expendi-
18 ture) is amended to read as follows:

19 “(4) as a grant to an organization unless—

20 “(A) such organization is described in para-
21 graph (1), (2), or (3) of section 509(a) or is an
22 exempt operating foundation (as defined in section
23 4940(d)(2)), or

1 “(B) the private foundation exercises expend-
2 iture responsibility with respect to such grant in
3 accordance with subsection (h), or”.

4 (c) EFFECTIVE DATE.—

5 (1) FOR SUBSECTION (a).—The amendment made
6 by subsection (a) shall apply to taxable years beginning
7 after December 31, 1984.

8 (2) FOR SUBSECTION (b).—The amendment made
9 by subsection (b) shall apply to grants made after De-
10 cember 31, 1984, in taxable years ending after such
11 date.

12 (3) CERTAIN EXISTING FOUNDATIONS.—A foun-
13 dation which was an operating foundation (as defined
14 in section 4942(j)(3) of the Internal Revenue Code of
15 1954) as of January 1, 1983, shall be treated as meet-
16 ing the requirements of section 4940(d)(2)(B) of such
17 Code (as added by subsection (a)).

18 **SEC. 304. ABATEMENT OF FIRST TIER TAXES IN CERTAIN**
19 **CASES.**

20 (a) GENERAL RULE.—Subchapter C of chapter 42 (re-
21 lating to abatement of second tier taxes) is amended by redes-
22 ignating section 4962 as section 4963 and by inserting after
23 section 4961 the following new section:

1 "SEC. 4962. ABATEMENT OF PRIVATE FOUNDATION FIRST
2 TIER TAXES IN CERTAIN CASES.

3 "(a) GENERAL RULE.—If it is established to the satis-
4 faction of the Secretary that—

5 "(1) a taxable event was due to reasonable cause
6 and not to willful neglect, and

7 "(2) such event was corrected within the correc-
8 tion period for such event,

9 then any private foundation first tier tax imposed with re-
10 spect to such event (including interest) shall not be assessed
11 and, if assessed, the assessment shall be abated and, if col-
12 lected, shall be credited or refunded as an overpayment.

13 "(b) PRIVATE FOUNDATION FIRST TIER TAX.—For
14 purposes of this section, the term 'private foundation first tier
15 tax' means any first tier tax imposed by subchapter A of
16 chapter 42, except that such term shall not include the tax
17 imposed by section 4941(a) (relating to initial tax on self-
18 dealing)."

19 (b) CONFORMING AMENDMENTS.—

20 (1) The heading of subchapter C of chapter 42 is
21 amended to read as follows:

22 **"Subchapter C—Abatement of First and Second**
23 **Tier Taxes in Certain Cases".**

24 (2) The table of sections for subchapter C of chap-
25 ter 42 is amended by striking out the item relating to
26 section 4962 and inserting in lieu thereof the following:

“Sec. 4962. Abatement of private foundation first tier taxes in certain cases.

“Sec. 4963. Definitions.”

1 (3) The table of subchapters for chapter 42 is
2 amended by striking out the item relating to sub-
3 chapter C and inserting in lieu thereof the following:

“SUBCHAPTER C. Abatement of first and second tier taxes in certain cases.”

4 (4) Sections 4942(g)(2)(C), 6213(e), and 6503(g)
5 are each amended by striking out “section 4962(e)”
6 and inserting in lieu thereof “section 4963(e)”.

7 (c) **EFFECTIVE DATE.**—The amendments made by this
8 section shall apply to taxable events occurring after Decem-
9 ber 31, 1984.

10 **SEC. 305. CERTAIN RELIANCE RULES.**

11 (a) **RELIANCE UPON DETERMINATIONS BY THE SEC-**
12 **RETARY.**—Section 4946 (relating to special rules for applica-
13 tion of the private foundation rules) is amended by adding at
14 the end thereof the following subsection:

15 “(e) **RELIANCE UPON DETERMINATIONS BY THE SEC-**
16 **RETARY.**—A grant by a private foundation to an organiza-
17 tion which has been determined by the Secretary to be an
18 organization described in paragraph (1), (2), or (3) of section
19 509(a) or in paragraph (3) of section 4942(j) shall be treated
20 as a grant to such an organization provided that the grant or
21 other expenditure is made prior to the earlier of the date of
22 publication of notice by the Secretary that the organization is

1 no longer described in paragraph (1), (2), or (3) of section
2 509(a) or in paragraph (3) of section 4942(j) or the date on
3 which the foundation acquires actual knowledge that the or-
4 ganization has been notified by the Secretary of such a
5 change in the organization's status, and provided that the
6 foundation was not responsible for (other than by making a
7 grant or grants) or aware of such a change in the organiza-
8 tion's status."

9 (b) The amendments made by this section shall apply to
10 grants made after December 31, 1984.

11 **SEC. 306. MISCELLANEOUS AMENDMENTS.**

12 (a) **DEFINITION OF FAMILY MEMBER.**—Subsection (d)
13 of section 4946 (defining members of family) is amended to
14 read as follows:

15 "(d) **MEMBERS OF FAMILY.**—For purposes of subsec-
16 tion (a)(1), the family of any individual shall include only his
17 spouse, ancestors, children, grandchildren, and the spouses of
18 children and grandchildren."

19 (b) **REQUIREMENT THAT ANNUAL NOTICE INCLUDE**
20 **TELEPHONE NUMBER OF THE PRIVATE FOUNDATION.**—
21 Subsection (d) of section 6104 (relating to public inspection of
22 private foundations' annual returns) is amended by striking
23 out "shall state the address of the private foundation's princi-
24 pal office" and inserting in lieu thereof "shall state the ad-

1 dress and the telephone number of the private foundation's
2 principal office''.

3 (c) **EFFECTIVE DATE.**—The amendments made by this
4 section shall take effect on January 1, 1985.

5 **SEC. 307. ADDITIONAL PERIOD TO DISPOSE OF GIFTS, BE-**
6 **QUESTS, ETC. WHERE DISPOSITION NOT POSSI-**
7 **BLE DURING ORIGINAL 5-YEAR PERIOD.**

8 (a) **IN GENERAL.**—Section 4943(c) (defining excess
9 business holdings) is amended by adding at the end thereof
10 the following new paragraph:

11 “(7) **ADDITIONAL PERIOD TO DISPOSE OF GIFTS,**
12 **BEQUESTS, ETC. WHERE DISPOSITION NOT POSSIBLE**
13 **DURING ORIGINAL 5-YEAR PERIOD.**—

14 “(A) **IN GENERAL.**—The Secretary may
15 extend for one additional period the application of
16 paragraph (6) to holdings described in such para-
17 graph if the Secretary determines that—

18 “(i) the private foundation has made
19 diligent efforts during the 5-year period de-
20 scribed in paragraph (6) to dispose of such
21 holdings,

22 “(ii) disposition of such holdings within
23 the 5-year period described in paragraph (6)
24 was not possible (other than at substantially
25 below fair market value) by reason of—

1 “(I) the large fair market value of
2 such holdings,

3 “(II) the complex structure or di-
4 versity of holdings of the underlying
5 business enterprise in which such hold-
6 ings represent an interest,

7 “(III) any Federal, State, or local
8 law which effectively prevented disposi-
9 tion of such holdings during the 5-year
10 period described in paragraph (6), or

11 “(IV) any order of any Federal or
12 State court which effectively prevented
13 disposition of such holdings during the
14 5-year period described in paragraph
15 (6); and

16 “(iii) the foundation meets the require-
17 ments of subparagraph (B).

18 “(B) FOUNDATION TO SUBMIT PLAN TO AP-
19 PROPRIATE STATE OFFICIALS.—A foundation
20 meets the requirements of this subparagraph if the
21 private foundation—

22 “(i) submits to the Secretary, within the
23 period under paragraph (6), a plan under
24 which, as determined by the Secretary, the
25 disposition of such holdings may reasonably

1 be expected to occur before the end of the
2 additional period described in subparagraph
3 (A), and

4 “(ii) submits—

5 “(I) the plan described in clause (i)
6 to the Attorney General (or other ap-
7 propriate State official) having adminis-
8 trative or supervisory authority or re-
9 sponsibility with respect to the founda-
10 tion’s disposition of the excess business
11 holdings described in paragraph (6), and

12 “(II) to the Secretary any response
13 of the Attorney General (or other ap-
14 propriate State official) to such plan.

15 “(C) ADDITIONAL PERIOD.—

16 “(i) BEGINNING DATE.—The additional
17 period shall begin on the date on which the
18 5-year period described in paragraph (6)
19 ends.

20 “(ii) LENGTH OF ADDITIONAL
21 PERIOD.—The length of the additional period
22 described in subparagraph (A) shall be 5
23 years plus the number of days that a court
24 order described in clause (iii) is in effect after

1 the last day of the 5-year period described in
2 paragraph (6).

3 “(iii) COURT ORDER.—A court order is
4 described in this clause if it is issued by a
5 Federal or State court before the expiration
6 of the additional period described in subpara-
7 graph (A) and it prohibits the disposition
8 during such additional period of holdings de-
9 scribed in paragraph (6) with respect to
10 which the 5-year period described in para-
11 graph (6) has been extended under this para-
12 graph.”.

13 (b) CONFORMING AMENDMENT.—Paragraph (6) of sec-
14 tion 4943(c) of the Internal Revenue Code of 1954 is amend-
15 ed by inserting “or (7)” after “paragraph (5)”.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—The amendment made by sub-
18 section (a) shall apply to business holdings with respect
19 to which the 5-year period described in section
20 4943(c)(6) of the Internal Revenue Code of 1954 ends
21 on or after November 1, 1983.

22 (2) TRANSITIONAL RULE.—Any plan submitted
23 to the Secretary of the Treasury or his delegate on or
24 before the 60th day after the date of the enactment of
25 this Act shall be treated as submitted before the close

1 of the initial 5-year period referred to in section
2 4943(c)(7)(B) of the Internal Revenue Code of 1954
3 (as added by subsection (a)).

4 **SEC. 308. DECREASES ATTRIBUTABLE TO STOCK ISSUANCES**
5 **NOT TO REDUCE PERMITTED PERCENTAGE OF**
6 **HOLDINGS WHERE DECREASE IS 2 PERCENT OR**
7 **LESS.**

8 (a) **GENERAL RULE.**—The second sentence of clause
9 (ii) of section 4943(c)(4)(A) (relating to present holdings) is
10 amended to read as follows:

11 “For purposes of the preceding sentence, any
12 decrease in percentage holdings attributable
13 to issuances of stock (or to issuances of stock
14 coupled with redemptions of stock) shall be
15 disregarded so long as—

16 “(I) the net percentage decrease
17 disregarded under this sentence does
18 not exceed 2 percent, and

19 “(II) the number of shares held by
20 the foundation is not affected by any
21 such issuance or redemption.”.

22 (b) **EFFECTIVE DATE.**—The amendment made by sub-
23 section (a) shall apply to increases and decreases occurring
24 after the date of the enactment of this Act.

1 **SEC. 309. AGGREGATION OF STOCK HOLDINGS OF PRIVATE**
2 **FOUNDATION AND DISQUALIFIED PERSONS IN**
3 **APPLYING 95 PERCENT OWNERSHIP TEST.**

4 (a) **GENERAL RULE.**—Clause (i) of section
5 4943(c)(4)(B) (relating to present holdings) is amended by
6 striking out “the private foundation has” and inserting in lieu
7 thereof “the private foundation and all disqualified persons
8 have”.

9 (b) **EFFECTIVE DATE.**—The amendment made by sub-
10 section (a) shall take effect as if included in the amendment
11 made by section 101(b) of the Tax Reform Act of 1969.

12 **SEC. 310. 5-YEAR PERIOD TO DISPOSE OF EXCESS HOLDINGS**
13 **RESULTING FROM CERTAIN ACQUISITIONS BY**
14 **DISQUALIFIED PERSONS.**

15 (a) **GENERAL RULE.**—Paragraph (6) of section 4943(c)
16 (relating to 5-year period to dispose of gifts, bequests, etc.) is
17 amended by adding at the end thereof the following new sen-
18 tence:

19 “In any case where an acquisition by a disqualified
20 person would result in a substitution under clause (i) or
21 (ii) of subparagraph (D) of paragraph (4), the preceding
22 sentence shall be applied with respect to such acquisi-
23 tion as if it did not contain the phrase ‘or by a disquali-
24 fied person’ in the material preceding subparagraph
25 (A).”

1 (b) **EFFECTIVE DATE.**—The amendment made by sub-
2 section (a) shall apply to acquisitions after the date of the
3 enactment of this Act.

4 **SEC. 311. RETENTION OF BUSINESS HOLDINGS BY CERTAIN**
5 **PRIVATE FOUNDATIONS.**

6 Section 101(l)(4) of the Tax Reform Act of 1969 (26
7 U.S.C. 4940 note) (relating to savings provisions for section
8 4943) is amended by adding at the end thereof the following
9 new subparagraph:

10 “(D)(i) Section 4943 of the Internal Revenue Code of
11 1954 (other than the phrase ‘but in no event shall the per-
12 centage so substituted be more than 50 percent’ in subsection
13 (c)(4)(A)(i), and subsection (c)(4)(D)) shall apply to any
14 excess business holdings held, or treated as held under sec-
15 tion 4943(c)(5) of such Code, on May 26, 1969, by a private
16 foundation if on and after the date of divestiture of such hold-
17 ings required under section 4943, such foundation meets all
18 of the following conditions:

19 “(I) Disqualified persons (other than persons who
20 are disqualified persons solely as foundation managers)
21 and officers, directors, or employees of any business
22 enterprise in which such foundation has such excess
23 business holdings do not together constitute more than
24 25 percent of the governing board of such foundation.

1 “(II) Directors, trustees, or officers of the founda-
2 tion do not together constitute more than 25 percent of
3 the governing board of any such business enterprise.

4 “(III) No disqualified person (other than persons
5 who are disqualified persons solely as foundation man-
6 agers) can be a foundation manager after March 12,
7 1984, unless such person was a foundation manager on
8 March 12, 1984.

9 “(IV) No disqualified person receives compensa-
10 tion (or payment or reimbursement of expenses) from
11 both the foundation and any such business enterprise,
12 other than director fees (and the payment or reim-
13 bursement of expenses incident thereto) which are not
14 excessive.

15 “(V) Such foundation does not incur liability for
16 any taxes imposed under section 4942 of such Code.

17 “(VI) Such foundation does not incur liability for
18 any taxes imposed under section 4943 of such Code
19 with respect to holdings of any business enterprise in
20 which such foundation has holdings subject to this
21 clause.

22 “(ii) For purposes of this subparagraph, the terms ‘dis-
23 qualified person’ and ‘foundation manager’ have the meaning
24 given to such terms by subsections (a) and (b) of section 4946
25 of such Code, respectively.”.

1 **SEC. 312. TAX ON SELF-DEALING NOT TO APPLY TO CERTAIN**
2 **STOCK PURCHASES.**

3 (a) **GENERAL RULE.**—Section 4941 of the Internal
4 Revenue Code of 1954 (relating to taxes on self-dealing)
5 shall not apply to the purchase during 1978 of stock from a
6 private foundation (and to any note issued in connection with
7 such purchase) if—

8 (1) consideration for such purchase equaled or ex-
9 ceeded the fair market value of such stock,

10 (2) the purchaser of such stock did not make any
11 contribution to such foundation at any time during the
12 5-year period ending on the date of such purchase,

13 (3) the aggregate contributions to such foundation
14 by the purchaser before such date were less than
15 \$10,000 and less than 2 percent of the total contribu-
16 tions received by the foundation as of such date, and

17 (4) such purchase was pursuant to the settlement
18 of litigation involving the purchaser.

19 (b) **STATUTE OF LIMITATIONS.**—If credit or refund of
20 any overpayment of tax resulting from subsection (a) is pre-
21 vented at any time before the close of the 1-year period be-
22 ginning on the date of the enactment of this Act by the oper-
23 ation of any law or rule of law, refund or credit of such over-
24 payment may, nevertheless, be made or allowed if claim
25 therefor is filed before the close of such 1-year period.

1 **SEC. 313. PERSON CEASES TO BE SUBSTANTIAL CONTRIBUTOR**
2 **AFTER 10 YEARS WITH NO CONNECTION TO**
3 **FOUNDATION.**

4 (a) **GENERAL RULE.**—Paragraph (2) of section 507(d)
5 (defining substantial contributor) is amended by adding at the
6 end thereof the following new subparagraph:

7 “(C) **PERSON CEASES TO BE SUBSTANTIAL**
8 **CONTRIBUTOR IN CERTAIN CASES.**—

9 “(i) **IN GENERAL.**—A person shall
10 cease to be treated as a substantial contribu-
11 tor with respect to any private foundation as
12 of the close of any taxable year of such foun-
13 dation if—

14 “(I) during the 10-year period
15 ending at the close of such taxable year
16 such person (and all related persons)
17 have not made any contribution to such
18 private foundation,

19 “(II) at no time during such 10-
20 year period was such person (or any re-
21 lated person) a foundation manager of
22 such private foundation, and

23 “(III) the aggregate contributions
24 made by such person (and related per-
25 sons) are determined by the Secretary
26 to be insignificant when compared to

1 the aggregate amount of contributions
2 to such foundation by one other person.
3 For purposes of subclause (III), appreciation
4 on contributions while held by the foundation
5 shall be taken into account.

6 “(ii) RELATED PERSON.—For purposes
7 of clause (i), the term ‘related person’ means,
8 with respect to any person, any other person
9 who would be a disqualified person (within
10 the meaning of section 4946) by reason of
11 his relationship to such person. In the case
12 of a contributor which is a corporation, the
13 term also includes any officer or director of
14 such corporation.”.

15 (b) EFFECTIVE DATE.—The amendment made by sub-
16 section (a) shall apply to taxable years beginning after Dec-
17 cember 31, 1984.

18 **SEC. 314. OTHER AMENDMENTS.**

19 (a) AMENDMENTS OF INTERNAL REVENUE CODE OF
20 1954.—

21 (1) Subparagraph (B) of section 4942(a)(2) (relat-
22 ing to taxes on failure to distribute income) is amended
23 by striking out “subsection (j)(4)” and inserting in lieu
24 thereof “subsection (j)(2)”.

1 (2) Paragraph (1) of section 4942(f) (defining ad-
2 justed net income) is amended by striking out “subsec-
3 tion (d)” and inserting in lieu thereof “subsection (j)”.

4 (3) Paragraph (3) of section 6501(n) (relating to
5 special rule for chapter 42 and similar taxes) is amend-
6 ed by striking out “section 4942(g)(2)(B)(i)(II)” and in-
7 serting in lieu thereof “section 4942(g)(2)(B)(ii)”.

8 (4) The amendments made by this subsection shall
9 take effect on the date of the enactment of this Act.

10 (b) AMENDMENT OF 1969 TAX REFORM ACT.—

11 (1) Subparagraph (A) of section 101(l)(4) of the
12 Tax Reform Act of 1969 is amended by striking out
13 “by substituting ‘51 percent’ for ‘50 percent’” and in-
14 serting in lieu thereof “as if it did not contain the
15 phrase ‘, but in no event shall the percentage so substi-
16 tuted be more than 50 percent’”.

17 (2) The amendment made by paragraph (1) shall
18 apply as if included in the amendment made by section
19 101(l)(4) of the Tax Reform Act of 1969.

20 (c) REQUIRED DISTRIBUTION INCREASED BY AMOUNT
21 OF CERTAIN REPAYMENTS, ETC.—

22 (1) Paragraph (1) of section 4942(d) (defining dis-
23 tributable amount) is amended to read as follows:

1 “(1) the sum of the minimum investment return
2 plus the amounts described in subsection (f)(2)(C), re-
3 duced by”.

4 (2) The amendment made by paragraph (1) shall
5 apply to taxable years beginning after December 31,
6 1984.

7 (d) EXCEPTION TO DEFINITION OF DISQUALIFIED
8 PERSONS.—

9 (1) Subsection (d) of section 4943 (relating to defi-
10 nitions and special rules with respect to taxes on
11 excess business holdings) is amended by adding at the
12 end thereof the following new paragraph:

13 “(4) DISQUALIFIED PERSON.—The term ‘dis-
14 qualified person’ (as defined in section 4946(a)) does
15 not include a plan described in section 4975(e)(7) with
16 respect to the holdings of a private foundation de-
17 scribed in paragraph (4) or (5) of subsection (c).”.

18 (2) The amendment made by paragraph (1) shall
19 apply with respect to taxable years beginning after the
20 date of the enactment of this Act.

21 TITLE IV—ENTERPRISE ZONES

22 SEC. 401. SHORT TITLE.

23 This title may be cited as the “Enterprise Zone Act of
24 1984”.

1 **SEC. 402. PURPOSES.**

2 It is the purpose of this title to provide for the establish-
 3 ment of enterprise zones in order to stimulate the creation of
 4 new jobs, particularly for disadvantaged workers and long-
 5 term unemployed individuals, and to promote revitalization of
 6 economically distressed areas primarily by providing or en-
 7 couraging—

8 (1) tax relief at the Federal, State, and local
 9 levels;

10 (2) regulatory relief at the Federal, State, and
 11 local levels; and

12 (3) improved local services and an increase in the
 13 economic stake of enterprise zone residents in their
 14 own community and its development, particularly
 15 through the increased involvement of private, local,
 16 and neighborhood organizations.

17 **SUBTITLE A—DESIGNATION OF ENTERPRISE ZONES**18 **SEC. 411. DESIGNATION OF ZONES.**

19 (a) **GENERAL RULE.**—Chapter 80 (relating to general
 20 rules) is amended by adding at the end thereof the following
 21 new subchapter:

22 **“SUBCHAPTER D—DESIGNATION OF ENTERPRISE ZONES**

“Sec. 7891. Designation.

23 **“SEC. 7891. DESIGNATION.**

24 **“(a) DESIGNATION OF ZONES.—**

1 “(1) DEFINITIONS.—For purposes of this title,
2 the term ‘enterprise zone’ means any area—

3 “(A) which is nominated by one or more
4 local governments and the State or States in
5 which it is located for designation as an enterprise
6 zone (hereinafter in this section referred to as a
7 ‘nominated area’), and

8 “(B) which the Secretary of Housing and
9 Urban Development, after consultation with—

10 “(i) the Secretaries of Agriculture,
11 Commerce, Labor, and the Treasury; the Di-
12 rector of the Office of Management and
13 Budget; and the Administrator of the Small
14 Business Administration, and

15 “(ii) in the case of an area on an Indian
16 reservation, the Secretary of the Interior,
17 designates as an enterprise zone.

18 “(2) LIMITATIONS ON DESIGNATIONS.—

19 “(A) PUBLICATION OF REGULATIONS.—
20 Before designating any area as an enterprise zone
21 and not later than 4 months following the date of
22 the enactment of this section, the Secretary of
23 Housing and Urban Development shall prescribe
24 by regulation, after consultation with the officials
25 described in paragraph (1)(B)—

1 “(i) the procedures for nominating an
2 area under paragraph (1)(A),

3 “(ii) the parameters relating to the size
4 and population characteristics of an enter-
5 prise zone, and

6 “(iii) the manner in which nominated
7 areas will be compared based on the criteria
8 specified in subsection (d) and the other fac-
9 tors specified in subsection (e).

10 “(B) TIME LIMITATIONS.—The Secretary of
11 Housing and Urban Development shall designate
12 nominated areas as enterprise zones only during
13 the 36-month period beginning on the later of—

14 “(i) the first day of the first month fol-
15 lowing the month in which the effective date
16 of the regulations described in subparagraph
17 (A) occurs, or

18 “(ii) January 1, 1985.

19 “(C) NUMBER OF DESIGNATIONS.—

20 “(i) IN GENERAL.—The Secretary of
21 Housing and Urban Development may not
22 designate—

23 “(I) more than 75 nominated areas
24 as enterprise zones under this section,
25 and

1 “(II) more than 25 nominated
2 areas as enterprise zones during the
3 first 12-month period beginning on the
4 date determined under subparagraph (B)
5 and each subsequent 12-month period.

6 “(ii) MINIMUM DESIGNATION IN RURAL
7 AREAS.—Of the areas designated under
8 clause (i), at least one-third must be areas—

9 “(I) which are within a local gov-
10 ernment jurisdiction or jurisdictions with
11 a population of less than 50,000 (as de-
12 termined under the most recent census
13 data available),

14 “(II) which are outside of a metro-
15 politan statistical area (within the
16 meaning of section 103A(l)(4)(B)), or

17 “(III) which are determined by the
18 Secretary of Housing and Urban Devel-
19 opment, after consultation with the Sec-
20 retary of Commerce, to be rural areas.

21 “(D) PROCEDURAL RULES.—The Secretary
22 of Housing and Urban Development shall not
23 make any designation under paragraph (1)
24 unless—

1 “(i) the local government and the State
2 in which the nominated area is located have
3 the authority—

4 “(I) to nominate such area for des-
5 ignation as an enterprise zone,

6 “(II) to make the State and local
7 commitments under subsection (d), and

8 “(III) to provide assurances satis-
9 factory to the Secretary of Housing and
10 Urban Development that such commit-
11 ments will be fulfilled,

12 “(ii) a nomination therefor is submitted
13 in such a manner and in such form, and con-
14 tains such information, as the Secretary of
15 Housing and Urban Development shall by
16 regulation prescribe,

17 “(iii) the Secretary of Housing and
18 Urban Development determines that any in-
19 formation furnished is reasonably accurate,
20 and

21 “(iv) the State and local governments
22 certify that no portion of the area nominated
23 is already included in an enterprise zone or
24 in an area otherwise nominated to be an en-
25 terprise zone.

1 “(3) NOMINATION PROCESS FOR INDIAN RESER-
2 VATIONS.—In the case of a nominated area on an
3 Indian reservation, the reservation governing body (as
4 determined by the Secretary of the Interior) shall be
5 deemed to be both the State and local governments
6 with respect to such area.

7 “(b) PERIOD FOR WHICH DESIGNATION IS IN
8 EFFECT.—

9 “(1) IN GENERAL.—Any designation of an area
10 as an enterprise zone shall remain in effect during the
11 period beginning on the date of the designation and
12 ending on the earliest of—

13 “(A) December 31 of the 24th calendar year
14 following the calendar year in which such date
15 occurs,

16 “(B) the termination date designated by the
17 State and local governments as provided for in
18 their nomination pursuant to subsection
19 (a)(2)(D)(ii), or

20 “(C) the date the Secretary of Housing and
21 Urban Development revokes such designation
22 under paragraph (2).

23 “(2) REVOCATION OF DESIGNATION.—The Secre-
24 tary of Housing and Urban Development, after consul-
25 tation with the officials described in subsection

1 (a)(1)(B), may revoke the designation of an area if the
2 Secretary of Housing and Urban Development deter-
3 mines that the local government or the State in which
4 it is located is not complying substantially with the
5 State and local commitments pursuant to subsection
6 (d).

7 “(3) DESIGNATION SHALL NOT TAKE EFFECT
8 UNLESS INVENTORY OF HISTORIC PROPERTIES.—Not-
9 withstanding paragraph (1)—

10 “(A) within 60 days after the date of the
11 designation of an area as an enterprise zone (de-
12 termined without regard to this paragraph), the
13 State or local government of such area shall
14 submit to the Secretary of Housing and Urban
15 Development an inventory of historic properties
16 within such area, and

17 “(B) the date of such designation shall not be
18 earlier than the date on which such inventory is
19 submitted.

20 “(c) AREA AND ELIGIBILITY REQUIREMENTS.—

21 “(1) IN GENERAL.—The Secretary of Housing
22 and Urban Development may make a designation of
23 any nominated area under subsection (a)(1) only if it
24 meets the requirements of paragraphs (2) and (3).

1 “(2) AREA REQUIREMENTS.—A nominated area
2 meets the requirements of this paragraph if—

3 “(A) the area is within the jurisdiction of the
4 local government,

5 “(B) the boundary of the area is continuous,
6 and

7 “(C) the area—

8 “(i) has a population, as determined by
9 the most recent census data available, of at
10 least—

11 “(I) 4,000 if any portion of such
12 area (other than a rural area described
13 in subclause (I) or (III) of subsection
14 (a)(2)(C)(ii)) is located within a metro-
15 politan statistical area (within the
16 meaning of section 103A (1)(4)(B)) with
17 a population of 50,000 or more, or

18 “(II) 1,000 in any other case, or

19 “(ii) is entirely within an Indian reser-
20 vation (as determined by the Secretary of the
21 Interior).

22 “(3) ELIGIBILITY REQUIREMENTS.—For purposes
23 of paragraph (1), a nominated area meets the require-
24 ments of this paragraph if the State and local govern-
25 ments in which it is located certify and the Secretary

1 of Housing and Urban Development, after such review
2 of supporting data as he deems appropriate, accepts
3 such certification, that—

4 “(A) the area is one of pervasive poverty,
5 unemployment, and general distress,

6 “(B) the area is located wholly within the ju-
7 risdiction of a local government which is eligible
8 for Federal assistance under section 119 of the
9 Housing and Community Development Act of
10 1974, as in effect on the date of the enactment of
11 this section, and

12 “(C) one of the following criteria is met—

13 “(i) the unemployment rate, as deter-
14 mined by the appropriate available data, was
15 at least 1½ times the national unemploy-
16 ment rate for that period, or

17 “(ii) the poverty rate (as determined by
18 the most recent census data available) for
19 each populous census tract, (or where not
20 tracted, the equivalent county division as de-
21 fined by the Bureau of the Census for the
22 purpose of defining poverty areas) within the
23 area was at least 20 percent for the period
24 to which such data relates, or

1 “(iii) at least 70 percent of the house-
2 holds living in the area have incomes below
3 80 percent of the median income of house-
4 holds of the local government (determined in
5 the same manner as under section 119(b)(2)
6 of the Housing and Community Development
7 Act of 1974), or

8 “(iv) the population of the area de-
9 creased by 20 percent or more between 1970
10 and 1980 (as determined from the most
11 recent census available.)

12 “(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

13 “(1) IN GENERAL.—No nominated area shall be
14 designated as an enterprise zone unless the local gov-
15 ernment and the State in which it is located agree in
16 writing that, during any period during which the area
17 is an enterprise zone, such governments will follow a
18 specified course of action designed to reduce the var-
19 ious burdens borne by employers or employees in such
20 area.

21 “(2) COURSE OF ACTION.—The course of action
22 under paragraph (1) may be implemented by both such
23 governments and private nongovernmental entities,
24 may be funded from proceeds of any Federal program,
25 and may include, but is not limited to—

1 “(A) a reduction of tax rates or fees applying
2 within the enterprise zone,

3 “(B) an increase in the level or efficiency of
4 local services within the enterprise zone, for ex-
5 ample, crime prevention,

6 “(C) actions to reduce, remove, simplify, or
7 streamline governmental requirements applying
8 within the enterprise zone,

9 “(D) involvement in the program by private
10 entities, organizations, neighborhood associations,
11 and community groups, particularly those within
12 the nominated area, including a commitment from
13 such private entities to provide jobs and job train-
14 ing for, and technical, financial or other assistance
15 to, employers, employees, and residents of the
16 nominated area, and

17 “(E) mechanisms to increase the equity own-
18 ership of residents and employees within the en-
19 terprise zone.

20 “(3) LATER MODIFICATION OF A COURSE OF
21 ACTION.—The Secretary of Housing and Urban Devel-
22 opment may by regulation prescribe procedures for
23 modifying a course of action under paragraph (1) fol-
24 lowing designation.

1 “(e) PRIORITY OF DESIGNATION.—In choosing nomi-
2 nated areas for designation, the Secretary of Housing and
3 Urban Development shall give special preference to the areas
4 with respect to which the strongest and highest quality con-
5 tributions described in subsection (d)(2) have been promised
6 as part of the course of action, taking into consideration the
7 fiscal ability of the nominating State and local governments
8 to provide tax relief. The Secretary shall also give preference
9 to—

10 “(1) the nominated areas with respect to which
11 the strongest and highest quality contributions (other
12 than those described in subsection (d)(2)) have been
13 promised as part of the course of action,

14 “(2) the nominated areas with respect to which
15 the nominating State and local governments have pro-
16 vided the most effective and enforceable guarantees
17 that the proposed course of action under subsection (d)
18 will actually be carried out during the period of the en-
19 terprise zone designation,

20 “(3) the nominated areas with high levels of pov-
21 erty, unemployment, and general distress, particularly
22 the areas—

23 “(A) which are near areas with concentra-
24 tions of disadvantaged workers or long-term un-
25 employed individuals, and

1 “(B) with respect to which there is a strong
2 likelihood that residents of the area described in
3 subparagraph (A) will receive jobs if the area is
4 designated as an enterprise zone,

5 “(4) the nominated areas the size and location of
6 which—

7 “(A) will primarily stimulate new economic
8 activity, and

9 “(B) minimize unnecessary tax losses to the
10 Federal Government,

11 “(5) the nominated areas with respect to which
12 private entities have made the most substantial com-
13 mitments in additional resources and contributions, in-
14 cluding the creation of new or expanded business activ-
15 ities, and

16 “(6) the nominated areas which best exhibit such
17 other factors determined by the Secretary of Housing
18 and Urban Development as are—

19 “(A) consistent with the intent of the enter-
20 prise zone program, and

21 “(B) important to minimizing the unneces-
22 sary loss of tax revenues to the Federal Govern-
23 ment.

24 “(f) DEFINITIONS.—For the purposes of this title—

1 “(1) GOVERNMENTS.—If more than one govern-
2 ment seeks to nominate an area as an enterprise zone,
3 any reference to, or requirement of, this section shall
4 apply to all such governments.

5 “(2) STATE.—The term ‘State’ shall also include
6 Puerto Rico, the Virgin Islands, Guam, American
7 Samoa, the Northern Mariana Islands, and any other
8 possession of the United States.

9 “(3) LOCAL GOVERNMENT.—The term ‘local gov-
10 ernment’ means—

11 “(A) any county, city, town, township,
12 parish, village, or other general purpose political
13 subdivision of a State,

14 “(B) any combination of political subdivisions
15 described in subparagraph (A) recognized by the
16 Secretary of Housing and Urban Development,
17 and

18 “(C) the District of Columbia.”

19 (b) CONFORMING AMENDMENT.—The table of sub-
20 chapters for chapter 80 is amended by adding at the end
21 thereof the following new item:

1 “SUBCHAPTER D—DESIGNATION OF ENTERPRISE
2 ZONES”.

3 **SEC. 412. EVALUATION AND REPORTING REQUIREMENTS.**

4 Not later than the close of the fourth calendar year after
5 the year in which the Secretary of Housing and Urban De-
6 velopment first designates areas as enterprise zones under
7 section 7891 of the Internal Revenue Code of 1954, and at
8 the close of each fourth calendar year thereafter, the Secre-
9 tary of Housing and Urban Development shall prepare and
10 submit to the Congress a report on the effects of such desig-
11 nation in accomplishing the purposes of this Act.

12 **SEC. 413. INTERACTION WITH OTHER FEDERAL PROGRAMS.**

13 (a) **TAX REDUCTIONS.**—Any reduction of taxes under
14 any required program of State and local commitment under
15 section 7891(d) of the Internal Revenue Code of 1954 shall
16 be disregarded in determining the eligibility of a State or
17 local government for, or the amount or extent of, any assist-
18 ance or benefits under any law of the United States.

19 (b) **COORDINATION WITH RELOCATION ASSIST-**
20 **ANCE.**—The designation of an enterprise zone under section
21 7891 of the Internal Revenue Code of 1954 shall not—

22 (1) constitute approval of a Federal or Federally
23 assisted program or project (within the meaning of the
24 Uniform Relocation Assistance and Real Property Ac-
25 quisition Policies Act of 1970 (42 U.S.C. 4601)), or

1 (2) entitle any person displaced from real property
2 located in such zone to any rights or any benefits
3 under such Act.

4 (c) COORDINATION WITH ENVIRONMENTAL POLICY.—

5 Designation of an enterprise zone under section 7891 shall
6 not constitute a Federal action for purposes of applying the
7 requirements of the National Environmental Policy Act (42
8 U.S.C. 4341) or other provisions of Federal law relating to
9 the protection of the environment.

10 SUBTITLE B—FEDERAL INCOME TAX INCENTIVES

11 PART I—CREDITS FOR EMPLOYERS AND EMPLOYEES

12 SEC. 421. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

13 (a) CREDIT FOR INCREASED ENTERPRISE ZONE EM-
14 PLOYMENT AND EMPLOYMENT OF DISADVANTAGED
15 WORKERS.—Subpart A of part IV of subchapter A of chap-
16 ter 1 (relating to credits allowable) is amended by inserting
17 immediately before section 45 the following new section:

18 “SEC. 44I. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

19 “(a) IN GENERAL.—There shall be allowed as a credit
20 against the tax imposed by this chapter for the taxable year
21 an amount equal to the sum of—

22 “(1) 10 percent of the qualified increased employ-
23 ment expenditures of the taxpayer for the taxable year,
24 and

1 “(2) the economically disadvantaged credit
2 amount of the taxpayer for such taxable year.

3 “(b) LIMITATIONS BASED ON AMOUNT OF TAX.—

4 “(1) IN GENERAL.—The credit allowed by subsec-
5 tion (a) for a taxable year shall not exceed the tax im-
6 posed by this chapter for such taxable year, reduced by
7 the sum of the credits allowable under any section of
8 this subpart having a lower number or letter designa-
9 tion than this section, other than the credits allowable
10 by sections 31, 39, and 43. For purposes of the pre-
11 ceding sentence, the term ‘tax imposed by this chapter’
12 shall not include any tax treated as not imposed by this
13 chapter under the last sentence of section 53(a).

14 “(2) CARRYBACK AND CARRYOVER OF UNUSED
15 CREDIT.—

16 “(A) ALLOWANCE OF CREDIT.—If the
17 amount of the credit determined under this section
18 for any taxable year exceeds the limitation pro-
19 vided by paragraph (1) for such taxable year
20 (hereinafter in this paragraph referred to as the
21 ‘unused credit year’), such excess shall be—

22 “(i) an enterprise zone employment
23 credit carryback to each of the 3 taxable
24 years preceding the unused credit year, and

1 “(ii) an enterprise zone employment
2 credit carryover to each of the 15 taxable
3 years following the unused credit year,
4 and shall be added to the amount allowable as a
5 credit by this section for such years. If any por-
6 tion of such excess is a carryback to a taxable
7 year beginning before January 1, 1984, this sec-
8 tion shall be deemed to have been in effect for
9 such taxable year for purposes of allowing such
10 carryback as a credit under this section. The
11 entire amount of the unused credit for an unused
12 credit year shall be carried to the earliest of the
13 18 taxable years to which (by reason of clauses (i)
14 and (ii)) such credit may be carried, and then to
15 each of the other 17 taxable years to the extent
16 that, because of the limitation contained in sub-
17 paragraph (B), such unused credit may not be
18 added for a prior taxable year to which such
19 unused credit may be carried.

20 “(B) LIMITATION.—The amount of the
21 unused credit which may be added under subpara-
22 graph (A) for any preceding or succeeding taxable
23 year shall not exceed the amount by which the
24 limitation provided by paragraph (1) for such tax-
25 able year exceeds the sum of

1 “(i) the credit allowable under this sec-
2 tion for such taxable year, and

3 “(ii) the amounts which, by reason of
4 this paragraph, are added to the amount al-
5 lowable for such taxable year and which are
6 attributable to taxable years preceding the
7 unused credit year.

8 “(C) SPECIAL RULE IF PERIOD OF ZONE
9 EXTENDS MORE THAN 15 YEARS.—If the number
10 of taxable years during the period—

11 “(i) beginning with the taxable year
12 after the unused credit year, and

13 “(ii) ending with the taxable year in
14 which the designation of the enterprise zone
15 to which the credit under subsection (a) re-
16 lates expires under section 7891,
17 exceeds 15, then subparagraph (A) shall be ap-
18 plied by substituting such number for ‘15’, such
19 number plus 3 for ‘18’, and such number plus 2
20 for ‘17’.

21 “(c) QUALIFIED INCREASED EMPLOYMENT EXPENDI-
22 TURES DEFINED.—For purposes of this section—

23 “(1) IN GENERAL.—The term ‘qualified increased
24 employment expenditures’ means the excess of—

1 “(A) the qualified wages paid or incurred by
2 the employer during the taxable year to qualified
3 employees with respect to all enterprise zones,
4 over

5 “(B) the base period wages of the employer
6 with respect to all such zones.

7 “(2) LIMITATIONS AS TO QUALIFIED WAGES
8 TAKEN INTO ACCOUNT.—

9 “(A) DOLLAR AMOUNT.—The amount of
10 any qualified wages taken into account under
11 paragraph (1) for any taxable year with respect to
12 any qualified employee may not exceed 2.5 times
13 the dollar limitation in effect under section 3306
14 (b)(1) for the calendar year with or within which
15 such taxable year ends.

16 “(B) APPLICATION WITH ECONOMICALLY
17 DISADVANTAGED CREDIT AMOUNT.—Qualified
18 wages shall not be taken into account under para-
19 graph (1) if such wages are taken into account in
20 determining the economically disadvantaged
21 credit amount under subsection (d).

22 “(3) BASE PERIOD WAGES.—

23 “(A) IN GENERAL.—The term ‘base period
24 wages’ means, with respect to any enterprise
25 zone, the amount of wages paid to employees

1 during the 12-month period preceding the earlier
2 of—

3 “(i) the date on which the enterprise
4 zone was designated as such under section
5 7891, or

6 “(ii) the date on which the enterprise
7 zone is designated under any State law en-
8 acted after January 1, 1981,

9 which would have been qualified wages paid to
10 qualified employees if such designation had been
11 in effect for such period.

12 “(B) RULES OF SPECIAL APPLICATION.—
13 For purposes of subparagraph (A)—

14 “(i) subsection (f)(1) shall be applied by
15 substituting ‘12-month period’ for ‘taxable
16 year’ each place it appears, and

17 “(ii) the dollar limitation taken into ac-
18 count under paragraph (2) in computing
19 qualified wages shall be the amount in effect
20 for the taxable year for which the amount of
21 the credit under subsection (a) is being com-
22 puted.

23 “(d) ECONOMICALLY DISADVANTAGED CREDIT
24 AMOUNT.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘economically dis-
2 advantaged credit amount’ means the sum of the appli-
3 cable percentage of qualified wages paid to each quali-
4 fied economically disadvantaged individual.

5 “(2) APPLICABLE PERCENTAGE.—For purposes
6 of paragraph (1), the term ‘applicable percentage’
7 means, with respect to any qualified economically dis-
8 advantaged individual, the percentage determined in
9 accordance with the following table:

“If the qualified wages are paid for services performed:	The applicable percentage is:
Within 36 months of starting date.....	50
More than 36 months but less than 49 months after such date.....	40
More than 48 months but less than 61 months after such date.....	30
More than 60 months but less than 73 months after such date.....	20
More than 72 months but less than 85 months after such date.....	10
More than 84 months after such date.....	0

10 “(3) STARTING DATE; BREAKS IN SERVICE.—For
11 purposes of this subsection—

12 “(A) STARTING DATE.—The term ‘starting
13 date’ means the day which the qualified economi-
14 cally disadvantaged individual begins work for the
15 employer within an enterprise zone.

16 “(B) BREAKS IN SERVICE.—The periods de-
17 scribed in the table under paragraph (2) (other
18 than the first such period) shall be extended by
19 any period of time—

1 “(i) during which the individual is un-
2 employed, and

3 “(ii) by any period of time before the
4 designation of the area as an enterprise zone
5 under section 7891 during which the individ-
6 ual is employed by a taxpayer while the area
7 is designated as an enterprise zone under
8 State law enacted after January 1, 1981.

9 “(e) QUALIFIED WAGES DEFINED.—For purposes of
10 this section—

11 “(1) IN GENERAL.—Except as otherwise provided
12 in this subsection, the term ‘qualified wages’ has the
13 meaning given to the term ‘wages’ by subsection (b) of
14 section 3306 (determined without regard to any dollar
15 limitation contained in such section).

16 “(2) REDUCTION FOR CERTAIN FEDERALLY
17 FUNDED PAYMENTS.—For purposes of this section the
18 wages paid or incurred by an employer for any period
19 shall not include the amount of any federally funded
20 payments the employer receives or is entitled to re-
21 ceive for on-the-job training of such individual for such
22 period.

23 “(3) SPECIAL RULES FOR AGRICULTURAL AND
24 RAILWAY LABOR.—Under regulations prescribed by
25 the Secretary, rules similar to the rules of section 51(h)

1 shall apply with respect to services described in sub-
2 paragraphs (A) and (B) of section 51(h)(1).

3 “(f) QUALIFIED EMPLOYEE DEFINED.—

4 “(1) IN GENERAL.—For purposes of this section,
5 the term ‘qualified employee’ means an individual—

6 “(A) at least 90 percent of whose services
7 for the employer during the taxable year are di-
8 rectly related to the conduct of the employer’s
9 trade or business located in an enterprise zone,
10 and

11 “(B) who performs at least 50 percent of his
12 services for the employer during the taxable year
13 in an enterprise zone.

14 “(2) EXCEPTION FOR INDIVIDUALS WITH RE-
15 SPECT TO WHOM CREDIT IS ALLOWED UNDER SEC-
16 TION 44b.—The term ‘qualified employee’ shall not in-
17 clude an individual with respect to whom any credit is
18 allowed the employer for the taxable year under sec-
19 tion 44B (relating to credit for employment of certain
20 new employees).

21 “(g) QUALIFIED ECONOMICALLY DISADVANTAGED IN-
22 DIVIDUAL.—

23 “(1) For purposes of this section, the term ‘quali-
24 fied economically disadvantaged individual’ means an
25 individual—

1 “(A) who is a qualified employee,

2 “(B) who is hired by the employer during the
3 period a designation under section 7891 is in
4 effect for the area in which the services which
5 qualify such individual as a qualified employee are
6 performed, and

7 “(C) who is certified as—

8 “(i) an economically disadvantaged indi-
9 vidual,

10 “(ii) an eligible work incentive employee
11 (within the meaning of section 51 (d)(9)), or

12 “(iii) a general assistance recipient
13 (within the meaning of section 51 (d)(6)).

14 “(2) ECONOMICALLY DISADVANTAGED INDIVIDU-
15 AL.—For purposes of paragraph (1)—

16 “(A) IN GENERAL.—The term ‘economically
17 disadvantaged individual’ means any individual
18 who is certified by the designated local agency as
19 being a member of a family that had a combined
20 family income (including the cash value of food
21 stamps) during the 6 months preceding the month
22 in which such determination occurs that on an
23 annual basis, was equal to or less than the sum
24 of—

1 “(i) the highest amount which would or-
2 dinarily be paid to a family of the same size
3 without any income or resources in the form
4 of payments for aid to families with depend-
5 ent children under the State plan approved
6 under part A of title IV of the Social Secu-
7 rity Act for the State in which such individu-
8 al resides, plus,

9 “(ii) the highest cash value of the food
10 stamps to which a family of the same size
11 without any income or resources would be
12 paid aid to families with dependent children
13 under such State plan in the amount deter-
14 mined under clause (i).

15 Any such determination shall be valid for the 45-
16 day period beginning on the date such determina-
17 tion is made.

18 “(B) SPECIAL RULE FOR FAMILIES WITH
19 ONLY 1 INDIVIDUAL.—For purposes of clause (i)
20 of subparagraph (A), in the case of a family con-
21 sisting of only one individual, the ‘highest amount
22 which would ordinarily be paid’ to such family
23 under the State’s plan approved under part A of
24 title IV of the Social Security Act shall be an
25 amount determined by the designated local agency

1 on the basis of a reasonable relationship to the
2 amounts payable under such plan to families con-
3 sisting of two or more persons.

4 “(3) CERTIFICATION.—Certification of an individ-
5 ual as an individual described in paragraph (1)(C) shall
6 be made in the same manner as certification under sec-
7 tion 51.

8 “(h) SPECIAL RULES.—For purposes of this section—

9 “(1) APPLICATION TO CERTAIN ENTITIES,
10 ETC.—Under regulations prescribed by the Secretary,
11 rules similar to the rules of subsections (f) and (i) of
12 section 51, section 52, and section 44F(f)(3) shall
13 apply.

14 “(2) PERIODS OF LESS THAN A YEAR.—If desig-
15 nation of an area as an enterprise zone under section
16 7891 occurs, expires, or is revoked on a date other
17 than the first or last day of the taxable year of the tax-
18 payer, or in the case of a taxable year of less than 12
19 months—

20 “(A) the limitation specified in subsection
21 (c)(2)(A), and the base period wages determined
22 under subsection (c)(3), shall be adjusted on a pro
23 rata basis (based upon the number of days), and

24 “(B) the reduction specified in subsection
25 (e)(2) and the 90 percent and 50 percent tests set

1 forth in subsection (f)(1) shall be determined by
2 reference to the portion of the taxable year during
3 which the designation of the area as an enterprise
4 zone is in effect.

5 “(i) PHASEOUT OF CREDIT.—In determining the
6 amount of the credit for a taxable year under subsection (a)
7 with respect to qualified wages paid or incurred for services
8 performed in an enterprise zone—

9 “(1) the following percentages shall be substituted
10 for ‘10 percent’ in subsection (a)(1):

11 “(A) 7.5 percent in the earlier of—

12 “(i) the taxable year which includes the
13 date which is 21 years after the date on
14 which such enterprise zone was designated
15 under section 7891, or

16 “(ii) the taxable year which includes the
17 date which is 4 years before the date (if any)
18 on which such enterprise zone ceases to be a
19 zone under section 7891(b)(1)(B),

20 “(B) 5 percent in the next succeeding tax-
21 able year,

22 “(C) 2.5 percent in the second next succeed-
23 ing taxable year, and

24 “(D) zero thereafter, and

1 “(2) the amount determined under subsection
2 (a)(2) shall be reduced by—

3 “(A) 25 percent in the case of the taxable
4 year described in paragraph (1)(A),

5 “(B) 50 percent in the next succeeding tax-
6 able year,

7 “(C) 75 percent in the second next succeed-
8 ing taxable year, and

9 “(D) 100 percent thereafter.

10 “(j) EARLY TERMINATION OF EMPLOYMENT BY EM-
11 PLOYER IN CASE OF QUALIFIED ECONOMICALLY DISAD-
12 VANTAGED INDIVIDUALS, ETC.—

13 “(1) GENERAL RULE.—Under regulations pre-
14 scribed by the Secretary, if the employment of any
15 qualified economically disadvantaged individual with
16 respect to whom qualified wages are taken into ac-
17 count under subsection (a) is terminated by the taxpay-
18 er at any time during the 270-day period beginning on
19 the date such individual begins work for the employer,
20 the tax under this chapter for the taxable year in
21 which such employment is terminated shall be in-
22 creased by an amount (determined under such regula-
23 tions) equal to the credit allowed under subsection (a)
24 for such taxable year and all prior taxable years attrib-

1 utable to qualified wages paid or incurred with respect
2 to such employee.

3 “(2) Subsection not to apply in certain cases.—

4 “(A) IN GENERAL.—Paragraph (1) shall not
5 apply to—

6 “(i) a termination of employment of an
7 employee who voluntarily leaves the employ-
8 ment of the employer,

9 “(ii) a termination of employment of an
10 individual who, before, the close of the
11 period referred to in paragraph (1), becomes
12 disabled and therefore is unable to perform
13 the services of such employment, unless such
14 disability is removed before the close of such
15 period and the employer fails to offer reem-
16 ployment to such individual,

17 “(iii) a termination of employment of an
18 individual, if it is determined under the appli-
19 cable State unemployment compensation law
20 that the termination was due to the miscon-
21 duct of such individual, or

22 “(iv) a termination of employment of an
23 individual due to a substantial reduction in
24 the trade or business operations of the em-
25 ployer.

1 “(B) CHANGE IN FORM OF BUSINESS,
2 ETC.—For purposes of paragraph (1), the employ-
3 ment relationship between the employer and an
4 employee shall not be treated as terminated—

5 “(i) by a transaction to which section
6 381(a) applies, if the employee continues to
7 be employed by the acquiring corporation, or

8 “(ii) by reason of a mere change in the
9 form of conducting the trade or business of
10 the taxpayer, if the employee continues to be
11 employed in such trade or business and the
12 employer retains a substantial interest in
13 such trade or business.

14 “(3) SPECIAL RULE.—Any increase in tax under
15 paragraph (1) shall not be treated as tax imposed by
16 this chapter for purposes of determining the amount of
17 any credit allowable under this subpart.”.

18 (b) NO DEDUCTION ALLOWED.—Section 280C (relat-
19 ing to disallowance of deductions for that portion of wages for
20 which credit is claimed under section 40 or 44B) is amended
21 by adding at the end thereof the following new subsection:

22 “(d) RULE FOR SECTION 44I CREDITS.—No deduction
23 shall be allowed for that portion of the wages or salaries paid
24 or incurred for the taxable year which is equal to the amount
25 of the credit allowable under section 44I (relating to the em-

1 ployment credit for enterprise zone businesses). This subsec-
2 tion shall be applied under a rule similar to the rule under the
3 last sentence of subsection (b).”.

4 (c) TECHNICAL AMENDMENTS RELATED TO CAR-
5 RYOVER AND CARRYBACK OF CREDITS.—

6 (1) CARRYOVER OF CREDIT.—

7 (A) Subparagraph (B) of section 55(c)(3) (re-
8 lating to carryover and carryback of certain cred-
9 its) is amended—

10 (i) by striking out “or 44F” in clause (i)
11 and inserting in lieu thereof “44F, or 44I”,
12 and

13 (ii) by inserting “44I (b)(1),” after “44F
14 (g)(1),” in clause (ii).

15 (B) Subsection (c) of section 381 (relating to
16 items of the distributor or transferor corporation)
17 is amended by adding at the end thereof the fol-
18 lowing new paragraph:

19 “(31) CREDIT UNDER SECTION 44I.—The acquir-
20 ing corporation shall take into account (to the extent
21 proper to carry out the purposes of this section and
22 section 44I, and under such regulations as may be pre-
23 scribed by the Secretary) the items required to be
24 taken into account for purposes of section 44I in re-
25 spect to the distributor or transferor corporation.”

1 (C) Section 383 (relating to special limita-
2 tions on unused credits and capital losses), as in
3 effect for taxable years to which the amendments
4 made by the Tax Reform Act of 1976 apply, is
5 amended—

6 (i) by inserting “to any unused credit of
7 the corporation under section 44I(b)(2),”
8 after “44G(b)(2),” and

9 (ii) by inserting “ENTERPRISE ZONE
10 EMPLOYMENT CREDITS,” after “EMPLOYEE
11 STOCK OWNERSHIP CREDITS,” in the section
12 heading.

13 (D) Section 383 (as in effect on the day
14 before the amendments made by the Tax Reform
15 Act of 1976) is amended—

16 (i) by inserting “to any unused credit of
17 the corporation which could otherwise be
18 carried forward under section 44I(b)(2),”
19 after “44G(b)(2),” and

20 (ii) by inserting “ENTERPRISE ZONE
21 EMPLOYMENT CREDITS,” after “EMPLOYEE
22 STOCK OWNERSHIP CREDITS,” in the section
23 heading.

24 (E) The table of sections for part V of sub-
25 chapter C of chapter 1 is amended by inserting

1 “enterprise zone employment credits,” after “em-
2 ployee stock ownership credits,” in the item relat-
3 ing to section 383.

4 (2) CARRYBACK OF CREDIT.—

5 (A) Subparagraph (C) of section 6511(d)(4)
6 (defining credit carryback) is amended by striking
7 out “and employee stock ownership credit carry-
8 back” and inserting in lieu thereof “employee
9 stock ownership credit carryback, and enterprise
10 zone employment credit carryback.”

11 (B) Section 6411 (relating to quick refunds in
12 respect to tentative carryback adjustments) is
13 amended—

14 (i) by striking out “or unused employee
15 stock ownership credit” each place it appears
16 and inserting in lieu thereof “unused em-
17 ployee stock ownership credit, or unused en-
18 terprise zone employment credit carryback;”

19 (ii) by inserting “, by an enterprise zone
20 employment credit carryback provided by
21 section 44I(b)(2),” after “by an employee
22 stock ownership credit carryback provided by
23 section 44G(b)(2)” in the first sentence of
24 subsection (a);

1 (iii) by striking out “or employee stock
2 ownership credit carryback from” each place
3 it appears and inserting in lieu thereof “em-
4 ployee stock ownership credit carryback, or
5 enterprise zone employment credit carryback
6 from;” and

7 (iv) by striking out “research and ex-
8 perimental credit carryback)” in the second
9 sentence of subsection (a) and inserting in
10 lieu thereof “research and experimental
11 credit carryback, or in the case of an enter-
12 prise zone employment credit carryback, to
13 an investment credit carryback, a new em-
14 ployee credit carryback, or an employee
15 stock ownership credit carryback).”

16 (d) OTHER TECHNICAL AND CLERICAL AMEND-
17 MENTS.—

18 (1) Subsection (b) of section 6096 (relating to des-
19 ignation of income tax payments to Presidential Elec-
20 tion Campaign Fund) is amended by striking out “and
21 44G” and inserting in lieu thereof “44H and 44I”.

22 (2) The table of sections for subpart A of part IV
23 of subchapter A of chapter 1 is amended by inserting
24 before the item relating to section 45 the following
25 new item:

“Sec. 44I. Credit for enterprise zone employment.”.

1 (e) **EFFECTIVE DATE.**—The amendments made by this
2 section shall apply to taxable years beginning after Decem-
3 ber 31, 1984.

4 **SEC. 422. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.**

5 (a) **IN GENERAL.**—Subpart A of part IV of subchapter
6 A of chapter 1 (relating to credits allowable), as amended by
7 section 221, is amended by inserting immediately before sec-
8 tion 45 the following new section:

9 **“SEC. 44J. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.**

10 **“(a) IN GENERAL.**—In the case of a qualified employee,
11 there is allowed as a credit against the tax imposed by this
12 chapter for the taxable year an amount equal to 5 percent of
13 the qualified wages for the taxable year.

14 **“(b) DEFINITIONS.**—For purposes of this section—

15 **“(1) QUALIFIED EMPLOYEE.**—The term ‘qualified
16 employee’ means an individual—

17 **“(A) who is described in section 44I(f)(1),**
18 **and**

19 **“(B) who is not an employee of the Federal**
20 **Government, of any State or local government, or**
21 **any political subdivision of a State or local gov-**
22 **ernment.**

23 **“(2) QUALIFIED WAGES.**—

24 **“(A) IN GENERAL.**—The term ‘qualified
25 wages’ has the meaning given to ‘wages’ under

1 subsection (b) of section 3306, attributable to
2 services performed for an employer with respect
3 to whom the employee is a qualified employee, in
4 an amount which does not exceed $1\frac{1}{2}$ times the
5 dollar limitation specified in such subsection.

6 “(B) EXCEPTION.—The term ‘qualified
7 wages’ does not include any compensation re-
8 ceived from the Federal Government, any State
9 or local government, or any political subdivision
10 of a State or local government.

11 “(c) PHASEOUT OF CREDIT.—In determining the
12 amount of the credit for the taxable year under subsection (a)
13 with respect to qualified wages paid to qualified employees
14 for services performed in an enterprise zone, the following
15 percentages shall be substituted for ‘5 percent’ in subsection
16 (a):

17 “(1) $3\frac{3}{4}$ percent in the taxable year in which the
18 date which is—

19 “(A) 21 years after the date on which such
20 enterprise zone was designated under section
21 7891 occurs, or

22 “(B) if earlier, the date 4 years before the
23 date the zone designation is to expire;

24 “(2) $2\frac{1}{2}$ percent in the next succeeding taxable
25 year;

1 “(3) 1¹/₄ percent in the second next succeeding
2 taxable year; and

3 “(4) zero thereafter.

4 “(d) APPLICATION WITH OTHER CREDITS.—The
5 credit allowed by subsection (a) for a taxable year shall not
6 exceed the tax imposed by this chapter for such taxable year,
7 reduced by the sum of the credits allowable under a section of
8 this subpart having a lower number or letter designation than
9 this section, other than the credits allowable by sections 31,
10 39, and 43. For purposes of the preceding sentence, the term
11 ‘tax imposed by this chapter’ shall not include any tax treat-
12 ed as not imposed by this chapter under the last sentence of
13 section 53(a).”

14 (b) REPORTING REQUIREMENTS.—Subpart C of part
15 III of subchapter A of chapter 61 (relating to information
16 regarding wages paid employees) is amended by adding at
17 the end thereof the following new section:

18 **“SEC. 6054. REPORTING OF ENTERPRISE ZONE EMPLOYEE
19 CREDITS.**

20 “Every employer shall furnish to each employee who is
21 a qualified employee of the employer (within the meaning of
22 section 44J(b)(1)) a written statement showing the amount of
23 qualified wages (within the meaning of section 44J(b)(2)) paid
24 by the employer to such employee. The statement required to
25 be furnished pursuant to this section shall be furnished at

1 such time, shall contain such other information, and shall be
2 in such form as the Secretary may by regulations prescribe.
3 When required by such regulations, a duplicate of any such
4 statement shall be filed with the Secretary.”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Subparagraph (A) of section 6652(a)(1) (relat-
7 ing to failure to file information returns) is amended—

8 (A) by striking out “or” at the end of clause
9 (v), and

10 (B) by inserting after clause (vi) the following
11 new clause:

12 “(vii) section 6054 (relating to reporting
13 of enterprise zone employee credits),”.

14 (2) Section 6674 (relating to fraudulent statement
15 or failure to furnish statement to employee) is amended
16 by striking “or 6053(b)” each place it appears and in-
17 serting in lieu thereof “, 6053(b) or 6054”.

18 (3) The table of sections for subpart C of part III
19 of subchapter A of chapter 61 is amended by adding at
20 the end thereof the following:

“Sec. 6054. Reporting of enterprise zone employee credits.”.

21 (4) The table of sections for subpart A of part IV
22 of subchapter A of chapter 1 is amended by inserting
23 immediately before the item relating to section 45 of
24 the following new item:

1 **"SEC. 44J. CREDIT FOR ENTERPRISE ZONE EMPLOYEES."**

2 (5) Subsection (b) of section 6096, as amended by
3 section 201, is amended by striking out "and 44I" and
4 inserting in lieu thereof "44I, and 44J".

5 (d) **EFFECTIVE DATE.**—The amendments made by this
6 section shall apply to taxable years after December 31, 1984.

7 **PART II—CREDITS FOR INVESTMENT IN TANGIBLE**
8 **PROPERTY IN ENTERPRISE ZONES**

9 **SEC. 431. INVESTMENT TAX CREDIT FOR ENTERPRISE ZONE**
10 **PROPERTY.**

11 (a) **AMOUNT OF CREDIT.**—

12 (1) **IN GENERAL.**—Subparagraph (A) of section
13 46(a)(2) (relating to amount of investment tax credit) is
14 amended by striking out "and" at the end of clause
15 (iii), by striking out the period at the end of clause (iv)
16 and inserting in lieu thereof ", and", and by adding at
17 the end thereof the following new clause:

18 " (v) in the case of enterprise zone prop-
19 erty, the enterprise zone percentage."

20 (2) **ENTERPRISE ZONE PERCENTAGE DEFINED.**—
21 Paragraph (2) of section 46(a) is amended by adding at
22 the end thereof the following new subparagraph:

23 "(G) **ENTERPRISE ZONE PERCENTAGE.**—

24 "(i) **IN GENERAL.**—

25 "For purposes of this paragraph—

"In the case of enterprise zone expenditures with respect to:	The enterprise zone percentage is:
Zone personal property (within the meaning of section 48(s)(3)).....	5
New zone construction property..... (within the meaning of section 48(s)(4))	10

1 “(ii) PHASEOUT OF CREDIT AS ENTER-
 2 PRISE ZONE ENDS.—Clause (i) shall be ap-
 3 plied by substituting the following percent-
 4 ages for 5 percent and 10 percent, respec-
 5 tively:

6 “(I) For the taxable year described
 7 in section 44I(i)(1)(A), 3.75 and 7.5.

8 “(II) For the next succeeding tax-
 9 able year, 2.5 and 5.

10 “(III) For the second next suc-
 11 ceeding taxable year, 1.25 and 2.5.

12 “(IV) For any subsequent taxable
 13 year, zero.

14 “(iii) REGULAR PERCENTAGE NOT TO
 15 APPLY TO CERTAIN PROPERTY.—For pur-
 16 poses of this paragraph, the regular percent-
 17 age shall not apply to any enterprise zone
 18 property which, but for section 48(s)(1),
 19 would not be section 38 property.”.

20 (3) ORDERING RULES.—That portion of para-
 21 graph (7) of section 46(a) (relating to special rules in

1 the case of energy property) which precedes subpara-
2 graph (B) is amended to read as follows:

3 “(7) SPECIAL RULES IN THE CASE OF ENERGY
4 PROPERTY OR ENTERPRISE ZONE PROPERTY.—Under
5 regulations prescribed by the Secretary—

6 “(A) IN GENERAL.—This subsection and
7 subsection (b) shall be applied separately—

8 “(i) first with respect to so much of the
9 credit allowed by section 38 as is not attrib-
10 utable to the energy percentage or the enter-
11 prise zone percentage,

12 “(ii) second with respect to so much of
13 the credit allowed by section 38 as is attrib-
14 utable to the application of the energy per-
15 centage to energy property, and

16 “(iii) third with respect to so much of
17 the credit allowed by section 38 as is attrib-
18 utable to the application of the enterprise
19 zone percentage to enterprise zone
20 property.”

21 (4) CONFORMING AMENDMENT.—Section 48(o)
22 (defining certain credits) is amended by adding at the
23 end thereof the following new paragraphs:

24 “(9) ENTERPRISE ZONE CREDIT.—The term ‘en-
25 terprise zone credit’ means that portion of the credit

1 allowable by section 38 which is attributable to the en-
 2 terprise zone percentage.”

3 (c) DEFINITIONS AND TRANSITIONAL RULES.—Sec-
 4 tion 48 (relating to definitions and special rules), as amended
 5 by this Act, is amended by redesignating subsection (s) as
 6 subsection (t) and by inserting after subsection (r) the follow-
 7 ing new subsection:

8 “(s) ENTERPRISE ZONE PROPERTY.—For purposes of
 9 this subpart—

10 “(1) TREATMENT AS SECTION 38 PROPERTY.—

11 In the case of enterprise zone property—

12 “(A) such property shall be treated as meet-
 13 ing the requirements of subsection (a), and

14 “(B) paragraph (3) of subsection (a) shall not
 15 apply to such property.

16 “(2) The term ‘enterprise zone property’ means
 17 property—

18 “(A) which is—

19 “(i) zone personal property, or

20 “(ii) new zone construction property,

21 “(B) not acquired (directly or indirectly) by
 22 the taxpayer from a person who is related to the
 23 taxpayer (within the meaning of section
 24 168(e)(4)(D)), and

1 “(C) acquired and first placed in service by
2 the taxpayer in an enterprise zone during the
3 period the designation as a zone is in effect under
4 section 7891.

5 “(3) ZONE PERSONAL PROPERTY DEFINED.—The
6 term ‘zone personal property’ means property which
7 is—

8 “(A) 3-year property;

9 “(B) 5-year property;

10 “(C) 10-year property; and

11 “(D) 15-year public utility property,

12 which is used by the taxpayer predominantly in the
13 active conduct of a trade or business within an enter-
14 prise zone. Property shall not be treated as ‘zone per-
15 sonal property’ if it is used or located outside the en-
16 terprise zone on any regular basis.

17 “(4) NEW ZONE CONSTRUCTION PROPERTY DE-
18 FINED.—The term ‘new zone construction property’
19 means 15-year real property or 20-year real property
20 which is—

21 “(A) located in an enterprise zone,

22 “(B) used by the taxpayer predominantly in
23 the active conduct of a trade or business within
24 an enterprise zone, and

25 “(C) either—

1 “(i) the construction, reconstruction, or
2 erection of which is completed by the tax-
3 payer during the period the designation as a
4 zone is in effect under section 7891, or

5 “(ii) acquired during such period if the
6 original use of such property commences
7 with the taxpayer and commences during
8 such period.

9 In applying section 46(c)(1)(A) in the case of property
10 described in subparagraph (C)(i), there shall be taken
11 into account only that portion of the basis which is
12 properly attributable to construction, reconstruction, or
13 erection during such period.

14 “(5) REAL ESTATE RENTAL.—For purposes of
15 this section, ownership of residential, commercial, or
16 industrial real property within an enterprise zone for
17 rental purposes shall be treated as the active conduct
18 of a trade or business in an enterprise zone.

19 “(6) DEFINITIONS.—For purposes of this subsec-
20 tion, the terms ‘3-year property,’ ‘5-year property,’
21 ‘10-year property,’ ‘15-year real property,’ ‘20-year
22 real property’ and ‘15-year public utility property’,
23 have the meanings given such terms by section
24 168(c)(2).”

1 (d) RECAPTURE.—Subsection (a) of section 47 (relating
2 to certain dispositions, etc., of section 38 property) is amend-
3 ed by adding at the end thereof the following new paragraph:

4 “(9) SPECIAL RULES FOR ENTERPRISE ZONE
5 PROPERTY.—

6 “(A) IN GENERAL.—If, during any taxable
7 year, property with respect to which the taxpayer
8 claimed an enterprise zone credit—

9 “(i) is disposed of, or

10 “(ii) otherwise ceases to be section 38
11 property with respect to the taxpayer, or

12 “(iii) is removed from the enterprise
13 zone, converted, or otherwise ceases to be
14 enterprise zone property (other than by the
15 expiration or revocation of the designation as
16 an enterprise zone),

17 the tax under this chapter for such taxable year
18 shall be increased by the amount described in sub-
19 paragraph (B).

20 “(B) AMOUNT OF INCREASE.—The increase
21 in tax under subparagraph (A) shall equal the ag-
22 gregate decrease in the credits allowed under sec-
23 tion 38 by reason of section 46(a)(2)(A)(v) for all
24 prior taxable years which would have resulted
25 solely from reducing the expenditures taken into

1 account with respect to the property by an
2 amount which bears the same ratio to such ex-
3 penditures as the number of taxable years that the
4 property was held by the taxpayer bears to the
5 applicable recovery period for earnings and profits
6 under section 312(k).”

7 (e) BASIS ADJUSTMENT TO REFLECT INVESTMENT
8 CREDIT.—

9 (1) IN GENERAL.—Paragraph (3) of section 48(q)
10 (relating to basis adjustment to section 38 property) is
11 amended to read as follows:

12 “(3) SPECIAL RULE FOR QUALIFIED REHABILI-
13 TATION AND ENTERPRISE ZONE EXPENDITURES.—In
14 the case of any credit determined under section
15 46(a)(2) for—

16 “(A) any qualified rehabilitation expenditure
17 in connection with a qualified rehabilitated build-
18 ing other than a certified historic structure, or

19 “(B) any expenditure in connection with new
20 zone construction property (within the meaning of
21 section 48(s)(4)),

22 paragraphs (1) and (2) shall be applied without regard
23 to the phrase ‘50 percent of’.”

24 (2) CONFORMING AMENDMENT.—The heading for
25 subsection (c) of section 196 (relating to deductions for

1 certain unused investment credits) is amended by strik-
2 ing out “rehabilitated buildings” and inserting in lieu
3 thereof “rehabilitation and enterprise zone expendi-
4 tures.”

5 (f) INVESTMENT CREDIT CARRYOVER PERIOD EX-
6 TENDED.—Paragraph (1) of section 46(b) (relating to car-
7 ryover and carryback of unused credits) is amended by adding
8 at the end thereof the following new sentence: “If the
9 number of taxable years during the period beginning with the
10 taxable years following the unused credit year and ending
11 with the taxable year in which the designation of the enter-
12 prise zone to which the unused credit relates expires under
13 section 7891 exceeds 15, then the preceding sentence shall
14 be applied by substituting such number for ‘15,’ such number
15 plus 3 for ‘18,’ and such number plus 2 for ‘17.’”

16 (g) EFFECTIVE DATE.—The amendments made by this
17 section shall apply to periods after December 31, 1984,
18 under rules similar to the rules of section 48(m) of the Inter-
19 nal Revenue Code of 1954.

20 PART III—REDUCTION IN CAPITAL GAIN TAX RATES

21 SEC. 141. CORPORATIONS.

22 (a) GENERAL RULE.—Subsection (a) of section 1201
23 (relating to alternative tax for corporations), as amended by
24 this Act, is amended by inserting “and the qualified enter-

1 prise zone net capital gain” after “qualified corporate gain”
2 in paragraph (3)(B).

3 (b) DEFINITION OF QUALIFIED ENTERPRISE ZONE
4 NET CAPITAL GAIN.—Section 1201 is amended by redese-
5 ignating subsections (b) and (c) as subsections (c) and (d) and
6 by inserting after subsection (a) the following new subsection:

7 “(b) QUALIFIED ENTERPRISE ZONE NET CAPITAL
8 GAIN.—For purposes of this section—

9 “(1) IN GENERAL.—The term ‘qualified enterprise
10 zone net capital gain’ means the amount of net capital
11 gain for any taxable year determined by taking into ac-
12 count only gains and losses from the sale or exchange
13 of capital assets which are gain which is—

14 “(A) attributable to the sale or exchange of
15 qualified enterprise zone property, and

16 “(B) properly allocable only to periods during
17 which such property is qualified enterprise zone
18 property.

19 “(2) SPECIAL RULES RELATING TO INTERESTS
20 IN BUSINESSES.—

21 “(A) CERTAIN GAINS AND LOSSES NOT
22 TAKEN INTO ACCOUNT.—In determining the
23 amount of qualified enterprise zone net capital
24 gain for any taxable year under paragraph (1),
25 there shall not be taken into account any gains or

1 losses attributable to the sale or exchange of an
2 interest in a qualified enterprise zone business to
3 the extent such gain or losses are attributable
4 to—

5 “(i) any property contributed to such
6 qualified enterprise zone business during the
7 12-month period before such sale or ex-
8 change,

9 “(ii) any interest in any business which
10 is not a qualified enterprise zone business, or

11 “(iii) any intangible property to the
12 extent not properly attributable to the active
13 conduct of a trade or business within an en-
14 terprise zone.

15 “(B) PERIODS FOR WHICH GAINS AND
16 LOSSES ALLOCABLE.—For purposes of determin-
17 ing under paragraph (1)(B) gains or losses proper-
18 ly allocable to an interest in a qualified enterprise
19 zone business, there shall only be taken into ac-
20 count the taxable years of such business during
21 which it meets the requirements of paragraph
22 (3)(B).

23 “(3) DEFINITIONS.—For purposes of this subsec-
24 tion—

1 “(A) The term ‘qualified enterprise zone
2 property’ means—

3 “(i) any tangible personal property used
4 by the taxpayer predominantly in an enter-
5 prise zone in the active conduct of a trade or
6 business within such enterprise zone,

7 “(ii) any real property located in an en-
8 terprise zone used by the taxpayer predomi-
9 nantly in the active conduct of a trade or
10 business within such enterprise zone, and

11 “(iii) any interest in a corporation, part-
12 nership, or other entity if, for the two most
13 recent taxable years of such entity—

14 “(I) ending before the date of dis-
15 position of such interest, and

16 “(II) beginning after the date of
17 the designation as an enterprise zone of
18 the area in which such entity is en-
19 gaged in the active conduct of a trade
20 or business,

21 such entity was a qualified enterprise zone
22 business.

23 “(B) QUALIFIED ENTERPRISE ZONE BUSI-
24 NESS.—The term ‘qualified enterprise zone busi-

1 ness' means, with respect to any taxable year,
2 any person—

3 “(i) actively engaged in the conduct of a
4 trade or business within an enterprise zone
5 during such taxable year,

6 “(ii) with respect to which at least 80
7 percent of such person's gross receipts for
8 such taxable year are attributable to the
9 active conduct of a trade or business within
10 an enterprise zone, and

11 “(iii) substantially all of the tangible
12 assets of which are located within an enter-
13 prise zone during such taxable year.

14 “(C) REAL ESTATE RENTAL.—For purposes
15 of this subsection, ownership of residential, com-
16 mercial, or industrial real property within an enter-
17 prise zone for rental shall be treated as the
18 active conduct of a trade or business in an enter-
19 prise zone.

20 “(D) PROPERTY REMAINS QUALIFIED
21 AFTER ZONE DESIGNATION CEASES TO APPLY.—

22 “(i) IN GENERAL.—The treatment of
23 property as qualified property under subpara-
24 graph (A) shall not terminate when the des-
25 ignation of the enterprise zone in which the

1 property is located or used expires or is re-
 2 voked. . . .

3 “(ii) EXCEPTIONS.—Clause (i) shall not
 4 apply after the first sale or exchange of prop-
 5 erty occurring after the designation expires
 6 or is revoked.”

7 **SEC. 442. TAXPAYERS OTHER THAN CORPORATIONS.**

8 Subsection (a) of section 1202 (relating to deduction for
 9 capital gains) is amended to read as follows:

10 “(a) DEDUCTION ALLOWED.—

11 “(1) IN GENERAL.—If for any taxable year a tax-
 12 payer other than a corporation has a net capital gain,
 13 there shall be allowed as a deduction from gross
 14 income an amount equal to the sum of—

15 “(A) 100 percent of the lesser of—

16 “(i) the net capital gain, or

17 “(ii) the qualified enterprise zone net
 18 capital gain (as defined in section 1201(b)),
 19 plus

20 “(B) 60 percent of the excess (if any) of—

21 “(i) the net capital gain, over

22 “(ii) the amount of the net capital gain
 23 taken into account under subparagraph (A).”

1 **SEC. 443. MINIMUM TAX.**

2 Paragraph (9) of section 57(a) (relating to tax preference
3 for capital gains) is amended by adding at the end thereof the
4 following new subparagraph:

5 “(E) For purposes of this paragraph, gain at-
6 tributable to qualified enterprise zone net capital
7 gain (within the meaning of section 1201(b)) shall
8 not be taken into account.”

9 **SEC. 444. EFFECTIVE DATE.**

10 The amendments made by this part shall apply to sales
11 or exchanges after December 31, 1984.

12 **PART IV—RULES RELATING TO INDUSTRIAL**
13 **DEVELOPMENT BONDS**

14 **SEC. 451. INDUSTRIAL DEVELOPMENT BONDS.**

15 (a) **LIMITATION ON ACCELERATED COST RECOVERY**
16 **DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROP-**
17 **ERTY.**—Subparagraph (C) of section 168(f)(12) (relating to
18 limitations on property financed with tax-exempt bonds) is
19 amended—

20 (1) by striking out “or” at the end of clause (iii),

21 (2) by striking out the period at the end of clause
22 (iv) and inserting in lieu thereof “, or”, and

23 (3) by adding at the end thereof the following new
24 clause:

25 “(v) as enterprise zone property (within
26 the meaning of section 48(s)).”

1 (b) **TERMINATION OF SMALL ISSUE EXEMPTION NOT**
 2 **TO APPLY.**—Subparagraph (N) of section 103(b)(6) (relating
 3 to termination of small issue exemption after December 31,
 4 1986) is amended by adding at the end thereof the following
 5 new sentence: “This subparagraph shall not apply to any ob-
 6 ligation which is part of an issue substantially all of the pro-
 7 ceeds of which are used to finance facilities within an enter-
 8 prise zone if such facilities are placed in service while the
 9 designation as such a zone is in effect under section 7891.”

10 (c) **EFFECTIVE DATE.**—The amendments made by this
 11 section shall apply to obligations issued after December 31,
 12 1984, in taxable years ending after such date.

13 **PART V—SENSE OF THE CONGRESS WITH RESPECT TO**
 14 **TAX SIMPLIFICATION**

15 **SEC. 461. TAX SIMPLIFICATION.**

16 It is the sense of the Congress that the Secretary of the
 17 Treasury should in every way possible simplify the adminis-
 18 tration and enforcement of any provision of the Internal Rev-
 19 enue Code of 1954 added to, or amended by, this Act.

20 **SUBTITLE C—REGULATORY FLEXIBILITY**

21 **SEC. 471. DEFINITION OF SMALL ENTITIES IN ENTERPRISE**
 22 **ZONES FOR PURPOSES OF ANALYSIS OF REGU-**
 23 **LATORY FUNCTIONS.**

24 Section 601 of title 5, United States Code, is amended
 25 by—

1 (1) striking out “and” at the end of paragraph (5);
2 and

3 (2) striking out paragraph (6) and inserting in lieu
4 thereof the following: “(6) the term ‘small entity’
5 means—

6 “(A) a small business, small organization, or
7 small governmental jurisdiction within the mean-
8 ing of paragraphs (3), (4), and (5) of this section,
9 respectively; and

10 “(B) any qualified enterprise zone business;
11 any governments which designated and approved
12 an area which has been designated as an enter-
13 prise zone (within the meaning of section 7891 of
14 the Internal Revenue Code of 1954) to the extent
15 any rule pertains to the carrying out of projects,
16 activities, or undertakings within such zone; and
17 any not-for-profit enterprise carrying out a signifi-
18 cant portion of its activities within such a zone;
19 and

20 “(7) the term ‘qualified enterprise zone business’
21 means any person, corporation, or other entity—

22 “(A) which is engaged in the active conduct
23 of a trade or business within an enterprise zone
24 (within the meaning of section 7891 of the Inter-
25 nal Revenue Code of 1954); and

1 “(B) for whom at least 50 percent of its em-
 2 ployees are qualified employees (within the mean-
 3 ing of section 44I(f) of such Code).”

4 **SEC. 472. WAIVER OR MODIFICATION OF AGENCY RULES IN**
 5 **ENTERPRISE ZONES.**

6 (a) Chapter 6 of title 5, United States Code, is amended
 7 by redesignating sections 611 and 612 as sections 612 and
 8 613, respectively, and inserting the following new section im-
 9 mediately after section 610:

10 **“§ 611. Waiver or modification of agency rules in enter-**
 11 **prise zones**

12 “(a) Upon the written request of the governments which
 13 designated and approved an area which has been designated
 14 as an enterprise zone under section 7891 of the Internal
 15 Revenue Code of 1954, an agency is authorized, in order to
 16 further the job creation, community development, or econom-
 17 ic revitalization objectives of the zone, to waive or modify all
 18 or part of any rule which it has authority to promulgate, as
 19 such rule pertains to the carrying out of projects, activities or
 20 undertakings within the zone.

21 “(b) Nothing in this section shall authorize an agency to
 22 waive or modify any rule adopted to carry out a statute or
 23 Executive order which prohibits, or the purpose of which is
 24 to protect persons against, discrimination on the basis of race,

1 color, religion, sex, marital status, national origin, age, or
2 handicap.

3 “(c) A request under subsection (a) shall specify the rule
4 or rules to be waived or modified and the change proposed,
5 and shall briefly describe why the change would promote the
6 achievement of the job creation, community development, or
7 economic revitalization objectives of the enterprise zone. If a
8 request is made to an agency other than the Department of
9 Housing and Urban Development, the requesting govern-
10 ments shall send a copy of the request to the Secretary of
11 Housing and Urban Development at the time the request is
12 made.

13 “(d) In considering a request, the agency shall weigh
14 the extent to which the proposed change is likely to further
15 job creation, community development, or economic revitaliza-
16 tion within the enterprise zone against the effect the change
17 is likely to have on the underlying purposes of applicable
18 statutes in the geographic area which would be affected by
19 the change. The agency shall approve the request whenever
20 it finds, in its discretion, that the public interest which the
21 proposed change would serve in furthering such job creation,
22 community development, or economic revitalization
23 outweighs the public interest which continuation of the rule
24 unchanged would serve in furthering such underlying pur-

1 poses. The agency shall not approve any request to waive or
2 modify a rule if that waiver or modification would—

3 “(1) directly violate a statutory requirement (in-
4 cluding any requirement of the Fair Labor Standards
5 Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.));
6 or

7 “(2) be likely to present a significant risk to the
8 public health, including environmental health or safety,
9 such as a rule with respect to occupational safety or
10 health, or environmental pollution.

11 “(e) If a request is disapproved, the agency shall inform
12 the requesting governments in writing of the reasons therefor
13 and shall, to the maximum extent possible, work with such
14 governments to develop an alternative, consistent with the
15 standards contained in subsection (d).

16 “(f) Agencies shall discharge their responsibilities under
17 this section in an expeditious manner, and shall make a de-
18 termination on requests not later than 90 days after their
19 receipt.

20 “(g) A waiver or modification of a rule under subsection
21 (a) shall not be considered to be a rule, rulemaking, or regu-
22 lation under chapter 5 of this title. To facilitate reaching its
23 decision on any requested waiver or modification, the agency
24 may seek the views of interested parties and, if the views are
25 to be sought, determine how they should be obtained and to

1 what extent, if any, they should be taken into account in
2 considering the request. The agency shall publish a notice in
3 the Federal Register stating any waiver or modification of a
4 rule under this section.

5 “(h) In the event that an agency proposes to amend a
6 rule for which a waiver or modification under this section is
7 in effect, the agency shall not change the waiver or modifica-
8 tion to impose additional requirements unless it determines,
9 consistent with standards contained in subsection (d), that
10 such action is necessary.

11 “(i) No waiver or modification of a rule under this sec-
12 tion shall remain in effect for a longer period than the period
13 for which the enterprise zone designation remains in effect for
14 the area in which the waiver or modification applies.

15 “(j) For purposes of this section, the term ‘rule’ means
16 (1) any rule as defined in section 551(4) of this title or (2) any
17 rulemaking conducted on the record after opportunity for an
18 agency hearing pursuant to sections 556 and 557 of this
19 title.”.

20 (b) The table of sections for such chapter is amended by
21 redesignating “Sec. 611.” and “Sec. 612.” and “Sec. 613.”,
22 respectively, and inserting the following new item immediate-
23 ly after “Sec. 610.”:

“Sec. 611. Waiver or modification of agency rules in enterprise
zones.”

1 (c) Section 601(2) of such title is amended by inserting
2 “(except for purposes of section 611)” immediately before
3 “means.”

4 (d) Section 613 of such title, redesignated by subsection
5 (a) of this section, is amended by—

6 (1) inserting “(except section 611)” immediately
7 after “chapter” in subsection (a); and

8 (2) inserting “as defined in section 601(2)” imme-
9 diately before the period at the end of the first sen-
10 tence of subsection (b).

11 **SEC. 473. COORDINATION OF HOUSING AND URBAN DEVELOP-**
12 **MENT PROGRAMS IN ENTERPRISE ZONES.**

13 Section 3 of the Department of Housing and Urban De-
14 velopment Act is amended by adding at the end thereof the
15 following new subsection:

16 “(d) The Secretary of Housing and Urban Development
17 shall—

18 “(1) promote the coordination of all programs
19 under his jurisdiction which are carried on within an
20 enterprise zone designated pursuant to section 7891 of
21 the Internal Revenue Code of 1954;

22 “(2) expedite, to the greatest extent possible, the
23 consideration of applications for programs referred to in
24 paragraph (1) through the consolidation or forms or
25 otherwise; and

1 “(3) provide, whenever possible, for the consolida-
2 tion of periodic reports required under programs re-
3 ferred to in paragraph (1) into one summary report
4 submitted at such intervals as may be designated by
5 the Secretary.”

6 **SUBTITLE D—ESTABLISHMENT OF FOREIGN-TRADE**

7 **ZONES IN ENTERPRISE ZONES**

8 **SEC. 481. FOREIGN-TRADE ZONE PREFERENCES.**

9 (a) **PREFERENCE IN ESTABLISHMENT OF FOREIGN-**
10 **TRADE ZONES IN REVITALIZATION AREAS.**—In processing
11 applications for the establishment of foreign-trade zones pur-
12 suant to an Act entitled “To provide for the establishment,
13 operation, and maintenance of foreign-trade zones in ports of
14 entry of the United States, to expedite and encourage foreign
15 commerce, and for other purposes,” approved June 18, 1934
16 (48 Stat. 998), the Foreign-Trade Zone Board shall consider
17 on a priority basis and expedite, to the maximum extent pos-
18 sible, the processing of any application involving the estab-
19 lishment of a foreign-trade zone within an enterprize zone
20 designated pursuant to section 7891 of the Internal Revenue
21 Code of 1954.

22 (b) **APPLICATION PROCEDURE.**—In processing applica-
23 tions for the establishment of ports of entry pursuant to an
24 Act entitled “An Act making appropriations for sundry civil
25 expenses of the Government for the fiscal year ending June

1 thirtieth, nineteen hundred. and fifteen, and for other pur-
 2 poses," approved August 1, 1914 (38 Stat. 609), the Secre-
 3 tary of the Treasury shall consider on a priority basis and
 4 expedite, to the maximum extent possible, the processing of
 5 any application involving the establishment of a port of entry
 6 which is necessary to permit the establishment of a foreign-
 7 trade zone within an enterprise zone.

8 (c) APPLICATION EVALUATION.—In evaluating appli-
 9 cations for the establishment of foreign-trade zones and ports
 10 of entry in connection with enterprise zones, the Foreign-
 11 Trade Zone Board and the Secretary of Treasury shall ap-
 12 prove the applications to the maximum extent practicable,
 13 consistent with their respective statutory responsibilities.

14 TITLE V—FOREIGN SALES CORPORATIONS

15 SECTION 501. SHORT TITLE.

16 This title may be cited as the "Foreign Sales Corpora-
 17 tion Act of 1984".

18 SEC. 502. FOREIGN SALES CORPORATIONS.

19 (a) IN GENERAL.—Part III of subchapter N of chapter
 20 1 (relating to income from sources outside the United States)
 21 is amended by inserting after subpart B the following new
 22 subpart:

23 "Subpart C—Taxation of Foreign Sales Corporations

"Sec. 921. Exempt foreign trade income excluded from gross
 income.

"Sec. 922. FSC defined.

"Sec. 923. Exempt foreign trade income.

"Sec. 924. Foreign trading gross receipts.

“Sec. 925. Transfer pricing rules.

“Sec. 926. Distributions to shareholders.

“Sec. 927. Other definitions and special rules.

1 **“SEC. 921. EXEMPT FOREIGN TRADE INCOME EXCLUDED**
2 **FROM GROSS INCOME.**

3 **“(a) EXCLUSION.—**Exempt foreign trade income of a
4 FSC shall be treated as foreign source income which is not
5 effectively connected with the conduct of a trade or business
6 within the United States.

7 **“(b) PROPORTIONATE ALLOCATION OF DEDUCTIONS**
8 **TO EXEMPT FOREIGN TRADE INCOME.—**Any deductions of
9 the FSC properly apportioned and allocated to the foreign
10 trade income derived by a FSC from any transaction shall be
11 allocated between—

12 **“(1) the exempt foreign trade income derived from**
13 **such transaction, and**

14 **“(2) the foreign trade income (other than exempt**
15 **foreign trade income) derived from such transaction,**
16 **on a proportionate basis.**

17 **“(c) DENIAL OF CREDITS.—**Notwithstanding any other
18 provision of this chapter, no credit (other than a credit allow-
19 able under section 27(a), 33, or 34) shall be allowed under
20 this chapter to any FSC.

21 **“(d) FOREIGN TRADE INCOME, INVESTMENT INCOME,**
22 **AND CARRYING CHARGES TREATED AS EFFECTIVELY**
23 **CONNECTED WITH UNITED STATES BUSINESS.—**For pur-
24 poses of this chapter—

1 “(1) all foreign trade income of a FSC other
2 than—

3 “(A) exempt foreign trade income, and

4 “(B) section 923(a)(2) non-exempt income,

5 “(2) all interest, dividends, royalties, and other in-
6 vestment income received by a FSC, and

7 “(3) all carrying charges received by a FSC,

8 shall be treated as income effectively connected with the con-
9 duct of a trade or business conducted through a permanent
10 establishment of such corporation within the United States.

11 Income described in paragraph (1) shall be treated as derived
12 from sources within the United States.

13 **“SEC. 922. FSC DEFINED.**

14 “(a) FSC DEFINED.—For purposes of this title, the
15 term ‘FSC’ means any corporation—

16 “(1) which—

17 “(A) was created or organized—

18 “(i) under the laws of any foreign coun-
19 try which meets the requirements of section
20 927(e)(3), or

21 “(ii) under the laws applicable to any
22 possession of the United States,

23 “(B) has no more than 25 shareholders at
24 any time during the taxable year,

1 “(C) does not have any preferred stock out-
2 standing at any time during the taxable year,

3 “(D) during the taxable year—

4 “(i) maintains an office located outside
5 the United States,

6 “(ii) maintains a set of the permanent
7 books of account of such corporation at such
8 office, and

9 “(iii) maintains at a location within the
10 United States the records which such corpo-
11 ration is required to keep under section
12 6001.

13 “(E) at all times during the taxable year, has
14 a board of directors which includes at least one
15 individual who is not a resident of the United
16 States, and

17 “(F) is not a member, at any time during the
18 taxable year, of any controlled group of corpora-
19 tions of which a DISC is a member, and

20 “(2) which has made an election (at the time and
21 in the manner provided in section 927(f)(1)) which is in
22 effect for the taxable year to be treated as a FSC.

23 “(b) SMALL FSC DEFINED.—For purposes of this title,
24 a FSC is a small FSC with respect to any taxable year if—

1 “(1) such corporation has made an election (at the
2 time and in the manner provided in section 927(f)(1))
3 which is in effect for the taxable year to be treated as
4 a small FSC, and

5 “(2) such corporation is not a member, at any
6 time during the taxable year, of a controlled group of
7 corporations which includes a FSC unless such other
8 FSC has also made an election under paragraph (1)
9 which is in effect for such year.

10 **“SEC. 923. EXEMPT FOREIGN TRADE INCOME.**

11 “(a) **EXEMPT FOREIGN TRADE INCOME.**—For pur-
12 poses of this subpart—

13 “(1) **IN GENERAL.**—The term ‘exempt foreign
14 trade income’ means the aggregate amount of all for-
15 eign trade income of a FSC for the taxable year which
16 is described in paragraph (2) or (3).

17 “(2) **INCOME DETERMINED WITHOUT REGARD TO**
18 **ADMINISTRATIVE PRICING RULES.**—In the case of any
19 transaction to which paragraph (3) does not apply, 34
20 percent of the foreign trade income derived from such
21 transaction shall be treated as described in this para-
22 graph. For purposes of the preceding sentence, foreign
23 trade income shall not include any income properly al-
24 locable to excluded property described in subparagraph
25 (B) of section 927(a)(2) (relating to intangibles).

1 “(3) INCOME DETERMINED WITH REGARD TO AD-
2 MINISTRATIVE PRICING RULES.—In the case of any
3 transaction with respect to which paragraph (1) or (2)
4 of section 925(a) (or the corresponding provisions of
5 the regulations prescribed under section 925(b)) ap-
6 plies, 17/23 of the foreign trade income derived from
7 such transaction shall be treated as described in this
8 paragraph.

9 “(4) SPECIAL RULE FOR FOREIGN TRADE
10 INCOME ALLOCABLE TO A COOPERATIVE.—

11 “(A) IN GENERAL.—In any case in which a
12 qualified cooperative is a shareholder of a FSC,
13 paragraph (3) shall be applied with respect to that
14 portion of the foreign trade income of such FSC
15 for any taxable year which is properly allocable to
16 such cooperative by substituting ‘100 percent’ for
17 ‘17/23’.

18 “(B) PARAGRAPH ONLY TO APPLY TO
19 AMOUNTS FSC DISTRIBUTES.—Subparagraph (A)
20 shall not apply for any taxable year unless the
21 FSC distributes to the qualified cooperative the
22 amount which (but for such subparagraph) would
23 not be treated as exempt foreign trade income.
24 Any distribution under this subparagraph for any
25 taxable year—

1 “(i) shall be made before the due date
2 for filing the return of tax for such taxable
3 year, but

4 “(ii) shall be treated as made on the last
5 day of such taxable year.

6 “(b) FOREIGN TRADE INCOME DEFINED.—For pur-
7 poses of this subpart, the term ‘foreign trade income’ means
8 the gross income of a FSC attributable to foreign trading
9 gross receipts.

10 **“SEC. 924. FOREIGN TRADING GROSS RECEIPTS.**

11 “(a) IN GENERAL.—Except as otherwise provided in
12 this section, for purposes of this subpart, the term ‘foreign
13 trading gross receipts’ means the gross receipts of any FSC
14 which are—

15 “(1) from the sale, exchange, or other disposition
16 of export property,

17 “(2) from the lease or rental of export property
18 for use by the lessee outside the United States,

19 “(3) for services which are related and subsidiary
20 to—

21 “(A) any sale, exchange, or other disposition
22 of export property by such corporation, or

23 “(B) any lease or rental of export property
24 described in paragraph (2) by such corporation,

1 “(4) for engineering or architectural services for
2 construction projects located (or proposed for location)
3 outside the United States, or

4 “(5) for the performance of managerial services
5 for an unrelated FSC in furtherance of the production
6 of foreign trading gross receipts described in paragraph
7 (1), (2), or (3) (whether or not the FSC has any gross
8 receipts from any activity described in any such para-
9 graph).

10 “(b) FOREIGN MANAGEMENT AND FOREIGN ECONOM-
11 IC PROCESS REQUIREMENTS.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2)—

14 “(A) a FSC shall be treated as having for-
15 eign trading gross receipts for the taxable year
16 only if the management of such corporation during
17 such taxable year takes place outside the United
18 States as required by subsection (c), and

19 “(B) a FSC has foreign trading gross re-
20 cepts from any transaction only if economic proc-
21 esses with respect to such transaction take place
22 outside the United States as required by subsec-
23 tion (d).

24 “(2) EXCEPTION FOR SMALL FSC.—

1 “(A) IN GENERAL.—Paragraph (1) shall not
2 apply with respect to any small FSC.

3 “(B) LIMITATION ON AMOUNT OF FOREIGN
4 TRADING GROSS RECEIPTS OF SMALL FSC
5 TAKEN INTO ACCOUNT.—

6 “(i) IN GENERAL.—Any foreign trading
7 gross receipts of a small FSC for the taxable
8 year which exceed \$5,000,000 shall not be
9 taken into account in determining the exempt
10 foreign trade income of such corporation and
11 shall not be taken into account under any
12 other provision of this subpart.

13 “(ii) ALLOCATION OF LIMITATION.—If
14 the foreign trading gross receipts of a small
15 FSC exceed the limitation of clause (i), the
16 corporation may allocate such limitation
17 among such gross receipts in such manner as
18 it may select (at such time and in such
19 manner as may be prescribed in regulations).

20 “(iii) RECEIPTS OF CONTROLLED
21 GROUP AGGREGATED.—For purposes of ap-
22 plying clauses (i) and (ii), all small FSC’s
23 which are members of the same controlled
24 group of corporations shall be treated as a
25 single corporation.

1 “(iv) ALLOCATION OF LIMITATION
2 AMONG MEMBERS OF CONTROLLED
3 GROUP.—The limitation under clause (i)
4 shall be allocated among the foreign trading
5 gross receipts of small FSC’s which are
6 members of the same controlled group of cor-
7 porations in a manner provided in regulations
8 prescribed by the Secretary.

9 “(c) REQUIREMENT THAT FSC BE MANAGED OUT-
10 SIDE THE UNITED STATES.—The management of a FSC
11 meets the requirements of this subsection for the taxable year
12 if—

13 • “(1) all meetings of the board of directors of the
14 corporation, and all meetings of the shareholders of the
15 corporation, are outside the United States,

16 “(2) the principal bank account of the corporation
17 is maintained outside the United States at all times
18 during the taxable year, and

19 “(3) all dividends, legal and accounting fees, and
20 salaries of officers and members of the board of direc-
21 tors of the corporation disbursed during the taxable
22 year are disbursed out of bank accounts of the corpora-
23 tion maintained outside the United States.

24 “(d) REQUIREMENT THAT ECONOMIC PROCESSES
25 TAKE PLACE OUTSIDE THE UNITED STATES.—

1 “(1) IN GENERAL.—The requirements of this sub-
2 section are met with respect to the gross receipts of a
3 FSC derived from any transaction if—

4 “(A) such corporation (or any person acting
5 under a contract with such corporation) has par-
6 ticipated outside the United States in the solicita-
7 tion (other than advertising), the negotiation, or
8 the making of the contract relating to such trans-
9 action, and

10 “(B) the foreign direct costs incurred by the
11 FSC attributable to the transaction equal or
12 exceed 50 percent of the total direct costs in-
13 curred by the FSC attributable to the transaction.

14 “(2) ALTERNATIVE 85-PERCENT TEST.—A cor-
15 poration shall be treated as satisfying the requirements
16 of paragraph (1)(B) with respect to any transaction if,
17 with respect to each of at least 2 paragraphs of subsec-
18 tion (e), the foreign direct costs incurred by such corpo-
19 ration attributable to activities described in such para-
20 graph equal or exceed 85 percent of the total direct
21 costs attributable to activities described in such para-
22 graph.

23 “(3) DEFINITIONS.—For purposes of this subsec-
24 tion—

1 “(A) TOTAL DIRECT COSTS.—The term
2 ‘total direct costs’ means, with respect to any
3 transaction, the total direct costs incurred by the
4 FSC attributable to activities described in subsec-
5 tion (e) performed at any location by the FSC or
6 any person acting under a contract with such
7 FSC.

8 “(B) FOREIGN DIRECT COSTS.—The term
9 ‘foreign direct costs’ means, with respect to any
10 transaction, the portion of the total direct costs
11 which are attributable to activities performed out-
12 side the United States.

13 “(4) RULES FOR COMMISSIONS, ETC.—The Sec-
14 retary shall prescribe such regulations as may be nec-
15 essary to carry out the purposes of this subsection and
16 subsection (e) in the case of commissions, rentals, and
17 furnishing of services.

18 “(e) ACTIVITIES RELATING TO DISPOSITION OF
19 EXPORT PROPERTY.—The activities referred to in subsec-
20 tion (d) are—

21 “(1) advertising and sales promotion,

22 “(2) the processing of customer orders and the ar-
23 ranging for delivery of the export property,

24 “(3) transportation from the time of acquisition by
25 the FSC (or, in the case of a commission relationship,

1 from the beginning of such relationship for such trans-
2 action) to the delivery to the customer,

3 “(4) the determination and transmittal of a final
4 invoice or statement of account and the receipt of pay-
5 ment, and

6 “(5) the assumption of credit risk.

7 “(f) BURDEN OF PROOF REGARDING FOREIGN MAN-
8 AGEMENT AND ECONOMIC PROCESS REQUIREMENTS.—

9 “(1) IN GENERAL.—In any judicial or administra-
10 tive proceeding involving the issue of whether—

11 “(A) a FSC meets the requirements of sub-
12 section (c) for a taxable year, or

13 “(B) a transaction meets the requirements of
14 subsection (d),

15 the burden of proof with respect to such issue shall be
16 upon the Secretary if a written statement addressing
17 such issue has been filed by an officer of such corpora-
18 tion under paragraph (2).

19 “(2) AFFIDAVIT.—An authorized officer of a FSC
20 who is a citizen and resident of the United States may
21 file with the Secretary (at such time and in such
22 manner as the Secretary shall by regulations prescribe)
23 a verified written statement made by such officer under
24 penalties of perjury which—

1 “(A) declares that such corporation meets
2 the requirements of subsection (c) for the taxable
3 year and specifies how such requirements have
4 been met, or

5 “(B) declares that specified transactions of
6 such corporation for the taxable year meet the re-
7 quirements of subsection (d) and specifies how
8 such requirements have been met.

9 “(g) CERTAIN RECEIPTS NOT INCLUDED IN FOREIGN
10 TRADING GROSS RECEIPTS.—

11 “(1) CERTAIN RECEIPTS EXCLUDED ON BASIS OF
12 USE; SUBSIDIZED RECEIPTS AND RECEIPTS FROM RE-
13 LATED PARTIES EXCLUDED.—The term ‘foreign trad-
14 ing gross receipts’ shall not include receipts of a FSC
15 from a transaction if—

16 “(A) the export property or services—

17 “(i) are for ultimate use in the United
18 States, or

19 “(ii) are for use by the United States or
20 any instrumentality thereof and such use of
21 export property or services is required by
22 law or regulation,

23 “(B) such transaction is accomplished by a
24 subsidy granted by the United States or any in-
25 strumentality thereof, or

1 “(C) such receipts are from another FSC
2 which is a member of the same controlled group
3 of corporations of which such corporation is a
4 member.

5 “(2) ONE-HALF OF RECEIPTS FROM MILITARY
6 PROPERTY EXCLUDED.—The term ‘foreign trading
7 gross receipts’ shall not include 50 percent of the gross
8 receipts for the taxable year attributable to the disposi-
9 tion of, or services relating to, military property (within
10 the meaning of section 995(b)(3)(B)).

11 “(3) INVESTMENT INCOME; CARRYING
12 CHARGES.—The term ‘foreign trading gross receipts’
13 shall not include any investment income or carrying
14 charges.

15 “SEC. 925. TRANSFER PRICING RULES.

16 “(a) IN GENERAL.—In the case of a sale of export
17 property to a FSC by a person described in section 482, the
18 taxable income of such FSC and such person shall be based
19 upon a transfer price which would allow such FSC to derive
20 taxable income attributable to such sale (regardless of the
21 sales price actually charged) in an amount which does not
22 exceed the greatest of—

23 “(1) 1.83 percent of the foreign trading gross re-
24 ceipts derived from the sale of such property by such
25 FSC,

1 “(2) 23 percent of the combined taxable income of
2 such FSC and such person which is attributable to the
3 foreign trading gross receipts derived from the sale of
4 such property by such FSC, or

5 “(3) taxable income based upon the sale price ac-
6 tually charged (but subject to the rules provided in sec-
7 tion 482).

8 Paragraphs (1) and (2) shall apply only if the FSC meets the
9 requirements of subsection (c) with respect to the sale.

10 “(b) RULES FOR COMMISSIONS, RENTALS, AND MAR-
11 GINAL COSTING.—The Secretary shall prescribe regulations
12 setting forth—

13 “(1) rules which are consistent with the rules set
14 forth in subsection (a) for the application of this section
15 in the case of commissions, rentals, and other income,
16 and

17 “(2) rules for the allocation of expenditures in
18 computing combined taxable income under subsection
19 (a)(2) in those cases where a FSC is seeking to estab-
20 lish or maintain a market for export property.

21 “(c) REQUIREMENTS FOR USE OF ADMINISTRATIVE
22 PRICING RULES.—A sale by a FSC meets the requirements
23 of this subsection if—

24 “(1) all of the activities described in section 924(e)
25 attributable to such sale, and

1 “(2) all of the activities relating to the solicitation
2 (other than advertising), negotiation, and making of the
3 contract for such sale,

4 have been performed by such FSC (or by another person
5 acting under a contract with such FSC).

6 “(d) **LIMITATION ON GROSS RECEIPTS PRICING**
7 **RULE.**—The amount determined under subsection (a)(1) with
8 respect to any transaction shall not exceed 2 times the
9 amount which would be determined under subsection (a)(2)
10 with respect to such transaction.

11 “(e) **TAXABLE INCOME.**—For purposes of this section,
12 the taxable income of a FSC shall be determined without
13 regard to section 921.

14 “(f) **SPECIAL RULE FOR COOPERATIVES.**—In any case
15 in which a qualified cooperative sells export property to a
16 FSC, in computing the combined taxable income of such FSC
17 and such organization for purposes of subsection (a)(2), there
18 shall not be taken into account any deduction allowable under
19 subsection (b) or (c) of section 1382 (relating to patronage
20 dividends, per-unit retain allocations, and nonpatronage dis-
21 tributions).

22 **“SEC. 926. DISTRIBUTIONS TO SHAREHOLDERS.**

23 “(a) **DISTRIBUTIONS MADE FIRST OUT OF FOREIGN**
24 **TRADE INCOME.**—For purposes of this title, any distribution

1 to a shareholder of a FSC by such FSC which is made out of
2 earnings and profits shall be treated as made—

3 “(1) first, out of earnings and profits attributable
4 to foreign trade income, to the extent thereof, and

5 “(2) then, out of any other earnings and profits.

6 “(b) DISTRIBUTIONS BY FSC TO NONRESIDENT
7 ALIENS AND FOREIGN CORPORATIONS TREATED AS
8 UNITED STATES CONNECTED.—For purposes of this title,
9 any distribution by a FSC which is made out of earnings and
10 profits attributable to foreign trade income to any shareholder
11 of such corporation which is a foreign corporation or a non-
12 resident alien individual shall be treated as a distribution—

13 “(1) which is effectively connected with the con-
14 duct of a trade or business conducted through a perma-
15 nent establishment of such shareholder within the
16 United States, and

17 “(2) of income which is derived from sources
18 within the United States.

19 “(c) FSC INCLUDES FORMER FSC.—For purposes of
20 this section, the term ‘FSC’ includes a former FSC.

21 “SEC. 927. OTHER DEFINITIONS AND SPECIAL RULES.

22 “(a) EXPORT PROPERTY.—For purposes of this sub-
23 part—

24 “(1) IN GENERAL.—The term ‘export property’
25 means property—

1 “(A) manufactured, produced, grown, or ex-
2 tracted in the United States by a person other
3 than a FSC,

4 “(B) held primarily for sale, lease, or rental,
5 in the ordinary course of trade or business, by, or
6 to, a FSC, for direct use, consumption, or disposi-
7 tion outside the United States, and

8 “(C) not more than 50 percent of the fair
9 market value of which is attributable to articles
10 imported into the United States.

11 For purposes of subparagraph (C), the fair market
12 value of any article imported into the United States
13 shall be its appraised value, as determined by the Sec-
14 retary under section 402 of the Tariff Act of 1930 (19
15 U.S.C. 1401a) in connection with its importation.

16 “(2) EXCLUDED PROPERTY.—The term ‘export
17 property’ shall not include—

18 “(A) property leased or rented by a FSC for
19 use by any member of a controlled group of cor-
20 porations of which such FSC is a member,

21 “(B) patents, inventions, models, designs,
22 formulas, or processes whether or not patented,
23 copyrights (other than films, tapes, records, or
24 similar reproductions, for commercial or home

1 use), good will, trademarks, trade brands, fran-
2 chises, or other like property,

3 “(C) oil or gas (or any primary product
4 thereof), or

5 “(D) products the export of which is prohibit-
6 ed or curtailed under section 7(a) of the Export
7 Administration Act of 1979 to effectuate the
8 policy set forth in paragraph (2)(C) of section 3 of
9 such Act (relating to the protection of the domes-
10 tic economy).

11 “(3) PROPERTY IN SHORT SUPPLY.—If the Presi-
12 dent determines that the supply of any property de-
13 scribed in paragraph (1) is insufficient to meet the re-
14 quirements of the domestic economy, he may by Ex-
15 ecutive order designate the property as in short supply.
16 Any property so designated shall not be treated as
17 export property during the period beginning with the
18 date specified in the Executive order and ending with
19 the date specified in an Executive order setting forth
20 the President’s determination that the property is no
21 longer in short supply.

22 “(4) QUALIFIED COOPERATIVE.—The term
23 ‘qualified cooperative’ means any organization to which
24 part I of subchapter T applies which is engaged in the
25 marketing of agricultural or horticultural products.

1 “(b) GROSS RECEIPTS.—

2 “(1) IN GENERAL.—For purposes of this subpart,
3 the term ‘gross receipts’ means—

4 “(A) the total receipts from the sale, lease,
5 or rental of property held primarily for sale, lease,
6 or rental in the ordinary course of trade or busi-
7 ness, and

8 “(B) gross income from all other sources.

9 “(2) GROSS RECEIPTS TAKEN INTO ACCOUNT IN
10 CASE OF COMMISSIONS.—In the case of commissions
11 on the sale, lease, or rental of property, the amount
12 taken into account for purposes of this subpart as gross
13 receipts shall be the gross receipts on the sale, lease,
14 or rental of the property on which such commissions
15 arose.

16 “(c) INVESTMENT INCOME.—For purposes of this sub-
17 part, the term ‘investment income’ means—

18 “(1) dividends,

19 “(2) interest,

20 “(3) royalties,

21 “(4) annuities,

22 “(5) rents (other than rents from the lease or
23 rental of export property for use by the lessee outside
24 of the United States),

1 “(6) gains from the sale or exchange of stock or
2 securities,

3 “(7) gains from futures transactions in any com-
4 modity on, or subject to the rules of, a board of trade
5 or commodity exchange (other than gains which arise
6 out of a bona fide hedging transaction reasonably nec-
7 essary to conduct the business of the FSC in the
8 manner in which such business is customarily conduct-
9 ed by others),

10 “(8) amounts includible in computing the taxable
11 income of the corporation under part I of subchapter J,
12 and

13 “(9) gains from the sale or other disposition of
14 any interest in an estate or trust.

15 “(d) OTHER DEFINITIONS.—For purposes of this sub-
16 part—

17 “(1) CARRYING CHARGES.—The term ‘carrying
18 charges’ means—

19 “(A) carrying charges, and

20 “(B) under regulations prescribed by the Sec-
21 retary, any amount in excess of the price for an
22 immediate cash sale and any other unstated inter-
23 est.

24 “(2) TRANSACTION.—

1 “(A) IN GENERAL.—The term ‘transaction’
2 means—

3 “(i) any sale, exchange, or other dispo-
4 sition,

5 “(ii) any lease or rental, and

6 “(iii) any furnishing of services.

7 “(B) GROUPING OF TRANSACTIONS.—To
8 the extent provided in regulations, any provision
9 of this subpart which, but for this subparagraph,
10 would be applied on a transaction-by-transaction
11 basis may be applied by the taxpayer on the basis
12 of groups of transactions based on product lines or
13 recognized industry or trade usage. Such regula-
14 tions may permit different groupings for different
15 purposes.

16 “(3) UNITED STATES DEFINED.—The term
17 ‘United States’ includes the Commonwealth of Puerto
18 Rico.

19 “(4) CONTROLLED GROUP OF CORPORATIONS.—
20 The term ‘controlled group of corporations’ has the
21 meaning given to such term by section 1563(a), except
22 that—

23 “(A) ‘more than 50 percent’ shall be substi-
24 tuted for ‘at least 80 percent’ each place it ap-
25 pears therein, and

1 “(B) section 1563(b) shall not apply.

2 “(5) POSSESSIONS.—The term ‘possession of the
3 United States’ means Guam, American Samoa, the
4 Commonwealth of the Northern Mariana Islands, and
5 the Virgin Islands of the United States.

6 “(6) SECTION 923(a)(2) NON-EXEMPT INCOME.—
7 The term ‘section 923(a)(2) non-exempt income’ means
8 any foreign trade income from a transaction with re-
9 spect to which paragraph (1) or (2) of section 925(a)
10 does not apply and which is not exempt foreign trade
11 income.

12 “(e) SPECIAL RULES.—

13 “(1) SOURCE RULES FOR RELATED PERSONS.—
14 Under regulations, the income of a person described in
15 section 482 from a transaction giving rise to foreign
16 trading gross receipts of a FSC which is treated as
17 from sources outside the United States shall not exceed
18 the amount which would be treated as foreign source
19 income earned by such person if the pricing rule under
20 section 994 which corresponds to the rule used under
21 section 925 with respect to such transaction applied to
22 such transaction.

23 “(2) PARTICIPATION IN INTERNATIONAL BOY-
24 COTTS, ETC.—Under regulations prescribed by the
25 Secretary, the exempt foreign trade income of a FSC

1 for any taxable year shall be limited under rules similar
2 to the rules of clauses (i) and (ii) of section
3 995(b)(1)(F).

4 “(3) EXCHANGE OF INFORMATION REQUIRE-
5 MENTS.—For purposes of this title, the term ‘FSC’
6 shall not include any corporation which was created or
7 organized under the laws of any foreign country unless,
8 at the time such corporation was created or organized,
9 there was in effect between such country and the
10 United States—

11 “(A) a bilateral or multilateral agreement de-
12 scribed in section 274(h)(6)(C), or

13 “(B) an income tax treaty with respect to
14 which the Secretary certifies that the exchange of
15 information program with such country under
16 such treaty carries out the purposes of this para-
17 graph.

18 “(4) DISALLOWANCE OF TREATY BENEFITS.—
19 Any corporation electing to be treated as a FSC under
20 subsection (f)(1) may not claim any benefits under any
21 income tax treaty between the United States and the
22 foreign country in which such corporation was created
23 or organized.

24 “(5) EXEMPTION FROM CERTAIN OTHER
25 TAXES.—No tax shall be imposed on any foreign trade

1 income by any jurisdiction described in subsection
2 (d)(5).

3 “(f) ELECTION OF STATUS AS FSC (AND AS SMALL
4 FSC).—

5 “(1) ELECTION.—

6 “(A) TIME FOR MAKING.—An election by a
7 corporation under section 922(a)(2) to be treated
8 as a FSC, and an election under section 922(b)(1)
9 to be a small FSC, shall be made by such corpo-
10 ration for a taxable year at any time during the
11 90-day period immediately preceding the begin-
12 ning of the taxable year, except that the Secre-
13 tary may give his consent to the making of an
14 election at such other times as he may designate.

15 “(B) MANNER OF ELECTION.—An election
16 under subparagraph (A) shall be made in such
17 manner as the Secretary shall prescribe and shall
18 be valid only if all persons who are shareholders
19 in such corporation on the first day of the first
20 taxable year for which such election is effective
21 consent to such election.

22 “(2) EFFECT OF ELECTION.—If a corporation
23 makes an election under paragraph (1), then the provi-
24 sions of this subpart shall apply to such corporation for

1 the taxable year of the corporation for which made and
2 for all succeeding taxable years.

3 “(3) TERMINATION OF ELECTION.—

4 “(A) REVOCATION.—An election under this
5 subsection made by any corporation may be termi-
6 nated by revocation of such election for any tax-
7 able year of the corporation after the first taxable
8 year of the corporation for which the election is
9 effective. A termination under this paragraph shall
10 be effective with respect to such election—

11 “(i) for the taxable year in which made,
12 if made at any time during the first 90 days
13 of such taxable year, or

14 “(ii) for the taxable year following the
15 taxable year in which made, if made after
16 the close of such 90 days, and

17 for all succeeding taxable years of the corporation.
18 Such termination shall be made in such manner as
19 the Secretary shall prescribe by regulations.

20 “(B) CONTINUED FAILURE TO BE FSC.—If
21 a corporation is not a FSC for each of any 5 con-
22 secutive taxable years of the corporation for
23 which an election under this subsection is effec-
24 tive, the election to be a FSC shall be terminated

1 and not be in effect for any taxable year of the
2 corporation after such 5th year.”.

3 **(b) DIVIDEND RECEIVED DEDUCTION FOR DOMESTIC**
4 **CORPORATIONS.—**

5 **(1) IN GENERAL.—**Section 245 (relating to divi-
6 dends received from certain foreign corporations) is
7 amended by redesignating subsection (c) as subsection
8 (d) and by inserting after subsection (b) the following
9 new subsection:

10 **“(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—**

11 **“(1) IN GENERAL.—**In the case of a domestic
12 corporation, there shall be allowed as a deduction an
13 amount equal to 100 percent of any dividend received
14 by such corporation from another corporation which is
15 distributed out of earnings and profits attributable to
16 foreign trade income for a period during which such
17 other corporation was a FSC. The deduction allowable
18 under the preceding sentence with respect to any divi-
19 dend shall be in lieu of any deduction allowable under
20 subsection (a) or (b) with respect to such dividend.

21 **“(2) EXCEPTION FOR CERTAIN DIVIDENDS.—**
22 Paragraph (1) shall not apply to any dividend which is
23 distributed out of earnings and profits attributable to
24 foreign trade income which—

1 “(A) is section 923(a)(2) non-exempt income
2 (within the meaning of section 927(d)(6)), or

3 “(B) would not, but for section 923(a), be
4 treated as exempt foreign trade income.

5 “(3) DEFINITIONS.—For purposes of this subsec-
6 tion, the terms ‘foreign trade income’ and ‘exempt for-
7 eign trade income’ have the meaning given such terms
8 by section 923.”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Paragraph (1) of section 246(b) (relating
11 to limitation on aggregate amount of deduction) is
12 amended by striking out “245” each place it ap-
13 pears and inserting in lieu thereof “subsection (a)
14 or (b) of section 245”.

15 (B) Subsection (d) of section 245 (relating to
16 property distributions), as redesignated by para-
17 graph (1), is amended by striking out “subsections
18 (a) and (b)” and inserting in lieu thereof “this
19 section”.

20 (c) CLARIFICATION OF INFORMATION EXCHANGE
21 AGREEMENTS.—Subparagraph (D) of section 274(h)(6) (re-
22 lating to coordination with section 6103) is amended—

23 (1) by adding at the end thereof the following new
24 sentence: “The Secretary may exercise his authority
25 under subchapter A of chapter 78 to carry out any ob-

1 ligation of the United States under an agreement re-
2 ferred to in subparagraph (C).”, and

3 (2) by striking out the heading thereof and insert-
4 ing in lieu thereof “COORDINATION WITH OTHER PRO-
5 VISIONS.—”.

6 (d) CONFORMING AMENDMENTS.—

7 (1) Section 901 (relating to foreign tax credit) is
8 amended by redesignating subsection (h) as subsection
9 (i) and inserting after subsection (g) the following new
10 subsection:

11 “(h) TAXES PAID WITH RESPECT TO FOREIGN
12 TRADE INCOME.—No credit shall be allowed under this sec-
13 tion for any income, war profits, and excess profits taxes paid
14 or accrued with respect to the foreign trade income (within
15 the meaning of section 923(b)) of a FSC, other than section
16 923(a)(2) non-exempt income (within the meaning of section
17 927(d)(6)).”.

18 (2) Paragraph (1) of section 904(d) (relating to ap-
19 plication of section in case of certain interest income
20 and dividends from a DISC) as amended—

21 (A) by striking out “and” at the end of sub-
22 paragraph (B),

23 (B) by striking out subparagraph (C) and in-
24 serting in lieu thereof the following:

1 “(C) taxable income attributable to foreign
2 trade income (within the meaning of section
3 923(b)),

4 “(D) distributions from a FSC (or former
5 FSC) out of earnings and profits attributable to
6 foreign trade income (within the meaning of sec-
7 tion 923(b)), and

8 “(E) income other than income described in
9 subparagraph (A), (B), (C), or (D).”, and

10 (C) by striking out the heading and inserting
11 in lieu thereof:

12 “(d) SEPARATE APPLICATION OF SECTION WITH RE-
13 SPECT TO CERTAIN INTEREST INCOME AND INCOME FROM
14 DISC, FORMER DISC, FSC, OR FORMER FSC.—”.

15 (3) Subsection (b) of section 906 (relating to spe-
16 cial rules) is amended by adding at the end thereof the
17 following new paragraph:

18 “(5) No credit shall be allowed under this section
19 for any income, war profits, and excess profits taxes
20 paid or accrued with respect to the foreign trade
21 income (within the meaning of section 923(b)) of a
22 FSC.”.

23 (4) Section 951 (relating to amounts included in
24 gross income of shareholders) is amended by adding at
25 the end thereof the following new subsection:

1 “(e) FOREIGN TRADE INCOME NOT TAKEN INTO
2 ACCOUNT.—

3 “(1) IN GENERAL.—The foreign trade income of a
4 FSC and any deductions which are apportioned or allo-
5 cated to such income shall not be taken into account
6 under this subpart. For purposes of the preceding sen-
7 tence, income described in paragraph (2) or (3) of sec-
8 tion 921(d) shall be treated as derived from sources
9 within the United States.

10 “(2) FOREIGN TRADE INCOME.—For purposes of
11 this subsection, the term ‘foreign trade income’ has the
12 meaning given such term by section 923(b), but does
13 not include section 923(a)(2) non-exempt income
14 (within the meaning of section 927(d)(6)).”.

15 (5) Paragraph (4) of section 275(a) (relating to
16 disallowance of deduction for certain taxes) is amended
17 to read as follows:

18 “(4) Income, war profits, and excess profits taxes
19 imposed by the authority of any foreign country or pos-
20 session of the United States if—

21 “(A) the taxpayer chooses to take to any
22 extent the benefits of section 901, or

23 “(B) such taxes are paid or accrued with re-
24 spect to foreign trade income (within the meaning
25 of section 923(b) of a FSC.”.

1 (6) Subsection (d) of section 1248 (relating to ex-
2 clusions from earnings and profits) is amended by
3 adding at the end thereof the following new paragraph:

4 “(6) FOREIGN TRADE INCOME.—Earnings and
5 profits of the foreign corporation attributable to foreign
6 trade income (within the meaning of section 923(b)) of
7 a FSC.”.

8 (7) Section 934 (relating to limitation on reduction
9 in income tax liability incurred to the Virgin Islands) is
10 amended by adding at the end thereof the following
11 new subsection:

12 “(f) FSC.—Subsection (a) shall not apply in the case of
13 a Virgin Islands corporation which is a FSC.”.

14 (8) Paragraph (2) of section 956(b) (defining
15 United States property) is amended by striking out
16 “and” at the end of subparagraph (G), by striking out
17 the period at the end of subparagraph (H) and inserting
18 in lieu thereof a semicolon and “and”, and by adding
19 at the end thereof the following new subparagraph:

20 “(I) to the extent provided in regulations
21 prescribed by the Secretary, property which is
22 otherwise United States property which is held by
23 a FSC and which is related to the export activi-
24 ties of such FSC.”.

1 (9) Subparagraph (B) of section 7651(5) is amend-
 2 ed by inserting “(other than subpart C of part III of
 3 subchapter N of chapter 1)” after “For purposes of this
 4 title”.

5 (10) Section 996(g) (relating to effectively con-
 6 nected income) is amended by inserting “and which are
 7 derived from sources within the United States” after
 8 “United States”.

9 **SEC. 503. INTEREST CHARGE DISC.**

10 (a) **INTEREST CHARGE ON DEFERRED TAX.**—Section
 11 995 (relating to taxation of DISC income to shareholders) is
 12 amended—

13 (1) by striking out subsections (e) and (f),

14 (2) by redesignating subsection (g) as subsection
 15 (e), and

16 (3) by adding at the end thereof the following new
 17 subsection:

18 “(f) **INTEREST ON DISC-RELATED DEFERRED TAX**
 19 **LIABILITY.**—

20 “(1) **IN GENERAL.**—A shareholder of a DISC
 21 shall pay for each taxable year interest in an amount
 22 equal to the product of—

23 “(A) the shareholder’s DISC-related deferred
 24 tax liability for such year, and

25 “(B) the base period T-bill rate.

1 “(2) SHAREHOLDER’S DISC-RELATED DEFERRED
2 TAX LIABILITY.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘shareholder’s
4 DISC-related deferred tax liability’ means, with
5 respect to any taxable year of a shareholder of a
6 DISC, the excess of—

7 “(i) the amount which would be the tax
8 liability of the shareholder for the taxable
9 year if the deferred DISC income of such
10 shareholder for such taxable year were in-
11 cluded in gross income as ordinary income,
12 over

13 “(ii) the actual amount of the tax liabili-
14 ty of such shareholder for such taxable year.

15 Determinations under the preceding sentence shall
16 be made without regard to carrybacks to such
17 taxable year.

18 “(B) ADJUSTMENTS FOR LOSSES, CREDITS,
19 AND OTHER ITEMS.—The Secretary shall pre-
20 scribe regulations which provide such adjust-
21 ments—

22 “(i) to the accounts of the DISC, and

23 “(ii) to the amount of any carryover or
24 carryback of the shareholder,

1 as may be necessary or appropriate in the case of
2 net operating losses, credits, and carryovers and
3 carrybacks of losses and credits.

4 “(C) TAX LIABILITY.—The term ‘tax liability’
5 means the amount of the tax imposed by this
6 chapter for the taxable year reduced by credits al-
7 lowable against such tax (other than credits al-
8 lowable under sections 31, 32, and 34).

9 “(3) DEFERRED DISC INCOME.—For purposes of
10 this subsection—

11 “(A) IN GENERAL.—The term ‘deferred
12 DISC income’ means, with respect to any taxable
13 year of a shareholder, the excess of—

14 “(i) the shareholder’s pro rata share of
15 accumulated DISC income (for periods after
16 1983) of the DISC as of the close of the
17 computation year, over

18 “(ii) the amount of the distributions-in-
19 excess-of-income for the taxable year of the
20 DISC following the computation year.

21 “(B) COMPUTATION YEAR.—For purposes of
22 applying subparagraph (A) with respect to any
23 taxable year of a shareholder, the computation
24 year is the taxable year of the DISC which ends
25 with (or within) the taxable year of the sharehold-

1 er which precedes the taxable year of the share-
2 holder for which the amount of deferred DISC
3 income is being determined.

4 “(C) DISTRIBUTIONS-IN-EXCESS-OF-
5 INCOME.—For purposes of subparagraph (A), the
6 term ‘distributions-in-excess-of-income’ means,
7 with respect to any taxable year of a DISC, the
8 excess (if any) of—

9 “(i) the amount of actual distributions to
10 the shareholder out of accumulated DISC
11 income, over

12 “(ii) the shareholder’s pro rata share of
13 the DISC income for such taxable year.

14 “(3) BASE PERIOD T-BILL RATE.—For purposes
15 of this subsection, the term ‘base period T-bill rate’
16 means the annual rate of interest determined by the
17 Secretary to be equivalent to the average investment
18 yield of United States Treasury bills with maturities of
19 52 weeks which were auctioned during the 1-year
20 period ending on September 30 of the calendar year
21 ending with (or of the most recent calendar year
22 ending before) the close of the taxable year of the
23 shareholder.

24 “(4) SHORT YEARS.—The Secretary shall pre-
25 scribe such regulations as may be necessary for the ap-

1 plication of this subsection to short years of the DISC,
2 the shareholder, or both.

3 “(5) PAYMENT AND ASSESSMENT AND COLLEC-
4 TION OF INTEREST.—The interest accrued during any
5 taxable year which a shareholder is required to pay
6 under paragraph (1) shall be treated, for purposes of
7 this title, as interest payable under section 6601 and
8 shall be paid by the shareholder at the time the tax
9 imposed by this chapter for such taxable year is re-
10 quired to be paid.”

11 (b) TAXABLE INCOME IN EXCESS OF \$10,000,000
12 DEEMED DISTRIBUTED.—

13 (1) IN GENERAL.—Subparagraph (E) of section
14 995(b)(1) (relating to based period export gross re-
15 cepts) is amended to read as follows:

16 “(E) the taxable income of the DISC attrib-
17 utable to qualified export receipts of the DISC for
18 the taxable year which exceed \$10,000,000,”

19 (2) AGGREGATION OF RECEIPTS.—Subsection (b)
20 of section 995 (relating to deemed distributions) is
21 amended by adding at the end thereof the following
22 new paragraph:

23 “(4) AGGREGATION OF QUALIFIED EXPORT RE-
24 CEIPTS.—

1 “(A) IN GENERAL.—For purposes of apply-
2 ing paragraph (1)(E), all DISC’s which are mem-
3 bers of the same controlled group shall be treated
4 as a single corporation.

5 “(B) ALLOCATION.—The dollar amount
6 under paragraph (1)(E) shall be allocated among
7 the DISC’s which are members of the same con-
8 trolled group in a manner provided in regulations
9 prescribed by the Secretary.”.

10 (c) ELIMINATION OF CERTAIN DEEMED DISTRIBU-
11 TIONS RELATING TO TAXABLE INCOME OF DISC.—Sub-
12 paragraph (F) of section 995(b)(1) (relating to distributions in
13 qualified years) is amended to read as follows:

14 “(F) the sum of—

15 “(i) an amount equal to the product
16 of—

17 “(I) the international boycott factor
18 determined under section 999, multi-
19 plied by

20 “(II) one-half of the excess of the
21 taxable income of the DISC for the tax-
22 able year (before reduction for any dis-
23 tributions during the year) over the sum
24 of the amounts deemed distributed for

1 the taxable year under subparagraphs
2 (A), (B), (C), (D), and (E), plus

3 “(ii) any illegal bribe, kickback, or other
4 payment (within the meaning of section
5 162(c)) paid by or on behalf of the DISC di-
6 rectly or indirectly to an official, employee,
7 or agent in fact of a government, and”.

8 (d) CONFORMING AMENDMENTS.—

9 (1) Subsection (a)(1) of section 992 (relating to
10 definition of DISC) is amended—

11 (A) by striking out “and” at the end of sub-
12 paragraph (C),

13 (B) by striking out the period at the end of
14 subparagraph (D) and inserting in lieu thereof
15 “, and”, and

16 (C) by adding at the end thereof the follow-
17 ing new subparagraph:

18 “(E) such corporation is not a member of
19 any controlled group of which a FSC is a
20 member.”.

21 (2) Paragraph (3) of section 993(a) (relating to
22 controlled groups) is amended by striking out “such
23 term by” and inserting in lieu thereof “the term ‘con-
24 trolled group of corporations’ by”.

1 (3) Subsection (c) of section 999 (relating to inter-
2 national boycott factor) is amended by striking out
3 “995(b)(1)(F)(ii)” each place it appears and inserting in
4 lieu thereof “995(b)(1)(F)(i)”.

5 (4) The table of subparts for part III of sub-
6 chapter N of chapter 1 is amended by inserting after
7 the item relating to subpart B the following new item:

 “Subpart C. Taxation of foreign sales corporations.”.

8 **SEC. 504. TAXABLE YEAR OF DISC AND FSC REQUIRED TO**
9 **CONFORM TO TAXABLE YEAR OF MAJORITY**
10 **SHAREHOLDER.**

11 (a) **IN GENERAL.**—Subsection (b) of section 441 (relat-
12 ing to period for computation of taxable income) is amend-
13 ed—

14 (1) by striking out “or” at the end of paragraph
15 (2),

16 (2) by striking out the period at the end of para-
17 graph (3) and inserting in lieu thereof “; or”, and

18 (3) by adding at the end thereof the following new
19 paragraph:

20 “(4) in the case of a FSC or DISC filing a return
21 for a period of at least 12 months, the period deter-
22 mined under subsection (h).”.

23 (b) **DETERMINATION OF TAXABLE YEAR.**—Section
24 441 is amended by adding at the end thereof the following
25 new subsection:

1 “(h) TAXABLE YEAR OF FSC’S AND DISC’S.—

2 “(1) IN GENERAL.—For purposes of this subtitle,
3 the taxable year of any FSC or DISC shall be the tax-
4 able year of that shareholder (or group of shareholders
5 with the same 12-month taxable year) who has the
6 highest percentage of voting power.

7 “(2) SPECIAL RULE WHERE MORE THAN ONE
8 SHAREHOLDER (OR GROUP) HAS HIGHEST PERCENT-
9 AGE.—If 2 or more shareholders (or groups) have the
10 highest percentage of voting power under paragraph
11 (1), the taxable year of the FSC or DISC shall be the
12 same 12-month period as that of any such shareholder
13 (or group).

14 “(3) SUBSEQUENT CHANGES OF OWNERSHIP.—
15 The Secretary shall prescribe regulations under which
16 paragraphs (1) and (2) shall apply to a change of own-
17 ership of a corporation after the taxable year of the
18 corporation has been determined under paragraph (1)
19 or (2) only if such change is a substantial change of
20 ownership.

21 “(4) VOTING POWER DETERMINED.—For pur-
22 poses of this subsection, voting power shall be deter-
23 mined on the basis of total combined voting power of
24 all classes of stock of the corporation entitled to vote.”.



1 SEC. 505. EFFECTIVE DATE; TRANSITION RULES.

2 (a) EFFECTIVE DATE.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), the amendments made by this Act shall
5 apply to transactions after December 31, 1984, in tax-
6 able years ending after such date.

7 (2) SPECIAL RULE FOR CERTAIN CONTRACTS.—

8 To the extent provided in regulations prescribed by the
9 Secretary, subsection (c) and (d) of section 924 of the
10 Internal Revenue Code of 1954 (as added by this Act)
11 shall not apply to—

12 (A) any contract with respect to which the
13 taxpayer uses the completed contract method of
14 accounting and which—

15 (i) was entered into before March 16,
16 1984, or

17 (ii) was entered into after March 15,
18 1984, and before January 1, 1985, pursuant
19 to a written plan to enter into such contract
20 which was in effect on March 15, 1984,

21 (B) any contract which was entered into
22 before March 16, 1984, except that this subpara-
23 graph shall only apply to the first 2 taxable years
24 of the FSC ending after January 1, 1985, or

25 (C) any contract which was entered into
26 after March 15, 1984, and before January 1,

1 1985, except that this subparagraph shall only
2 apply to the first taxable year of the FSC ending
3 after January 1, 1985.

4 (b) TRANSITION RULES FOR DISC'S.—

5 (1) CLOSE OF 1984 TAXABLE YEARS OF
6 DISC'S.—

7 (A) IN GENERAL.—For purposes of applying
8 the Internal Revenue Code of 1954, the taxable
9 year of each DISC which begins before January
10 1, 1985, and which (but for this paragraph) would
11 include January 1, 1985, shall close on December
12 31, 1984. For purposes of such Code, the require-
13 ments of section 992(a)(1)(B) of such Code (relat-
14 ing to percentage of qualified export assets on last
15 day of the taxable year) shall not apply to any
16 taxable year ending on December 31, 1984.

17 (B) UNDERPAYMENTS OF ESTIMATED
18 TAX.—To the extent provided in regulations pre-
19 scribed by the Secretary of the Treasury or his
20 delegate, no addition to tax shall be made under
21 section 6654 or 6655 of such Code with respect
22 to any underpayment of any installment required
23 to be paid before April 13, 1985, to the extent
24 the underpayment was created or increased by
25 reason of subparagraph (A).

1 (2) EXEMPTION OF ACCUMULATED DISC INCOME
2 FROM TAX.—For purposes of applying the Internal
3 Revenue Code of 1954 with respect to actual distribu-
4 tions made after December 31, 1984, by a DISC or
5 former DISC which was a DISC on December 31,
6 1984, any accumulated DISC income of a DISC or
7 former DISC (within the meaning of section 996(f)(1)
8 of such Code) which is derived before January 1,
9 1985, shall be treated as previously taxed income
10 (within the meaning of section 996(f)(2) of such Code).

11 (3) TIME CERTAIN DISTRIBUTIONS ARE DEEMED
12 RECEIVED BY SHAREHOLDERS.—Notwithstanding sec-
13 tion 995(b) of such Code, if a shareholder of a DISC
14 elects the application of this paragraph (at such time
15 and in such manner as the Secretary of the Treasury
16 or his delegate shall prescribe by regulations) any dis-
17 tribution which such shareholder is deemed to have re-
18 ceived by reason of section 995(b) of such Code with
19 respect to income derived by the DISC in the taxable
20 year of the DISC which begins in 1984 after the date
21 in 1984 on which the taxable year of such shareholder
22 begins shall be treated, for purposes of such Code, as
23 received by such shareholder in 4 equal installments on
24 the last day of each of the 4 taxable years of such
25 shareholder which begins after the taxable year of such

1 shareholder which begins in 1984. The preceding sen-
2 tence shall apply without regard to whether the DISC
3 exists after December 31, 1984.

4 (4) TREATMENT OF TRANSFERS FROM DISC TO
5 FSC.—Except to the extent provided in regulations,
6 section 367 of such Code shall not apply to transfers
7 made before January, 1986 (or, if later, the date 1
8 year after the date on which the corporation ceases to
9 be a DISC) to a FSC of qualified export assets (as de-
10 fined in section 993(b) of such Code) held on August 4,
11 1983, by a DISC in a transaction described in section
12 351 or 368(a)(1) of such Code.

13 (5) DEFINITIONS.—For purposes of this subsec-
14 tion, the terms “DISC” and “former DISC” have the
15 respective meanings given to such terms by section
16 992 of such Code.

17 (c) SPECIAL RULE FOR EXPORT TRADE CORPORA-
18 TIONS.—

19 (1) IN GENERAL.—If, before January 1, 1985,
20 any export trade corporation—

21 (A) makes an election under section 927(f)(1)
22 of the Internal Revenue Code of 1954 to be treat-
23 ed as a FSC, or

1 (B) elects not to be treated as an export
 2 trade corporation with respect to taxable years
 3 beginning after December 31, 1984,
 4 rules similar to the rules of paragraphs (2) and (4) of
 5 subsection (b) shall apply to such export trade corpora-
 6 tion.

7 (2) EXPORT TRADE CORPORATION.—For pur-
 8 poses of this subsection, the term ‘export trade corpo-
 9 ration’ has the meaning given such term by section
 10 971 of the Internal Revenue Code of 1954.

11 **TITLE VI—HIGHWAY REVENUE**

12 **PROVISIONS**

13 **Subtitle A—Use Taxes**

14 **SEC. 601. REDUCTION OF HEAVY VEHICLE USE TAX.**

15 (a) GENERAL RULE.—Subsection (a) of section 4481
 16 (as amended by section 513(a) of the Highway Revenue Act
 17 of 1982) is amended to read as follows:

18 “(a) IMPOSITION OF TAX.—A tax is hereby imposed on
 19 the use of any highway motor vehicle which (together with
 20 the semitrailers and trailers customarily used in connection
 21 with highway motor vehicles of the same type as such high-
 22 way motor vehicle) has a taxable gross weight of at least
 23 55,000 pounds at the rate specified in the following table:

“Taxable gross weight:	Rate of tax:
“At least 55,000 pounds, but not over 80,000 pounds.	\$75 per year plus \$21 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds.
“Over 80,000 pounds.....	\$600.”.

1 (b) SPECIAL RULES IN THE CASE OF CERTAIN
2 OWNER-OPERATORS.—

3 (1) SPECIAL RULE FOR TAXABLE PERIOD BEGIN-
4 NING ON JULY 1, 1984.—In the case of a small
5 owner-operator, the amount of the tax imposed by sec-
6 tion 4481 of the Internal Revenue Code of 1954 on
7 the use of any highway motor vehicle subject to tax
8 under section 4481(a) of such Code (as amended by
9 subsection (a)) for the taxable period which begins on
10 July 1, 1984, shall be the lesser of—

11 (A) \$3 for each 1,000 pounds of taxable
12 gross weight (or fraction thereof), or

13 (B) the amount of the tax which would be
14 imposed under such section 4481(a) without
15 regard to this paragraph.

16 (2) EXEMPTION FOR VEHICLES USED FOR LESS
17 THAN 5,000 MILES (AND CERTAIN OTHER AMEND-
18 MENTS) TO TAKE EFFECT ON JULY 1, 1984.—In the
19 case of a small owner-operator, notwithstanding sub-
20 section (f)(2) of section 513 of the Highway Revenue
21 Act of 1982, the amendments made by subsections (b),
22 (c), and (d) of such section shall take effect on July 1,
23 1984.

24 (3) SMALL OWNER-OPERATOR DEFINED.—For
25 purposes of this subsection, the term “small owner-op-

1 erator" has the meaning given such term by section
2 513(f)(2) of the Highway Revenue Act of 1982.

3 (4) TAXABLE GROSS WEIGHT.—For purposes of
4 this subsection, the term 'taxable gross weight' has the
5 same meaning as when used in section 4481 of the In-
6 ternal Revenue Code of 1954.

7 (c) EFFECTIVE DATE.—The amendment made by sub-
8 section (a) (and the provisions of subsection (b)) shall take
9 effect on July 1, 1984.

10 **SEC. 602. SPECIAL RULE FOR TRUCKS USED IN LOGGING.**

11 (a) IN GENERAL.—Section 4483 (relating to exemp-
12 tions from highway use tax) is amended by redesignating sub-
13 section (e) as subsection (f) and inserting after subsection (d)
14 the following new subsection:

15 "(e) REDUCTION IN TAX FOR TRUCKS USED IN LOG-
16 GING.—The tax imposed by section 4481 shall be reduced by
17 50 percent with respect to any highway motor vehicle if—

18 "(1) the exclusive use of such vehicle during any
19 taxable period is the transportation, beginning at a
20 point located on a forested site, of products harvested
21 from such forested site, and

22 "(2) such vehicle is registered under the laws of
23 the State in which such vehicle is, or is required to be,
24 registered as a highway motor vehicle used in the
25 transportation of harvested forest products."

1 (b) **EFFECTIVE DATE.**—The amendment made by this
2 section shall take effect on July 1, 1984.

3 **SEC. 603. STUDY.**

4 (a) **GENERAL RULE.**—The Secretary of Transportation
5 (in consultation with the Secretary of the Treasury) shall
6 conduct a study to determine the significance of the highway
7 use tax imposed under section 4481 of the Internal Revenue
8 Code of 1954 on trans-border trucking operations.

9 (b) **REPORT.**—Not later than the day 1 year after the
10 date of the enactment of this Act, the Secretary of Transpor-
11 tation shall submit to the Committee on Ways and Means of
12 the House of Representatives and the Committee on Finance
13 of the Senate a report on the study conducted under subsec-
14 tion (a) together with such recommendations as the Secretary
15 may deem advisable.

16 **Subtitle B—Fuel Taxes**

17 **SEC. 611. INCREASE IN DIESEL FUEL TAX.**

18 (a) **GENERAL RULE.**—Paragraph (1) of section 4041(a)
19 (relating to diesel fuel) is amended by striking out “9 cents”
20 and inserting in lieu thereof “15 cents”.

21 (b) **INCOME TAX CREDIT FOR PURCHASE OF DIESEL-**
22 **POWERED AUTOMOBILE OR LIGHT TRUCK.**—Section 6427
23 (relating to fuels not used for taxable purposes) is amended
24 by redesignating subsections (g), (h), (i), (j), (k), and (l) as

1 subsections (h), (i), (j), (k), (l), and (m), respectively, and by
2 inserting after subsection (f) the following new subsection:

3 “(g) INCOME TAX CREDIT OR EXCISE TAX REFUND
4 OF INCREASED DIESEL FUEL TAX TO OPERATORS OF
5 DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

6 “(1) IN GENERAL.—Except as provided in sub-
7 section (j), the Secretary shall pay (without interest) to
8 the owner, lessee, or other operator of any qualified
9 diesel-powered highway vehicle an amount equal to the
10 diesel fuel differential amount.

11 “(2) QUALIFIED DIESEL-POWERED HIGHWAY VE-
12 HICLE.—For purposes of this subsection, the term
13 ‘qualified diesel-powered highway vehicle’ means any
14 diesel-powered highway vehicle which—

15 “(A) has at least 4 wheels,

16 “(B) has a gross vehicle weight rating of
17 10,000 pounds or less, and

18 “(C) is registered for highway use in the
19 United States under the laws of any State.

20 “(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—

21 For purposes of this subsection, the term ‘diesel fuel
22 differential amount’ means the amount determined by
23 multiplying—

24 “(A) 6 cents, by

1 “(B) the amount of gallons of diesel fuel used
2 by such owner, lessee, or other operator in any
3 qualified diesel-powered highway vehicle for
4 which tax imposed under section 4041(a)(1) was
5 paid.”.

6 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) AMENDMENTS TO HIGHWAY TRUST FUND.—

8 Paragraph (2) of section 9503(e) (relating to transfers
9 to Mass Transit Account) is amended to read as fol-
10 lows:

11 “(2) TRANSFERS TO MASS TRANSIT ACCOUNT.—

12 The Secretary of the Treasury shall transfer to the
13 Mass Transit Account the mass transit portion of the
14 amounts appropriated to the Highway Trust Fund
15 under subsection (b) which are attributable to taxes
16 under sections 4041 and 4081 imposed after March 31,
17 1983. For purposes of the preceding sentence, the
18 term ‘mass transit portion’ means an amount deter-
19 mined at the rate of 1 cent for each gallon with respect
20 to which tax was imposed under section 4041 or
21 4081.”

22 (2) CONFORMING AMENDMENTS TO INCOME TAX
23 CREDIT.—

24 (A) Section 34 (as redesignated by section
25 851 of this Act) is amended—

1 (i) by inserting a comma and “in quali-
2 fied diesel-powered highway vehicles,” after
3 “nontaxable purposes” in subsection (a)(3),
4 and

5 (ii) by striking out “6427(i)” in subsec-
6 tions (a)(3) and (b) and inserting in lieu
7 thereof “6427(j)”.

8 (B) Subsections (a), (b)(1), (c), (d), (e)(1), and
9 (f)(1) of section 6427 are each amended by strik-
10 ing out “(i)” and inserting in lieu thereof “(j)”.

11 (C) Subsection (h)(1) of section 6427 (as re-
12 designated by subsection (b)) is amended by strik-
13 ing out “or (f)” and inserting in lieu thereof “(f),
14 or (g)”.

15 (D) Subsection (h)(2)(A) of section 6427 (as
16 so redesignated) is amended by striking out “and
17 (e)” in clause (i) and inserting in lieu thereof “(e),
18 and (g)”.

19 (E) Subsection (j)(2) of section 6427 (as so
20 redesignated) is amended by striking out “(g)(2)”
21 and inserting in lieu thereof “(h)(2)”.

22 (F) Subsection (l) of section 6427 (as so re-
23 designated) is amended by striking out “and (d)”
24 each place it appears and inserting in lieu thereof
25 “(d), and (g)”.

1 (G) Sections 7210, 7603, 7604(b),
2 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are
3 each amended by striking out “6427(h)(2)” each
4 place it appears and inserting in lieu thereof
5 “6427(i)(2)”.

6 (d) **EFFECTIVE DATE.**—The amendments made by this
7 section shall take effect on July 1, 1984.

8 **SEC. 612. EXTENSION OF REDUCTION IN TAX FOR FUEL USED**
9 **BY TAXICABS; STUDY.**

10 (a) **IN GENERAL.**—Paragraph (3) of section 6427(e) (re-
11 lating to termination of use in certain taxicabs) is amended by
12 striking out “September 30, 1984” and inserting in lieu
13 thereof “September 30, 1985”.

14 (b) **STUDY.**—The Secretary of the Treasury or the dele-
15 gate of the Secretary shall conduct a study of the reduced
16 rate of fuels taxes provided for taxicabs by section 6427(e) of
17 the Internal Revenue Code of 1954. Not later than January
18 1, 1985, the Secretary shall transmit a report on the study
19 conducted under the preceding sentence to the Congress, to-
20 gether with such recommendations as the Secretary may
21 deem advisable.

1 SEC. 613. MODIFICATION OF TAX IMPOSED ON METHANOL
2 AND ETHANOL.

3 (a) IN GENERAL.—Section 4041 (relating to imposition
4 of tax on special fuels) is amended by adding at the end
5 thereof the following new subsection:

6 “(m) CERTAIN ALCOHOL FUELS.—

7 “(1) IN GENERAL.—In the case of the sale or use
8 of any partially exempt methanol or ethanol fuel—

9 “(A) subsection (a)(2) shall be applied by
10 substituting “4½ cents” for “9 cents”, and

11 “(B) no tax shall be imposed by subsection
12 (c).

13 “(2) PARTIALLY EXEMPT METHANOL OR ETH-
14 ANOL FUEL.—The term ‘partially exempt methanol or
15 ethanol fuel’ means any liquid at least 85 percent of
16 which consists of methanol, ethanol, or other alcohol
17 produced from natural gas.”.

18 (b) CONFORMING AMENDMENT.—Subsection (c) of sec-
19 tion 40 (relating to coordination of credit for alcohol used as a
20 fuel with exemption from excise tax) (as redesignated by sec-
21 tion 851 of this Act) is amended by striking out “(b)(2) or
22 (k)” and inserting in lieu thereof “(b)(2), (k), or (m)”.

23 (c) EFFECTIVE DATE.—The amendments made by this
24 section shall take effect on July 1, 1984.

1 **SEC. 614. DECREASE IN TAX IMPOSED ON GASOHOL.**

2 (a) **AMENDMENT OF SECTION 4041.**—Paragraph (1) of
3 section 4041(k) (relating to fuels containing alcohol) is
4 amended to read as follows:

5 “(1) **IN GENERAL.**—Under regulations prescribed
6 by the Secretary, in the case of the sale or use of any
7 liquid at least 10 percent of which consists of alcohol
8 (as defined in section 4081(c)(3))—

9 “(A) subsection (a)(1) shall be applied by
10 substituting ‘9 cents’ for ‘15 cents’, and

11 “(B) subsection (a)(2) shall be applied by sub-
12 stituting ‘3 cents’ for ‘9 cents’, and

13 “(C) no tax shall be imposed by subsection
14 (c).”.

15 (b) **AMENDMENTS OF SECTION 4081.**—Subsection (c)
16 of section 4081 (relating to imposition of tax on petroleum
17 products) is amended—

18 (A) by striking out “4 cents” each place it ap-
19 pears and inserting in lieu thereof “3 cents”, and

20 (B) by striking out “5 cents” in paragraph (2) and
21 inserting in lieu thereof “6 cents”.

22 (c) **CREDIT FOR ALCOHOL USED AS A FUEL.**—Section
23 40 (relating to alcohol used as a fuel) (as redesignated by
24 section 851 of this Act) is amended—

25 (1) by striking out “50 cents” each place it ap-
26 pears and inserting in lieu thereof “60 cents”, and

1 (2) by striking out “37.5 cents” each place it ap-
 2 pears and inserting in lieu thereof “45 cents”.

3 (d) AMENDMENT OF SECTION 6427.—Paragraph (1) of
 4 section 6427(f) (relating to gasoline used to produce certain
 5 alcohol fuels) is amended by striking out “5 cents” and in-
 6 serting in lieu thereof “6 cents”.

7 (e) TARIFF IMPORTED FOR USE AS A FUEL.—Item
 8 901.50 of the Tariff Schedules of the United States (19
 9 U.S.C. 1202) is amended by striking out “50 cents per gal.”
 10 each place it appears and inserting in lieu thereof “60 cents
 11 per gal.”.

12 (f) DEFINITION OF ALCOHOL.—Sections 40(d)(1)(A)(i)
 13 (as redesignated by section 851 of this Act) and 4081(c)(3)
 14 (defining alcohol) are each amended by striking out “coal”
 15 and inserting in lieu thereof “coal (including peat)”.

16 (g) EFFECTIVE DATE.—The amendments made by this
 17 section shall take effect on July 1, 1984.

18 Subtitle C—Miscellaneous

19 SEC. 621. EXEMPTION FROM TAX FOR PIGGYBACK TRAILERS.

20 (a) IN GENERAL.—Paragraph (8) of section 4063(a) (re-
 21 lating to exemptions for specified articles) is amended to read
 22 as follows:

23 “(8) RAIL TRAILERS, RAIL VANS, AND PIGGY-
 24 BACK TRAILERS.—

1 “(A) IN GENERAL.—The tax imposed by
2 section 4061 shall not apply in the case of—

3 “(i) any chassis or body of a trailer or
4 semitrailer which is designed for use both as
5 a highway vehicle and a railroad car,

6 “(ii) any chassis or body of a piggyback
7 trailer or semitrailer, and

8 “(iii) any parts or accessories designed
9 primarily for use in connection with an arti-
10 cle described in clause (i) or (ii).

11 “(B) PIGGYBACK TRAILER OR SEMITRAILER
12 DEFINED.—For purposes of this paragraph, the
13 term ‘piggyback trailer or semitrailer’ means any
14 trailer or semitrailer—

15 “(i) which is designed for use principally
16 in connection with trailer-on-flatcar service
17 by rail, and

18 “(ii) with respect to which the seller
19 certifies, in such manner and form and at
20 such time as the Secretary prescribes by reg-
21 ulations, that such trailer or semitrailer—

22 “(I) will be used, or resold for use,
23 principally in connection with such serv-
24 ice, or

1 “(II) will be incorporated into an
2 article which will be so used or
3 resold.”.

4 “(C) NONQUALIFIED USE.—If any person
5 uses or resells for use any piggyback trailer or
6 semitrailer for a purpose other than a use de-
7 scribed in subparagraph (B), such use or resale
8 shall be treated as the first retail sale of such
9 trailer or semitrailer and such person shall be
10 liable for the tax imposed under section 4051(a).”.

11 (b) REFUNDS WITH RESPECT TO CERTAIN CONSUMER
12 PURCHASES OF TRUCKS AND TRAILERS.—

13 (1) IN GENERAL.—Except as otherwise provided
14 in paragraph (2), where after December 2, 1982, and
15 before the day after the date of the enactment of this
16 Act, a tax-repealed article on which tax was imposed
17 by section 4061(a) has been sold to an ultimate pur-
18 chaser, there shall be credited or refunded (without in-
19 terest) to the manufacturer, producer, or importer of
20 such article an amount equal to the tax paid by such
21 manufacturer, producer, or importer on his sale of the
22 article.

23 (2) LIMITATION OF ELIGIBILITY FOR CREDIT OR
24 REFUND.—No manufacturer, producer, or importer

1 shall be entitled to a credit or refund under paragraph
2 (1) with respect to an article unless—

3 (A) he has in his possession such evidence of
4 the sale of the article to an ultimate purchaser,
5 and of the reimbursement of the tax to such pur-
6 chaser, as may be required by regulations pre-
7 scribed by the Secretary of the Treasury or his
8 delegate under this subsection,

9 (B) claim for such credit or refund is filed
10 with the Secretary of the Treasury or his delegate
11 before December 1, 1984, based on information
12 submitted to the manufacturer, producer, or im-
13 porter before September 1, 1984, by the person
14 who sold the article (in respect of which the credit
15 or refund is claimed) to the ultimate purchaser,
16 and

17 (C) on or before December 1, 1984, reim-
18 bursement has been made to the ultimate purchas-
19 er in an amount equal to the tax paid on the arti-
20 cle.

21 (3) OTHER LAWS APPLICABLE.—All provisions of
22 law, including penalties, applicable with respect to the
23 taxes imposed by section 4061(a) shall, insofar as ap-
24 plicable and not inconsistent with paragraph (1) or (2)
25 of this subsection, apply in respect of the credits and

1 refunds provided for in paragraph (1) to the same
2 extent as if the credits or refunds constituted overpay-
3 ments of the tax.

4 (c) **EFFECTIVE DATE.**—The amendment made by sub-
5 section (a) shall take effect as if included in the amendment
6 made by section 512(a)(3) of the Highway Revenue Act of
7 1982.

8 **SEC. 622. OTHER TECHNICAL AMENDMENTS.**

9 (a) **FLOOR STOCKS REFUNDS FOR TIRES TAXED AT**
10 **LOWER RATE AFTER JANUARY 1, 1984.**—

11 (1) **IN GENERAL.**—Paragraph (1) of section 523(b)
12 of the Highway Revenue Act of 1982 (relating to floor
13 stocks refunds for tires) is amended by inserting “(or
14 will be subject to a lower rate of tax under such sec-
15 tion)” after “and which will not be subject to tax under
16 such section”.

17 (2) **AMOUNT OF REFUND LIMITED TO REDUCTION**
18 **IN TAX.**—Paragraph (2) of section 523(b) of such Act
19 is amended by adding at the end thereof the following:
20 “In the case of any tire which is a tax-repealed article
21 solely by reason of the parenthetical matter in para-
22 graph (1), the amount of the credit or refund under
23 subsection (a) shall not exceed the excess of the tax
24 imposed with respect to such tire by section 4071(a) as
25 in effect on December 31, 1983, over the tax which

1 would have been imposed with respect to such tire by
2 section 4071(a) on January 1, 1984.”

3 (b) FLOOR STOCKS REFUNDS FOR TREAD RUBBER.—
4 Paragraph (1) of section 523(b) of the Highway Revenue Act
5 of 1982 (relating to floor stocks refunds for tires) is amended
6 by adding at the end thereof the following new sentence:
7 “Any tread rubber which was subject to tax under section
8 4071(a)(4) as in effect on December 31, 1983, and which on
9 January 1, 1984, is part of a retread tire which is held by a
10 dealer and has not been used and is intended for sale shall be
11 treated as a tax-repealed article for purposes of subsection (a)
12 of section 522.”

13 (c) EFFECTIVE DATE.—Any amendment made by this
14 section shall take effect as if included in the provisions of the
15 Highway Revenue Act of 1982 to which such amendment
16 relates.

17 **TITLE VII--TAX-EXEMPT BOND PROVISIONS**

18 **SUBTITLE A—MORTGAGE SUBSIDY BONDS**

19 **SEC. 701. EXTENSION OF MORTGAGE SUBSIDY BOND AUTHOR-** 20 **ITY.**

21 (a) IN GENERAL.—Subparagraph (B) of section
22 103A(c)(1) (defining qualified mortgage bond) is amended by
23 striking out “December 31, 1983” in the text and in the
24 heading and inserting in lieu thereof “December 31, 1987”.

25 (b) REPORTING REQUIREMENTS.—

1 (1) IN GENERAL.—Subsection (j) of section 103A
2 (relating to other requirements) is amended by adding
3 at the end thereof the following new paragraphs:

4 “(3) INFORMATION REPORTING REQUIRE-
5 MENT.—

6 “(A) IN GENERAL.—An issue meets the re-
7 quirements of this subsection only if the issuer
8 submits to the Secretary—

9 “(i) not later than 30 days after the
10 date of the issue (or at such other time as
11 the Secretary may prescribe by regulation), a
12 written statement providing notice of the
13 face amount of the issue, and

14 “(ii) not later than the 15th day of the
15 2nd calendar month after the close of the
16 calendar quarter in which the issue is issued,
17 a statement concerning the issue which con-
18 tains—

19 “(I) the name and address of the
20 issuer,

21 “(II) the date of the issue, the
22 amount of the lendable proceeds of the
23 issue, and the stated interest rate, term,
24 and face amount of each obligation
25 which is part of the issue,

1 “(III) such information as the Sec-
2 retary may require in order to deter-
3 mine whether such issue meets the re-
4 quirements of this section, and the
5 extent to which the proceeds of such
6 issue have been made available to low-
7 income individuals, and

8 “(IV) such other information as
9 the Secretary may require.

10 “(B) EXTENSION OF TIME.—The Secretary
11 may grant an extension of time for the filing of
12 any statements under subparagraph (A) if there is
13 reasonable cause for the failure to file such state-
14 ment in a timely fashion.”.

15 (c) POLICY STATEMENTS.—Subsection (j) of section
16 103A (relating to other requirements) is amended by adding
17 at the end thereof the following new paragraph:

18 “(4) POLICY STATEMENT.—

19 “(A) IN GENERAL.—An issue meets the re-
20 quirements of this subsection only if the applicable
21 elected representative of the governmental unit—

22 “(i) which is the issuer, or

23 “(ii) on whose behalf such issue was
24 issued,

1 has published (after a public hearing following
2 reasonable public notice) a report described in
3 subparagraph (B) by December 31 of the calendar
4 year preceding the calendar year in which such
5 issue is issued and a copy of such report has been
6 submitted to the Secretary prior to such date.

7 “(B) REPORT.—The report referred to in
8 subparagraph (A) which is published by the appli-
9 cable elected representative of the governmental
10 unit shall include—

11 “(i) a statement of the housing, develop-
12 ment, and income distribution policies which
13 such governmental unit is to follow in issuing
14 mortgage subsidy bonds and mortgage credit
15 certificates, and

16 “(ii) an assessment of the compliance of
17 such governmental unit during the preceding
18 1-year period with—

19 “(I) the statement of policy on
20 mortgage subsidy bonds and mortgage
21 credit certificates that was set forth in
22 the previous report, if any, of an appli-
23 cable elected representative of such
24 governmental unit, and

1 “(II) the intent of Congress that
2 State and local governments are expect-
3 ed to use their authority to issue quali-
4 fied mortgage bonds and mortgage
5 credit certificates to the greatest extent
6 feasible (taking into account prevailing
7 interest rates and conditions in the
8 housing market) to assist lower income
9 families to afford home ownership
10 before assisting higher income fami-
11 lies.”.

12 (d) DEFINITIONS.—

13 (1) IN GENERAL.—Subsection (l) of section 103A
14 (relating to definitions) is amended by adding at the
15 end thereof the following new paragraphs:

16 “(11) MORTGAGE CREDIT CERTIFICATES.—The
17 term ‘mortgage credit certificate’ has the meaning
18 given to such term by section 44K.

19 “(12) APPLICABLE ELECTED REPRESENTA-
20 TIVE.—The term ‘applicable elected representative’
21 has the meaning given to such term by section
22 103(k)(2)(E).”.

23 (2) STATISTICAL AREA.—

1 (A) IN GENERAL.—Paragraph (4) of section
2 103A(l) (relating to statistical areas) is amended
3 to read as follows:

4 “(4) STATISTICAL AREA.—

5 “(A) IN GENERAL.—The term ‘statistical
6 area’ means—

7 “(i) a standard metropolitan statistical
8 area, and

9 “(ii) any county (or the portion thereof)
10 which is not within a standard metropolitan
11 statistical area.

12 “(B) STANDARD METROPOLITAN STATISTI-
13 CAL AREA.—The term ‘standard metropolitan
14 statistical area’ means the area in and around a
15 city of 50,000 inhabitants or more (or equivalent
16 area) as defined by the Secretary of Commerce.

17 “(C) DESIGNATION WHERE ADEQUATE STA-
18 TISTICAL INFORMATION NOT AVAILABLE.—For
19 purposes of this paragraph, if there is insufficient
20 recent statistical information with respect to a
21 county (or portion thereof) described in subpara-
22 graph (A)(ii), the Secretary may substitute for
23 such county (or portion thereof) another area for
24 which there is sufficient recent statistical informa-
25 tion.

1 “(D) DESIGNATION WHERE NO COUNTY.—

2 In the case of any portion of a State which is not
3 within a county, subparagraphs (A)(ii) and (C)
4 shall be applied by substituting for ‘county’ an
5 area designated by the Secretary which is the
6 equivalent of a county.”.

7 (B) SPECIAL RULES FOR DETERMINATION
8 OF STATISTICAL AREA.—For purposes of apply-
9 ing section 103A of the Internal Revenue Code of
10 1954 and any other provision of Federal law—

11 (i) RESCISSION.—The Director of the
12 Office of Management and Budget shall re-
13 scind the designation of the Kansas City,
14 Missouri primary metropolitan statistical area
15 (KCMO PMSA) and the designation of the
16 Kansas City, Kansas primary metropolitan
17 statistical area (Kansas City, KS PMSA),
18 and shall not take any action to designate
19 such two primary metropolitan statistical
20 areas as a consolidated metropolitan statisti-
21 cal area.

22 (ii) DESIGNATION.—The Director of the
23 Office of Management and Budget shall des-
24 ignate a single metropolitan statistical area
25 which includes the following:

1 (I) Kansas City, Kansas.

2 (II) Kansas City, Missouri.

3 (III) The counties of Johnson, Wy-
4 andotte, Leavenworth, and Miami in
5 Kansas.

6 (IV) The counties of Cass, Clay,
7 Jackson, Platte, Ray, and Lafayette in
8 Missouri.

9 The metropolitan statistical area designation pur-
10 suant to this subsection shall be known as the
11 "Kansas City Missouri-Kansas Metropolitan Sta-
12 tistical Area".

13 (e) EFFECTIVE DATES; ANNUAL REPORT.—

14 (1) IN GENERAL.—Except as otherwise provided
15 in this subsection, the amendments made by this sec-
16 tion shall apply with respect to obligations issued after
17 the date of enactment of this Act.

18 (2) POLICY STATEMENTS.—The amendment
19 made by subsection (c) shall apply with respect to
20 issues that are issued after December 31, 1984.

21 (3) TRANSITIONAL RULE WHERE STATE FORMU-
22 LA FOR ALLOCATING STATE CEILING EXPIRES.—

23 (A) IN GENERAL.—If a State law which pro-
24 vided a formula for allocating the State ceiling
25 under section 103A(g) of the Internal Revenue

1 Code of 1954 for calendar year 1983 expires as of
2 the close of calendar year 1983, for purposes of
3 section 103A(g) of such Code, such State law
4 shall be treated as remaining in effect after 1983.

5 In any case to which the preceding sentence ap-
6 plies, where the State's expiring allocation formu-
7 la requires action by a State official to allocate
8 the State ceiling among issuers, actions of such
9 State official in allocating such ceiling shall be ef-
10 fective.

11 (B) TERMINATION.—Subparagraph (A) shall
12 not apply on or after the effective date of any
13 State legislation enacted after the date of the en-
14 actment of this Act with respect to the allocation
15 of the State ceiling.

16 (3) ANNUAL REPORT TO CONGRESS.—The Secre-
17 tary of the Treasury, in consultation with the Secre-
18 tary of Housing and Urban Development, shall submit
19 an annual report to the Committee on Finance of the
20 Senate and the Committee on Ways and Means of the
21 House of Representatives regarding the performance of
22 issuers of qualified mortgage bonds and mortgage
23 credit certificates relative to the intent of Congress de-
24 scribed in section 103A(j) of the Internal Revenue
25 Code of 1954.

1 **SEC. 702. CREDIT FOR INTEREST ON MORTGAGES WHERE**
2 **STATE OR LOCAL AUTHORITIES ELECT NOT TO**
3 **ISSUE QUALIFIED MORTGAGE BONDS.**

4 (a) **ALLOWANCE OF CREDIT.**—Subpart A of part IV of
5 subchapter A of chapter 1 of the Internal Revenue Code of
6 1954 (relating to credits allowable against tax) is amended by
7 inserting after section 44J the following new section:

8 **“SEC. 44K. CREDIT FOR INTEREST ON CERTAIN HOME MORT-**
9 **GAGES.**

10 **“(a) ALLOWANCE OF CREDIT.**—

11 **“(1) IN GENERAL.**—In the case of any taxpayer
12 who is issued a mortgage credit certificate with respect
13 to his principal residence, there shall be allowed as a
14 credit against the tax imposed by this chapter for the
15 taxable year an amount equal to the applicable per-
16 centage of the interest paid or accrued during the por-
17 tion of such taxable year for which such certificate is
18 in effect on the certified mortgage indebtedness speci-
19 fied on such certificate.

20 **“(2) DETERMINATION OF APPLICABLE PERCENT-**
21 **AGE.**—For purposes of this section—

22 **“(A) IN GENERAL.**—Subject to the provi-
23 sions of subparagraph (B), each issuing authority
24 shall specify the applicable percentage with re-
25 spect to each mortgage credit certificate. Such

1 percentage shall not be less than 10 percent nor
2 greater than 50 percent.

3 “(B) AGGREGATE LIMIT ON APPLICABLE
4 PERCENTAGES.—In the case of any mortgage
5 credit certificate program, the sum of the products
6 determined by multiplying—

7 “(i) the amount of certified mortgage in-
8 debtedness specified on each mortgage credit
9 certificate issued under such program with
10 respect to any calendar year, by

11 “(ii) the applicable percentage with re-
12 spect to such certificate,

13 shall not exceed 20 percent of the nonissued bond
14 amount of such program for such calendar year.

15 “(b) LIMITATIONS.—

16 “(1) INCOME LIMITATION.—The amount of the
17 credit allowable under subsection (a) for any taxable
18 year shall not exceed 1/4 of the excess of—

19 “(A) the maximum income limit of the tax-
20 payer for the taxable year, over

21 “(B) the adjusted gross income of the tax-
22 payer for the taxable year.

23 “(2) MAXIMUM INCOME LIMIT.—

1 “(A) IN GENERAL.—For purposes of this
2 subsection, the term ‘maximum income limit’
3 means 100 percent of the greater of—

4 “(i) the median income for a family of 4
5 for the area in which the taxpayer resides (as
6 determined on the basis of the data most re-
7 cently published by the Secretary of Housing
8 and Urban Development as of the date of is-
9 suance of the mortgage credit certificate), or

10 “(ii) \$20,000.

11 “(B) UNMARRIED TAXPAYERS WITH NO DE-
12 PENDENTS.—In the case of a taxpayer who—

13 “(i) is not married, and

14 “(ii) has no dependents for the taxable
15 year,

16 subparagraph (A) shall be applied by substituting
17 ‘80 percent’ for ‘100 percent’.

18 “(C) TAXPAYER WITH MORE THAN 3 PER-
19 SONAL EXEMPTIONS.—If the aggregate number
20 of exemptions allowed the taxpayer and the
21 spouse of the taxpayer under section 151 for the
22 taxable year exceeds 3, subparagraph (A) shall be
23 applied by substituting ‘120 percent’ for ‘100 per-
24 cent’.

1 “(D) ADJUSTABLE RATE MORTGAGES.—

2 The Secretary may prescribe regulations which
3 provide that, in the case of a mortgage credit cer-
4 tificate issued with respect to indebtedness on
5 which an adjustable rate of interest that may vary
6 by more than 30 percent is payable, subparagraph
7 (A) shall be applied—

8 “(i) without regard to subparagraph (B)
9 or (C),

10 “(ii) by substituting ‘120 percent’ for
11 ‘100 percent’ if the taxpayer is not described
12 in subparagraph (B) or (C), and

13 “(iii) by substituting ‘140 percent’ for
14 ‘100 percent’ if the taxpayer is described in
15 subparagraph (C).

16 “(3) MARRIED INDIVIDUAL REQUIRED TO FILE
17 JOINT RETURN.—No credit shall be allowed under
18 subsection (a) to any taxpayer who is married and does
19 not make a joint return with the spouse of such tax-
20 payer for the taxable year.

21 “(4) RELATED PARTIES.—No credit shall be al-
22 lowed under subsection (a) for any interest paid or ac-
23 crued to any person who is related to the taxpayer.

24 “(5) LIMITATION BASED ON AMOUNT OF TAX.—
25 The credit allowed by subsection (a) for any taxable

1 year shall not exceed the amount of the tax imposed by ,
2 this chapter for the taxable year reduced by the sum of
3 the credits allowable for the taxable year under a sec-
4 tion of this part having a lower number or letter desig-
5 nation than this section, other than the credits allow-
6 able by sections 31, 39, and 43.

7 “(c) MORTGAGE CREDIT CERTIFICATE.—For purposes
8 of this section—

9 “(1) IN GENERAL.—The term ‘mortgage credit
10 certificate’ means any certificate which—

11 “(A) is issued by a State (or any agency or
12 instrumentality thereof) or a political subdivision
13 of a State (or any agency or instrumentality
14 thereof) under a mortgage credit certificate pro-
15 gram,

16 “(B) is issued to a taxpayer in connection
17 with the acquisition, qualified rehabilitation, or
18 qualified home improvement of the taxpayer’s
19 principal residence,

20 “(C) is issued to only 1 individual or is
21 issued jointly to 2 individuals who are married,

22 “(D) is issued to a taxpayer—

23 “(i) only after the requirements of para-
24 graph (4) have been met,

1 “(ii) in the case of a certificate issued in
2 connection with the acquisition of a resi-
3 dence, only after the requirements of para-
4 graphs (1), (2), and (3) of subsection (d) have
5 been met with respect to such residence,

6 “(iii) in the case of a certificate issued
7 in connection with the qualified rehabilitation
8 of a residence, only after the requirements of
9 paragraphs (1), (3), and (4) of subsection (d)
10 have been met with respect to such resi-
11 dence, and

12 “(iv) in the case of a certificate issued
13 in connection with the qualified home im-
14 provement of a residence, only after the re-
15 quirements of paragraphs (1) and (4) of sub-
16 section (d) have been met with respect to
17 such residence,

18 “(E) specifies—

19 “(i) the applicable percentage deter-
20 mined under subsection (a)(2), and

21 “(ii) the certified mortgage indebted-
22 ness, and

23 “(F) is in such form as the Secretary may
24 prescribe.

25 “(2) EXCEPTIONS.—

1 “(A) IN GENERAL.—A certificate shall not
2 be treated as a mortgage credit certificate if—

3 “(i) any portion of the financing of the
4 acquisition, qualified rehabilitation, or quali-
5 fied home improvement for which such certif-
6 icate is issued is provided from the proceeds
7 of any qualified mortgage bond or qualified
8 veterans’ mortgage bond,

9 “(ii) such certificate and any mortgage
10 credit certificate issued prior to the issuance
11 of such certificate would be in effect with re-
12 spect to the same residence at the same
13 time, or

14 “(iii) the mortgage credit certificate pro-
15 gram under which the certificate is issued re-
16 quires the taxpayer to obtain financing of
17 such acquisition, qualified rehabilitation, or
18 qualified home improvement from any partic-
19 ular lender.

20 “(3) PERIOD FOR WHICH CERTIFICATE IS IN
21 EFFECT.—A mortgage credit certificate shall be treat-
22 ed as in effect during the period—

23 “(A) beginning on the date such certificate is
24 issued, and

1 “(B) ending on the date on which the resi-
2 dence to which such certificate relates ceases to
3 be the principal residence of the individual to
4 whom the certificate was issued.

5 “(4) PUBLIC NOTICE REQUIREMENT.—The re-
6 quirements of this paragraph are met if, at least 90
7 days before any mortgage credit certificate is to be
8 issued under a mortgage credit certificate program, the
9 administrator of the program provides reasonable
10 public notice of—

11 “(A) the eligibility requirements for such cer-
12 tificate,

13 “(B) the methods by which such certificates
14 are to be issued, and

15 “(C) such other information as the Secretary
16 may require.

17 “(d) CERTIFICATION REQUIREMENTS.—

18 “(1) SINGLE FAMILY RESIDENCE REQUIRE-
19 MENT.—

20 “(A) IN GENERAL.—The requirements of
21 this paragraph are met with respect to a residence
22 if each lender who provides financing of the acqui-
23 sition, qualified rehabilitation, or qualified home
24 improvement of such residence submits to the ad-

1 administrator of the mortgage credit certificate pro-
2 gram a verified written statement—

3 “(i) in which such lender certifies
4 that—

5 “(I) such residence is a single-
6 family residence (within the meaning of
7 section 103A(l)(9)), and

8 “(II) on the basis of information
9 available to the lender at the time such
10 statement is submitted to such adminis-
11 trator, the lender expects such residence
12 to be the principal residence of the tax-
13 payer within a reasonable period of
14 time, and

15 “(ii) to which the lender attaches the in-
16 formation that the taxpayer and the spouse
17 of the taxpayer are required to submit to the
18 lender under subparagraph (B).

19 “(B) INFORMATION PROVIDED BY TAXPAY-
20 ER.—The information which the taxpayer and the
21 spouse of the taxpayer are required under this
22 subparagraph to submit to any lender who fi-
23 nances the acquisition, qualified rehabilitation, or
24 qualified home improvement of a residence of the
25 taxpayer consists of a verified written statement

1 in which the taxpayer and the spouse of the tax-
2 payer certify that such taxpayer and the spouse of
3 such taxpayer expect such residence to be (or con-
4 tinue to be) the principal residence of the taxpayer
5 within (or for) a reasonable period of time.

6 “(2) NO HOME OWNERSHIP DURING 3 PRECED-
7 ING TAXABLE YEARS.—

8 “(A) IN GENERAL.—The requirements of
9 this paragraph are met with respect to any resi-
10 dence if each lender who finances the taxpayer’s
11 acquisition of such residence submits to the ad-
12 ministrator of the mortgage credit certificate pro-
13 gram a verified written statement—

14 “(i) in which the lender certifies that,
15 on the basis of information available to the
16 lender at the time such statement is submit-
17 ted—

18 “(I) neither the taxpayer nor the
19 spouse of the taxpayer has a present
20 ownership interest in any other resi-
21 dence,

22 “(II) neither the taxpayer nor the
23 spouse of the taxpayer has claimed (or
24 intends to claim) a deduction for quali-
25 fied housing interest (within the mean-

1 ing of section 55(e)(4)) for any of the 3
2 taxable years preceding the taxable
3 year in which such statement is submit-
4 ted, and

5 “(III) the financing provided by
6 the lender is not to be used by the tax-
7 payer to acquire or replace an existing
8 mortgage on such residence, and

9 “(ii) to which the lender attaches the in-
10 formation that is required to be submitted by
11 the taxpayer and the spouse of the taxpayer
12 under subparagraph (B).

13 “(B) INFORMATION PROVIDED BY TAXPAY-
14 ER.—The information which the taxpayer and the
15 spouse of the taxpayer are required under this
16 subparagraph to submit to any lender who fi-
17 nances the taxpayer’s acquisition of a residence
18 consists of—

19 “(i) a verified written statement in
20 which the taxpayer and the spouse of the
21 taxpayer certify that—

22 “(I) neither has an interest in any
23 other residence, and

24 “(II) neither has claimed (or in-
25 tends to claim) a deduction for qualified

1 housing interest (within the meaning of
2 section 55(e)(4)) for any of the 3 tax-
3 able years preceding the taxable year in
4 which such statement is submitted to
5 the lender, and

6 “(ii) copies of those returns of the taxes
7 imposed by this chapter for such 3 taxable
8 years that have been filed with the Secretary
9 prior to the date such statement is submitted
10 to the lender.

11 “(3) PURCHASE PRICE REQUIREMENT.—The re-
12 quirements of this paragraph are met with respect to
13 any residence, if each lender who finances the acquisi-
14 tion cost of such residence submits to the administrator
15 of the mortgage credit certificate program a verified
16 written statement in which such lender certifies that
17 the acquisition price of such residence does not exceed
18 90 percent of the average area purchase price applica-
19 ble to such residence.

20 “(4) QUALIFIED HOME IMPROVEMENT; QUALI-
21 FIED REHABILITATION.—The requirements of this
22 paragraph are met with respect to any residence if any
23 lender submits to the administrator of the mortgage
24 credit certificate program a verified written statement

1 in which such lender certifies that the financing pro-
2 vided by such lender to the taxpayer—

3 “(A) in the case of a qualified home improve-
4 ment—

5 “(i) is to be used for the qualified home
6 improvement of such residence, and

7 “(ii) is not to be used to acquire or re-
8 place an existing mortgage on such resi-
9 dence, or

10 “(B) in the case of a qualified rehabilitation,
11 is to be used for the qualified rehabilitation of
12 such residence.

13 “(5) CERTAIN REFINANCING EXCEPTIONS.—The
14 statement required under paragraph (2)(A) or (4) need
15 not include the certification described in paragraph
16 (2)(A)(i)(III) or (4)(A)(ii) if—

17 “(A) the lender is providing financing for the
18 replacement of—

19 “(i) construction period loans,

20 “(ii) bridge loans or similar temporary
21 initial financing, or

22 “(iii) in the case of a qualified rehabili-
23 tation, an existing mortgage, or

24 “(B) such statement is submitted for pur-
25 poses of reissuing a mortgage credit certificate

1 which is reissued in accordance with the regula-
2 tions prescribed under subparagraph (C).

3 “(C) REISSUANCE OF MORTGAGE CREDIT
4 CERTIFICATES.—The Secretary may prescribe
5 regulations which allow the administrator of a
6 mortgage credit certificate program to reissue a
7 mortgage credit certificate specifying a certified
8 mortgage indebtedness that replaces the outstand-
9 ing balance of the certified mortgage indebtedness
10 specified on the original certificate to any taxpay-
11 er to whom the original certificate was issued
12 under such terms and conditions as the Secretary
13 determines are necessary to ensure that the
14 amount of the credit allowable under subsection
15 (a) with respect to such reissued certificate is less
16 than the amount of credit which would be allow-
17 able under subsection (a) with respect to the origi-
18 nal certificate for any taxable year ending after
19 such reissuance.

20 “(6) PERJURY PENALTIES.—Any verified written
21 statement required under this subsection shall be made
22 under penalties of perjury and shall contain a declara-
23 tion that the statement is so made.

24 “(e) NONISSUED BOND AMOUNT.—For purposes of this
25 section—

1 “(1) IN GENERAL.—Except as otherwise provided
2 in this subsection, the term ‘nonissued bond amount’
3 means, with respect to any mortgage credit certificate
4 program for any calendar year, the face amount of
5 qualified mortgage bonds which the issuing authority
6 that established or authorized such program elects
7 under this paragraph to not issue during such calendar
8 year for the benefit of such program.

9 “(2) LIMITATION.—The nonissued bond amount
10 of a mortgage credit certificate program for any calen-
11 dar year shall not exceed an amount equal to the
12 excess of—

13 “(A) the applicable limit for such calendar
14 year of the issuing authority that established or
15 authorized such program, over

16 “(B) the sum of—

17 “(i) the aggregate face amount of quali-
18 fied mortgage bonds that such issuing au-
19 thority elects under paragraph (1) to not
20 issue for the benefit of any other mortgage
21 credit certificate program of such issuing au-
22 thority for such calendar year, plus

23 “(ii) the face amount of qualified mort-
24 gage bonds that such issuing authority elects

1 under paragraph (3) not to issue for such cal-
2 endar year.

3 “(3) RELINQUISHMENT OF A PERCENTAGE OF
4 THE SURPLUS STATE CEILING.—

5 “(A) IN GENERAL.—The nonissued bond
6 amount of each mortgage credit certificate pro-
7 gram in any State described in subparagraph (B)
8 shall be zero for the calendar year unless one or
9 more issuing authorities in such State elect under
10 this paragraph to not issue during such calendar
11 year bonds that would otherwise be qualified
12 mortgage bonds in an aggregate face amount
13 which equals or exceeds the product of—

14 “(i) the State ceiling for such calendar
15 year, multiplied by

16 “(ii) the amount determined under para-
17 graph (4) for such calendar year.

18 “(B) STATES TO WHICH THIS PARAGRAPH
19 APPLIES.—A State is described in this subpara-
20 graph if the aggregate face amount of qualified
21 mortgage bonds issued by issuing authorities in
22 such State during calendar year 1983 was less
23 than the State ceiling for calendar year 1983.

1 “(4) AMOUNT USED IN DETERMINING ELECTION
2 UNDER PARAGRAPH (3).—The amount determined
3 under this paragraph is—

4 “(A) for calendar year 1984, 75 percent of
5 the amount determined by dividing—

6 “(i) the excess of—

7 “(I) the State ceiling for calendar
8 year 1983, over

9 “(II) the aggregate face amount of
10 qualified mortgage bonds issued by au-
11 thorities in the State during 1983, by

12 “(ii) the State ceiling for 1983, and

13 “(B) for any calendar year beginning after
14 1984, 75 percent of the amount determined under
15 this paragraph for the preceding calendar year.

16 “(5) ELECTIONS.—Any election made under
17 paragraph (1) or (3) shall be made in such form and in
18 such manner as the Secretary may prescribe by regula-
19 tions.

20 “(f) DEFINITIONS.—For purposes of this section—

21 “(1) CERTIFIED MORTGAGE INDEBTEDNESS.—
22 The term ‘certified mortgage indebtedness’ means, with
23 respect to any mortgage credit certificate issued to the
24 taxpayer, the aggregate amount of indebtedness in-
25 curred in connection with—

1 “(A) the acquisition,
2 “(B) the qualified rehabilitation, or
3 “(C) the qualified home improvement,
4 for which such certificate is issued.

5 “(2) MORTGAGE CREDIT CERTIFICATE PRO-
6 GRAM.—

7 “(A) IN GENERAL.—The term ‘mortgage
8 credit certificate program’ means any program
9 which is established or authorized to issue mort-
10 gage credit certificates by a State (or any agency
11 or instrumentality thereof) or a political subdivi-
12 sion of a State (or any agency or instrumentality
13 thereof) for any calendar year for which it is au-
14 thorized to issue qualified mortgage bonds.

15 “(B) AUTHORITY MAY HAVE MORE THAN 1
16 PROGRAM.—Each issuing authority may establish
17 more than 1 qualified mortgage credit certificate
18 program for any calendar year.

19 “(3) PRINCIPAL RESIDENCE.—The term ‘princi-
20 pal residence’ has the meaning given such term by sec-
21 tion 1034.

22 “(4) QUALIFIED REHABILITATION.—The term
23 ‘qualified rehabilitation’ has the meaning given such
24 term by section 103A(l)(7)(B).

1 “(5) QUALIFIED HOME IMPROVEMENT.—The
2 term ‘qualified home improvement’ means an alter-
3 ation, repair, or improvement described in section
4 103A(l)(6).

5 “(6) ACQUISITION COST.—

6 “(A) IN GENERAL.—The term ‘acquisition
7 cost’ has the meaning given to such term by sec-
8 tion 103A(l)(5).

9 “(B) REHABILITATION LOAN.—In the case
10 of a qualified rehabilitation loan described in sec-
11 tion 103A(l)(7)(A)(i), the term ‘acquisition cost’
12 includes the cost of the rehabilitation.

13 “(7) AVERAGE AREA PURCHASE PRICE.—The
14 term ‘average area purchase price’ has the meaning
15 given to such term by section 103A(f).

16 “(8) STATE CEILING.—The term ‘State ceiling’
17 has the meaning given to such term by section
18 103A(g)(4).

19 “(9) APPLICABLE LIMIT.—The term ‘applicable
20 limit’ has the meaning given to such term by section
21 103A(g), except that section 103A(g)(8) shall not
22 apply.

23 “(10) RELATED PARTY.—A person is related to
24 another person if the relationship between such persons
25 would result in a disallowance of losses under section

1 267 or 707(b). In applying section 267 for purposes of
2 the preceding sentence, any individual described in
3 paragraphs (1) through (8) of section 152(a) shall be
4 included as members of the family of the taxpayer.

5 “(11) MARITAL STATUS.—Section 143 shall
6 apply in determining whether an individual is married.

7 “(g) REGULATIONS; CONTRACTS.—

8 “(1) REGULATIONS.—The Secretary shall pre-
9 scribe such regulations as may be necessary to carry
10 out the purposes of this section, including regulations
11 which may require recipients of mortgage credit certifi-
12 cates to pay a reasonable processing fee to defray the
13 expenses incurred in administering the program.

14 “(2) CONTRACTS.—The Secretary is authorized
15 to enter into contracts with any person to provide serv-
16 ices in connection with the administration of this sec-
17 tion.

18 (b) APPLICATION WITH SECTION 103A.—Subsection
19 (g) of section 103A of the Internal Revenue Code of 1954
20 (relating to limitation on aggregate amount of qualified mort-
21 gage bonds issued during any calendar year) is amended by
22 adding at the end thereof the following new paragraphs:

23 “(8) REDUCTIONS FOR MORTGAGE CREDIT CER-
24 TIFICATES.—The applicable limit of any issuing au-
25 thority for any calendar year shall be reduced—

1 “(A) by the amount of qualified mortgage
2 bonds which such authority elects not to issue
3 under section 44K(e)(1), and

4 “(B) by the amount of qualified mortgage
5 bonds which such authority elects not to issue
6 under section 44K(e)(3).”.

7 (c) **DISALLOWANCE OF PORTION OF DEDUCTION FOR**
8 **INTEREST IF CREDIT TAKEN.**—Section 163 of the Internal
9 Revenue Code of 1954 (relating to deduction for interest) is
10 amended by adding at the end thereof the following new sub-
11 section:

12 “(e) **REDUCTION OF DEDUCTION WHERE SECTION**
13 **44K CREDIT TAKEN.**—The amount of the deduction under
14 this section for interest paid or accrued during any taxable
15 year on indebtedness with respect to which a mortgage credit
16 certificate has been issued under section 44K shall be re-
17 duced by the amount of the credit allowed with respect to
18 such interest under section 44K.”.

19 (d) **CIVIL PENALTY FOR MISSTATEMENT.**—Subchapter
20 B of chapter 68 (relating to assessable penalties) is amended
21 by adding at the end thereof the following new section:

22 **“SEC. 6706. MISSTATEMENTS MADE WITH RESPECT TO MORT-**
23 **GAGE CREDIT CERTIFICATES.**

24 “(a) **NEGLIGENCE.**—IF—

1 “(1) any person makes a misstatement in any
2 verified written statement made under penalties of per-
3 jury with respect to the issuance of a mortgage credit
4 certificate, and

5 “(2) such misstatement is due to the negligence of
6 such person,

7 such person shall pay a penalty of \$1,000 for each mortgage
8 credit certificate with respect to which such a misstatement
9 was made.

10 “(b) FRAUD.—If a misstatement described in subsection
11 (a)(1) is due to fraud on the part of the person making such
12 misstatement, in addition to any criminal penalty, such
13 person shall pay a penalty of \$10,000 for each mortgage
14 credit certificate with respect to which such a misstatement is
15 made.

16 “(c) MORTGAGE CREDIT CERTIFICATE.—The term
17 ‘mortgage credit certificate’ has the meaning given to such
18 term by section 44K(c).”.

19 (e) CONFORMING AMENDMENTS.—

20 (1) The table of sections for subpart A of part IV
21 of subchapter A of chapter 1 is amended by inserting
22 after the item relating to section 44J the following
23 new item:

 “Sec. 44K. Credit for interest on certain home mortgages.”.

1 (2) The table of sections for subchapter B of chap-
 2 ter 68 is amended by adding at the end thereof the fol-
 3 lowing new item:

"Sec. 6706. Misstatements made with respect to mortgage credit
 certificates."

4 (f) EFFECTIVE DATE.—

5 (1) IN GENERAL.—The amendments made by this
 6 section shall take effect on the date of enactment of
 7 this Act.

8 (2) ISSUANCE OF CERTIFICATES.—Mortgage
 9 credit certificates with respect to nonissued bond
 10 amounts for 1984 may not be issued before January 1,
 11 1985.

12 **SEC. 703. ADVANCED REFUNDING OF CERTAIN MORTGAGE**
 13 **BONDS PERMITTED.**

14 (a) IN GENERAL.—Notwithstanding section 103A(n) of
 15 the Internal Revenue Code of 1954, an issuer of applicable
 16 mortgage bonds may issue advance refunding bonds with re-
 17 spect to such applicable mortgage bonds.

18 (b) LIMITATION ON AMOUNT OF ADVANCED REFUND-
 19 ING.—

20 (1) IN GENERAL.—The amount of advanced re-
 21 funding bonds which may be issued under subsection
 22 (a) shall not exceed the lesser of—

23 (A) \$300,000,000, or

24 (B) excess of—

1 (i) the projected aggregate payments of prin-
 2 cipal on the applicable mortgage bonds during the
 3 15-fiscal year period beginning with fiscal year
 4 1984, over

5 (ii) the projected aggregate payments during
 6 such period of principal on mortgages financed by
 7 the applicable mortgage bonds.

8 (2) ASSUMPTIONS USED IN MAKING PROJEC-
 9 TION.—The computation under paragraph (1)(B) shall
 10 be made by using the following percentages of the pre-
 11 payment experience of the Federal Housing Adminis-
 12 tration in the State or region in which the issuer of the
 13 advance refunding bonds is located:

Fiscal Year:	Percentage:
1984.....	15
1985.....	20
1986.....	25
1987 and thereafter.....	30.

14 (c) DEFINITIONS.—For purposes of this section.—

15 (1) APPLICABLE MORTGAGE BONDS.—The term
 16 “applicable mortgage bonds” means any qualified vet-
 17 erans mortgage bonds issued as part of an issue—

18 (A) which was outstanding on December 5,
 19 1980,

20 (B) with respect to which the excess deter-
 21 mined under subsection (b)(1) exceeds 12 percent
 22 of aggregate principal amount of such bonds out-
 23 standing on July 1, 1983,

1 (C) with respect to which the amount of the
2 average annual prepayments during fiscal year
3 1981, 1982, and 1983 was less than 2 percent of
4 the average of the loan balances as of the begin-
5 ning of each of such fiscal years, and

6 (D) which, for fiscal year 1983, had a pre-
7 payment experience rate that did not exceed 20
8 percent of the prepayment experience rate of the
9 Federal Housing Administration in the State or
10 region in which the issuer is located.

11 (?) QUALIFIED VETERANS MORTGAGE BONDS.—

12 The term “qualified veterans mortgage bonds” has the
13 meaning given to such term by section 103A(c)(3) of
14 the Internal Revenue Code of 1954.

15 **SEC. 704. ELIMINATION OF CERTAIN EXCEPTIONS TO THE AP-**
16 **PLICATION OF THE MORTGAGE SUBSIDY BOND**
17 **TAX ACT OF 1980.**

18 Section 1104 of the Mortgage Subsidy Bond Tax Act of
19 1980 is amended by adding at the end thereof the following
20 new subsections:

21 “(p) **MOST EXCEPTIONS NOT TO APPLY TO BONDS**
22 **ISSUED AFTER DECEMBER 31, 1984.**—In addition to any
23 obligations to which the amendments made by section 1102
24 apply by reason of the provisions of this section, the amend-
25 ments made by section 1102 shall apply, notwithstanding any

1 other provision of this section (other than subsection (n)), to
2 obligations issued after December 31, 1984, all or a major
3 portion of the proceeds of which are used to finance new
4 mortgages on single-family residences that are owner occu-
5 pied.

6 “(q) REDUCTION OF STATE CEILING BY AMOUNT OF
7 SPECIAL MORTGAGE BONDS ISSUED BEFORE 1985.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of this section (other than subsections (n) and
10 (r)), for purposes of applying section 103A(g) of the In-
11 ternal Revenue Code of 1954 for calendar year 1984
12 and each succeeding calendar year, the State ceiling
13 shall be reduced by any portion of the mortgage bond
14 carryover amount of such State which was not taken
15 into account under this paragraph for any calendar
16 year preceding such calendar year.

17 “(2) LIMITATION ON CARRYOVERS.—The portion
18 of the mortgage bond carryover amount which may be
19 taken into account under paragraph (1) for any calen-
20 dar year beginning after December 31, 1983, shall not
21 exceed the State ceiling for such calendar year.

22 “(3) DEFINITIONS.—For purposes of this subsec-
23 tion—

24 “(A) MORTGAGE BOND CARRYOVER
25 AMOUNT.—The term ‘mortgage bond carryover

1 amount' means, with respect to any State, the ag-
2 gregate face amount of obligations—

3 “(i) all or a major portion of the pro-
4 ceeds of which are used to finance new mort-
5 gages on single-family residences that are
6 owner occupied,

7 “(ii) which were issued by issuing au-
8 thorities in such State after April 21, 1984,
9 and before January 1, 1985, and

10 “(iii) to which the amendments made by
11 section 1102 do not apply by reason of any
12 provision of this section other than subsec-
13 tion (n).

14 “(B) STATE CEILING.—The term ‘State ceil-
15 ing’ has the meaning given to such term by sec-
16 tion 103A(g)(4) of the Internal Revenue Code of
17 1954.

18 “(C) QUALIFIED MORTGAGE BONDS.—The
19 term ‘qualified mortgage bond’ has the meaning
20 given to such term by section 103A(c) of the In-
21 ternal Revenue Code of 1954.

22 “(r) EXCEPTIONS TO SUBSECTION (Q).—Subsection (q)
23 shall not apply with respect to obligations—

1 “(1) the proceeds of which are used to finance the
2 River Place Project located in Minneapolis, Minnesota,
3 and

4 “(2) the aggregate face amount of which does not
5 exceed \$55,000,000.”.

6 **SUBTITLE B—PRIVATE ACTIVITY BONDS**

7 **SEC. 711. AGGREGATE LIMIT PER TAXPAYER FOR SMALL**
8 **ISSUE EXCEPTION.**

9 Subsection (b) of section 103 (relating to industrial de-
10 velopment bonds) is amended by adding at the end thereof
11 the following new paragraph:

12 **“(15) AGGREGATE LIMIT PER TAXPAYER FOR**
13 **SMALL ISSUE EXCEPTION.—**

14 **“(A) IN GENERAL.—**Paragraph (6) of this
15 subsection shall not apply to any issue if the sum
16 of—

17 **“(i) the aggregate authorized face**
18 **amount of such issue allocated to any benefi-**
19 **ciary under subparagraph (C), and**

20 **“(ii) the outstanding tax-exempt indus-**
21 **trial development bonds of such beneficiary,**
22 **exceeds \$40,000,000.**

23 **“(B) OUTSTANDING TAX-EXEMPT INDUS-**
24 **TRIAL DEVELOPMENT BONDS.—**For purposes of
25 applying subparagraph (A) with respect to any

1 issue, the outstanding tax-exempt industrial devel-
2 opment bonds of any person who is a beneficiary
3 of such issue is the aggregate face amount of all
4 industrial development bonds (other than any obli-
5 gation that is to be redeemed from the proceeds of
6 such issue)—

7 “(i) the interest on which is exempt
8 from tax under subsection (a),

9 “(ii) which are allocated to such benefi-
10 ciary under subparagraph (C), and

11 “(iii) which are outstanding at the time
12 of such later issue.

13 “(C) ALLOCATION OF FACE AMOUNT OF AN
14 ISSUE.—

15 “(i) IN GENERAL.—The portion of the
16 face amount of an issue allocated to any ben-
17 efiticiary of a facility financed by the proceeds
18 of such issue (other than the lessor of such
19 facility) is an amount which bears the same
20 relationship to the entire face amount of such
21 issue as the portion of such facility used by
22 such beneficiary bears to the entire facility.

23 “(ii) LESSORS.—The portion of the face
24 amount of an issue allocated to any person
25 who is a lessor of a facility financed by the

1 proceeds of such issue is an amount which
2 bears the same relationship to the entire face
3 amount of such issue as the portion of such
4 facility with respect to which such person is
5 the lessor bears to the entire facility.

6 “(iii) BENEFICIARIES USING LESS
7 THAN 5 PERCENT.—No portion of the face
8 amount of an issue shall be allocated to a
9 beneficiary who uses less than 5 percent of
10 the facilities financed by the proceeds of such
11 issue.

12 “(D) BENEFICIARY.—For purposes of this
13 paragraph, the term ‘beneficiary’ means any
14 person who is a user of the facilities being fi-
15 nanced by the issue.

16 “(E) TREATMENT OF RELATED PERSONS.—
17 For purposes of this paragraph, all persons who
18 are related (within the meaning of paragraph
19 (6)(C)) to each other shall be treated as one
20 person.”.

1 **SEC. 712. USE OF TAX-EXEMPT BONDS PROHIBITED FOR SKY-**
2 **BOXES, AIRPLANES, GAMBLING ESTABLISH-**
3 **MENTS, AND CERTAIN STORES.**

4 Subsection (b) of section 103 (relating to industrial de-
5 velopment bonds) is amended by adding at the end thereof
6 the following new paragraph:

7 “(16) NO PORTION OF BONDS MAY BE ISSUED
8 FOR SKYBOXES, AIRPLANES, GAMBLING ESTABLISH-
9 MENTS, OR CERTAIN STORES.—Paragraphs (4), (5),
10 (6), and (7) shall not apply to any obligation issued as
11 part of an issue if any portion of the proceeds of such
12 issue is to be used to provide any airplane, skybox, or
13 other private luxury box, any facility primarily used for
14 gambling, or any store the principal business of which
15 is the sale of alcoholic beverages for consumption off
16 the premises.”.

17 **SEC. 713. TAX EXEMPTION DENIED IF PROCEEDS OF ISSUE**
18 **ARE USED IN CONNECTION WITH DEPOSITS OR**
19 **DEBENTURES GUARANTEED BY FEDERAL GOV-**
20 **ERNMENT.**

21 Subsection (h) of section 103 (relating to certain obliga-
22 tions that must not be guaranteed or subsidized under an
23 energy program) is amended to read as follows:

24 “(h) ISSUES GUARANTEED UNDER CERTAIN ENERGY
25 PROGRAMS OR USED IN CONNECTION WITH FEDERALLY
26 GUARANTEED DEPOSITS OR DEBENTURES.—

1 “(1) IN GENERAL.—An obligation shall not be
2 treated as an obligation described in subsection (a) if—

3 “(A) such obligation is issued as part of an
4 issue and a significant portion of the proceeds of
5 such issue are to be—

6 “(i) used to finance a facility with re-
7 spect to which a guarantee has been made
8 • by the Administrator of the Small Business
9 Administration under section 404 of the
10 Small Business Investment Act of 1958, or

11 “(ii) invested (directly or indirectly) in
12 federally insured deposits or accounts,

13 “(B) any debenture guaranteed by the Ad-
14 ministrator of the Small Business Administration
15 under section 503 of the Small Business Invest-
16 ment Act of 1958, or any loan made with the
17 proceeds of a debenture so guaranteed, is subor-
18 dinated to such obligation, or

19 “(C) such obligation is described in para-
20 graph (2).

21 “(2) OBLIGATIONS GUARANTEED OR SUBSIDIZED
22 UNDER AN ENERGY PROGRAM.—An obligation is de-
23 scribed in this paragraph if—

1 “(A) subsection (b)(1) does not apply to such
2 obligation by reason of subsection (b)(4)(H) or (g),
3 and

4 “(B) the payment of principal or interest
5 with respect to such obligation—

6 “(i) is guaranteed (in whole or in part)
7 by the United States under a program a
8 principal purpose of which is to encourage
9 the production or conservation of energy, or

10 “(ii) is to be made (in whole or in part)
11 with funds provided under such a program of
12 the United States, a State, or a political sub-
13 division of a State.

14 “(3) EXCEPTIONS.—

15 “(A) DEBT SERVICE, TEMPORARY FINANC-
16 ING, AND CERTAIN RESERVES.—Any proceeds of
17 an issue which—

18 “(i) are invested for an initial temporary
19 period until such proceeds are needed for the
20 purpose for which such issue was issued,

21 “(ii) are used in making investments in
22 a bona fide debt service fund, or

23 “(iii) are used in making investments of
24 a reserve which meet the requirements of
25 subsection (c)(4)(B),

1 shall not be taken into account under paragraph
2 (1)(A)(ii).

3 “(B) REASONABLE GUARANTEE FEE.—

4 Paragraph (1) shall not apply to any obligation
5 described in subparagraph (A) (i) or (B) of para-
6 graph (1) if—

7 “(i) the Administrator of the Small
8 Business Administration charges a fee for
9 making the guarantee described in such sub-
10 paragraph, and

11 “(ii) the amount of such fee equals or
12 exceeds—

13 “(I) 1 percent of the amount guar-
14 anteed, or

15 “(II) such other amount as the
16 Secretary may prescribe by regulations.

17 “(4) FEDERALLY INSURED DEPOSIT OR AC-
18 COUNT.—For purposes of this section, the term ‘feder-
19 ally insured deposit or account’ means any deposit or
20 account in a financial institution to the extent such de-
21 posit or account is insured under Federal law by the
22 Federal Deposit Insurance Corporation, the Federal
23 Savings and Loan Insurance Corporation, the National
24 Credit Union Administration, or any similar federally
25 chartered corporation.”

1 SEC. 714. PRINCIPAL USERS OF CERTAIN SOLID WASTE DIS-
2 POSAL FACILITIES.

3 For purposes of applying subparagraphs (D) and (E) of
4 section 103(b)(6) of the Internal Revenue Code of 1954 with
5 respect to capital expenditures paid or incurred
6 after July 1, 1983, any person who—

7 (1) purchases steam from a solid waste disposal
8 facility which—

9 (A) is a qualified steam-generating facility
10 (within the meaning of section 103(g)(2) of such
11 Code),

12 (B) is financed by the proceeds of obligations
13 which—

14 (i) are described in section 103(b)(4)(E)
15 of such Code,

16 (ii) are part of an issue specifically au-
17 thorized—

18 (I) by an election held on April 26,
19 1983, or

20 (II) by State law enacted on May
21 19, 1983, and

22 (iii) are issued prior to the date that is 1
23 year after the date of enactment of this Act,

24 (C) on the date such obligations are issued, is
25 located in an area that is not a standard metro-

1 politan statistical area (within the meaning of sec-
2 tion 103A(l)(4)(B) of such Code), and

3 (D) is owned and operated by the issuer of
4 such obligations, and

5 (2) who is the only feasible user of such steam on
6 the date on which such obligations are issued,
7 shall not be treated as a principal user of such facility.

8 **SEC. 715. RESTRICTIONS ON COST RECOVERY FOR CERTAIN**
9 **PROPERTY FINANCED WITH TAX-EXEMPT**
10 **BONDS.**

11 Subparagraph (B) of section 168(f)(12) (relating to limi-
12 tations on property financed with tax-exempt bonds) is
~~13 amended to read as follows:~~

14 “(B) RECOVERY METHOD.—

15 “(i) IN GENERAL.—Except as provided
16 in clause (ii), the amount of the deduction al-
17 lowed with respect to property described in
18 subparagraph (A) shall be determined by
19 using the straight-line method (with a half-
20 year convention and without regard to sal-
21 vage value) and a recovery period deter-
22 mined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	4 years
5-year property	7 years
10-year property	13 years
15-year public utility property	20 years

1 “(ii) 20-YEAR REAL PROPERTY.—In
2 the case of 20-year real property, the
3 amount of the deduction allowed shall be de-
4 termined by using the straight-line method
5 (determined on the basis ~~of~~ the number of
6 months in the year in which such property
7 was in service and without regard to salvage
8 value) and a recovery period of—

9 “(I) 20 years in the case of 20-
10 year real property which is residential
11 rental property (within the meaning of
12 section 167(j)(2)(B)), and

13 “(II) 22 years in the case of any
14 other 20-year real property.”.

15 **SEC. 716. MISCELLANEOUS INDUSTRIAL DEVELOPMENT BOND**
16 **PROVISIONS.**

17 (a) **CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS**
18 **NOT CONTAINED IN INTERNAL REVENUE CODE OF**
19 **1954.—**

20 (1) **IN GENERAL.**—Paragraph (1) of section
21 103(m) (relating to obligations exempt other than under
22 this title) is amended by adding at the end thereof the
23 following new sentence: “An obligation shall not be

1 treated as described in this paragraph unless the appro-
2 priate requirements of subsections (b), (c), (h), (k), and
3 (l) of this section and section 103A are met with re-
4 spect to such obligation. For purposes of applying such
5 requirements, a possession of the United States shall
6 be treated as a State.”.

7 Notwithstanding any other provision of law (in-
8 cluding section 8(b)(1) of the Revised Organic Act of
9 1954 but not including this title), the Virgin Islands
10 and American Samoa shall have the authority to issue
11 industrial development bonds (within the meaning of
12 section 103(b)(2) of the Internal Revenue Code of
13 1954).

14 (b) AGGREGATION OF ISSUES FOR SINGLE
15 PROJECT.—Paragraph (6) of section 103(b) (relating to ex-
16 emption for small issues) is amended by adding at the end
17 thereof the following new subparagraph:

18 “(P) AGGREGATION OF ISSUES WITH RE-
19 SPECT TO SINGLE PROJECT.—For purposes of
20 this paragraph, 2 or more issues part or all of
21 which are to be used with respect to a single
22 building, an enclosed shopping mall, or a strip of
23 offices, stores, or warehouses, using substantial
24 common facilities shall be treated as 1 issue (and
25 any person who is a principal user with respect to

1 any of such issues shall be treated as a principal
2 user with respect to the aggregated issue).”.

3 (c) DEFINITION OF RELATED PERSONS IN THE CASE
4 OF PARTNERSHIPS.—Paragraph (13) of section 103(b) (re-
5 lating to exception where bond held by substantial user) is
6 amended by adding at the end thereof the following new sen-
7 tence: “For purposes of this paragraph—

8 “(A) a partnership and each of its partners (and
9 their spouses and minor children) shall be treated as
10 related persons, and

11 “(B) an S corporation and each of its shareholders
12 (and their spouses and minor children) shall be treated
13 as related persons.”.

14 (d) SMALL ISSUE LIMIT IN CASE OF CERTAIN URBAN
15 DEVELOPMENT ACTION GRANTS.—In the case of any obli-
16 gation issued on December 11, 1981, section 103(b)(6)(I) of
17 the Internal Revenue Code of 1954 shall be applied by sub-
18 stituting “\$15,000,000” for “\$10,000,000” if—

19 (1) such obligation is part of an issue,

20 (2) substantially all of the proceeds of such issue
21 are used to provide facilities with respect to which an
22 urban development action grant under section 119 of
23 the House and Community Development Act of 1974
24 was preliminarily approved by the Secretary of Hous-
25 ing and Urban Development on January 10, 1980, and

1 (3) the Secretary of Housing and Urban Develop-
2 ment determines, at the time such grant is approved,
3 that the amount of such grant will equal or exceed 5
4 percent of the total capital expenditures incurred with
5 respect to such facilities.

6 **SEC. 717. ARBITRAGE ON NONPURPOSE OBLIGATIONS.**

7 (a) **IN GENERAL.**—Subsection (c) of section 103 (relat-
8 ing to arbitrage bonds) is amended by redesignating para-
9 graph (6) as paragraph (7) and inserting after paragraph (5)
10 the following new paragraph:

11 “(6) **INVESTMENTS IN NONPURPOSE OBLIGA-**
12 **TIONS.**—

13 “(A) **IN GENERAL.**—For purposes of this
14 title, any obligation which is part of an issue of
15 industrial development bonds that does not meet
16 the requirements of subparagraphs (C) and (D)
17 shall be treated as an obligation which is not de-
18 scribed in subsection (a).

19 “(B) **EXCEPTIONS.**—Subparagraph (A) shall
20 not apply to—

21 “(i) any obligation described in subsec-
22 tion (b)(4)(A), or

23 “(ii) any obligation issued as part of an
24 issue substantially all of the proceeds of
25 which are to be used to provide a sewage or

1 solid waste disposal facility described in sec-
2 tion 168(f)(12)(C)(ii).

3 “(C) LIMITATION ON INVESTMENT IN NON-
4 PURPOSE OBLIGATIONS.—

5 “(i) IN GENERAL.—An issue meets the
6 requirements of this subparagraph only if—

7 “(I) at no time during any bond
8 year, the amount invested in nonpur-
9 pose obligations with a yield higher
10 than the yield on the issue exceeds 150
11 percent of the debt service on the issue
12 for the bond year, and

13 “(II) the aggregate amount invest-
14 ed as provided in subclause (I) is
15 promptly and appropriately reduced as
16 the amount of outstanding obligations of
17 the issue is reduced.

18 “(ii) EXCEPTION FOR TEMPORARY PE-
19 RIODS.—Clause (i) shall not apply to—

20 “(I) proceeds of the issue invested
21 for an initial temporary period until
22 such proceeds are needed for the gov-
23 ernmental purpose of the issue, and

24 “(II) temporary investment periods
25 related to debt service.

1 than investments attributable to an
2 excess described in this clause), over

3 “(II) the amount which would
4 have been earned if the gross proceeds
5 of the issue were invested at a rate
6 equal to the yield on the issue, plus

7 “(ii) any income attributable to the
8 excess described in clause (i),

9 is paid to the United States by the issuer in ac-
10 cordance with the requirements of subparagraph
11 (E).

12 “(E) DUE DATE OF PAYMENTS UNDER SUB-
13 PARAGRAPH (D).—The amount which is required
14 to be paid to the United States by the issuer shall
15 be paid in installments which are made at least
16 once every 5 years. Each installment shall be in
17 an amount which insures that 90 percent of the
18 amount described in subparagraph (D) with re-
19 spect to the issue at the time such installment is
20 made will have been paid to the United States.
21 The last installment shall be made no later than
22 30 days after the day on which the last obligation
23 of the issue is redeemed and shall be in an
24 amount sufficient to pay the remaining balance of

1 the amount described in subparagraph (D) with
2 respect to such issue.

3 “(F) SPECIAL RULES FOR APPLYING SUB-
4 PARAGRAPH (D).—

5 “(i) IN GENERAL.—In determining the
6 aggregate amount earned on nonpurpose ob-
7 ligations for purposes of subparagraph (D)—

8 “(I) any gain or loss on the dispo-
9 sition of a nonpurpose obligation shall
10 be taken into account, and

11 “(II) any amount earned on a bona
12 fide debt service fund shall not be taken
13 into account if the gross earnings on
14 such fund for the bond year is less than
15 \$100,000.

16 “(ii) TEMPORARY INVESTMENTS.—Not-
17 withstanding subparagraph (D), an issue
18 shall, for purposes of this paragraph, be
19 treated as meeting the requirements of sub-
20 paragraph (D) if the gross proceeds of such
21 issue are expended for the governmental pur-
22 pose for which the bond was issued by no
23 later than the day which is 6 months after
24 the date of issuance of such issue.

1 “(G) EXEMPTION FROM GROSS INCOME OF
2 SUM REBATED.—Gross income does not include
3 the sum described in subparagraph (D). Notwith-
4 standing any other provision of this title, no de-
5 duction shall be allowed for any amount paid to
6 the United States under subparagraph (D).

7 “(H) DEFINITIONS.—For purposes of this
8 paragraph—

9 “(i) NONPURPOSE OBLIGATIONS.—The
10 term ‘nonpurpose obligation’ means any se-
11 curity (within the meaning of subparagraph
12 (A) or (B) of section 165(g)(2)) or any obliga-
13 tion not described in subsection (a) which—

14 “(I) is acquired with the gross pro-
15 ceeds of an issue, and

16 “(II) is not acquired in order to
17 carry out the governmental purpose of
18 the issue.

19 “(ii) GROSS PROCEEDS.—The gross
20 proceeds of an issue include—

21 “(I) amounts received (including
22 repayments of principal) as a result of
23 investing the original proceeds of the
24 issue, and

1 “(II) amounts used to pay debt
2 service on the issue.

3 “(I) YIELD.—The yield on the issue
4 shall be determined on the basis of the issue
5 price (within the meaning of section 1232 (b)
6 (2)).

7 (b) CONFORMING AMENDMENTS.—

8 (1) Paragraph (1) of section 103A(i) (relating to
9 arbitrage) is amended by striking out “section 103(c)”
10 and inserting in lieu thereof “section 103(c) (other than
11 section 103(c)(6))”.

12 (2) Subsection (c) of section 103 is amended by
13 striking out “Bonds” in the heading.

14 (3) Paragraph (1) of section 103(c) is amended by
15 inserting “to arbitrage bonds” in the heading.

16 (c) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise provided
18 in this subsection, the amendments made by this sec-
19 tion shall apply with respect to bonds issued after De-
20 cember 31, 1984.

21 (2) EXCEPTION.—The amendments made by this
22 section shall not apply to obligations issued by the
23 Essex County Port Authority of New York and New
24 Jersey as part of an issue approved by Essex County,
25 New Jersey, on July 7, 1981, and approved by the

1 State of New Jersey on December 31, 1981. The ag-
2 gregate face amount of bonds to which this paragraph
3 applies shall not exceed \$350,000,000.

4 **SEC. 718. DENIAL OF TAX EXEMPTION TO CONSUMER LOAN**
5 **BONDS.**

6 (a) **IN GENERAL.**—Section 103 (relating to interest on
7 certain governmental obligations) is amended by adding at
8 the end thereof the following new subsection:

9 “(a) **CONSUMER LOAN BONDS.**—

10 “(1) **DENIAL OF TAX EXEMPTION.**—For pur-
11 poses of this title, any consumer loan bond shall be
12 treated as an obligation which is not described in sub-
13 section (a).

14 “(2) **CONSUMER LOAN BONDS.**—For purposes of
15 this subsection—

16 “(A) **IN GENERAL.**—The term ‘consumer
17 loan bond’ means any obligation which is issued
18 as part of an issue all or a significant portion of
19 the proceeds of which are reasonably expected to
20 be used directly or indirectly to make or finance
21 loans (other than loans described in subparagraph
22 (C)) to persons who are not exempt persons
23 (within the meaning of subsection (b)(3)).

24 “(B) **EXCLUDED OBLIGATIONS.**—The term
25 ‘consumer loan bond’ shall not include any—

1 “(i) qualified student loan bond,

2 “(ii) industrial development bond, or

3 “(iii) qualified mortgage bond or quali-
4 fied veterans’ mortgage bond.

5 “(C) EXCLUDED LOANS.—A loan is de-
6 scribed in this subparagraph if the loan—

7 “(i) enables the borrower to finance any
8 governmental tax or assessment of general
9 application for an essential governmental
10 function, or

11 “(ii) is used to acquire or carry nonpur-
12 pose obligations (within the meaning of sub-
13 section (c)(6)(G)(i)).

14 “(3) QUALIFIED STUDENT LOANS.—For purposes
15 of this subsection, the term ‘qualified student loan
16 bond’ means any obligation which is issued as part of
17 an issue all or a major portion of the proceeds of which
18 are reasonably expected to be used directly or indirect-
19 ly to make or finance student loans with respect to
20 which a special allowance payment is authorized to be
21 made under section 438 of the Higher Education Act
22 of 1965 (as in effect on March 15, 1984) to the issuer
23 or to the holder of the student loan notes for the bene-
24 fit of the issuer.”.

1 (b) ELIMINATION OF SPECIAL ALLOWANCE PAYMENT
2 REQUIREMENT IN 1986.—Paragraph (4) of section 103(o)
3 (relating to qualified student loans) is amended to read as
4 follows:

5 “(4) QUALIFIED STUDENT LOANS.—For purposes
6 of this subsection, the term ‘qualified student loan
7 bond’ means any obligation which is issued as part of
8 an issue all or a major portion of the proceeds of which
9 are reasonably expected to be used directly or indirect-
10 ly to make or finance student loans.”.

11 (c) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as otherwise provided
13 in this subsection the amendment made by subsection
14 (a) shall apply to obligations issued after the date of
15 enactment of this Act.

16 (2) ELIMINATION OF SPECIAL ALLOWANCE PAY-
17 MENT REQUIREMENT.—Except as otherwise provided
18 in this subsection the amendment made by subsection
19 (b) shall apply to obligations issued after September
20 30, 1986.

21 (3) EXCEPTIONS FOR CERTAIN STUDENT LOAN
22 PROGRAMS.—

23 (A) IN GENERAL.—The amendments made
24 by this section shall not apply to obligations
25 issued by a program described in the following

1 table to the extent the aggregate face amount of
 2 such obligations does not exceed the amount of al-
 3 lowable obligations specified in the following table
 4 with respect to such program:

Program	Amount of Allowable Obligations
Colorado Student Obligation Bond Authority	\$60 million
Connecticut Higher Education Supplementary Loan Authority.	\$15.5 million
District of Columbia	\$50 million
Illinois Higher Education Authority.....	\$11 million
State of Iowa	\$16 million
Louisiana Public Facilities Authority	\$75 million
Maine Health and Higher Education Facilities Authority.	\$5 million
Maryland Higher Education Supplemental Loan Program.	\$24 million
Massachusetts College Student Loan Authority...	\$90 million
Minnesota Higher Education Coordinating Board.	\$60 million
New Hampshire Higher Education and Health Facilities Authority.	\$39 million
New York Dormitory Authority.....	\$120 million
Pennsylvania Higher Education Assistance Agency.	\$300 million
Georgia Private Colleges and University Au- thority.	\$31 million
Wisconsin State Building Commission	\$60 million
South Dakota Health and Educational Facili- ties Authorities.	\$6 million

5 (B) PENNSYLVANIA HIGHER EDUCATION
 6 ASSISTANCE AGENCY.—Subparagraph (A) shall
 7 apply to obligations issued by the Pennsylvania
 8 Higher Education Assistance Agency only if such
 9 obligations are issued solely for the purpose of re-
 10 funding student loan bonds outstanding on March
 11 15, 1984.

1 (4) CERTAIN TAX-EXEMPT MORTGAGE SUBSIDY
2 BONDS.—For purposes of applying section 103(o) of
3 the Internal Revenue Code of 1954, the term “con-
4 sumer loan bond” shall not include any mortgage sub-
5 sidy bond (within the meaning of section 103A(b) of
6 such Code) to which the amendments made by section
7 1102 of the Mortgage Subsidy Bond Tax Act of 1980
8 do not apply.

9 **SEC. 719. STUDENT LOAN BOND ARBITRAGE.**

10 (a) REGULATIONS.—

11 (1) IN GENERAL.—The Secretary shall prescribe
12 regulations which specify the circumstances under
13 which a student loan bond shall be treated as an arbi-
14 trage bond for purposes of section 103 of the Internal
15 Revenue Code of 1954. Such regulations may provide
16 that—

17 (A) paragraphs (4) and (5) of section 103(c)
18 of such Code shall not apply, and

19 (B) rules similar to section 103(c)(6) shall
20 apply,

21 to student loan bonds.

22 (2) DEFINITIONS.—For purposes of this subsec-
23 tion—

24 (A) STUDENT LOAN BONDS.—The term
25 “student loan bond” means any obligation which

1 is issued as part of an issue all or a major portion
2 of the proceeds of which are to be used directly or
3 indirectly to make or finance loans to individuals
4 for educational expenses.

5 (B) ARBITRAGE BOND.—The term “arbi-
6 trage bond” has the meaning given to such term
7 by section 103(c)(2).

8 (3) EFFECTIVE DATE.—

9 (A) IN GENERAL.—Except as otherwise pro-
10 vided in this paragraph, any regulations pre-
11 scribed by the Secretary under paragraph (1) shall
12 apply to obligations issued after the qualified date.

13 (B) QUALIFIED DATE.—

14 (i) IN GENERAL.—For purposes of this
15 paragraph, the term “qualified date” means
16 the earlier of—

17 (I) the date on which the Higher
18 Education Act of 1965 expires, or

19 (II) the date, after the date of en-
20 actment of this Act, on which the
21 Higher Education Act of 1965 is
22 reauthorized.

23 (ii) PUBLICATION OF REGULATIONS.—

24 Notwithstanding clause (i), the qualified date
25 shall not be a date which is prior to the date

1 that is 6 months after the date on which the
2 regulations prescribed under paragraph (1)
3 are published in the Federal Register.

4 (C) REFUNDING OBLIGATIONS.—Regulations
5 prescribed by the Secretary under paragraph (1)
6 shall not apply to any obligation issued exclusive-
7 ly to refund any student loan bond which was
8 issued before the qualified date.

9 (D) FULFILLMENT OF COMMITMENTS.—
10 Regulations prescribed by the Secretary under
11 paragraph (1) shall not apply to any obligations
12 which are needed to fulfill written commitments
13 to acquire or finance student loans which are
14 originated after June 30, 1984, and before the
15 qualified date, but only if—

16 (i) such commitments are binding on the
17 qualified date, and

18 (ii) the amount of such commitments is
19 consistent with practices of the issuer which
20 were in effect on March 15, 1984, with re-
21 spect to establishing secondary markets for
22 student loans.

23 (b) GROSS PROCEEDS OF STUDENT LOAN BONDS RE-
24 QUIRED TO BE USED TO MAKE OR FINANCE STUDENT
25 LOANS.—

1 (1) IN GENERAL.—Subsection (c) of section 103
2 (relating to arbitrage), as amended by this Act, is fur-
3 ther amended by redesignating paragraph (7) as para-
4 graph (8) and by inserting after paragraph (6) the fol-
5 lowing new paragraph:

6 “(7) STUDENT LOAN BONDS.—

7 “(A) DENIAL OF TAX EXEMPTION.—Any
8 student loan bond which does not meet the re-
9 quirements of subparagraph (B) shall be treated as
10 an obligation which is not described in subsection
11 (a).

12 “(B) REQUIREMENTS.—A student loan bond
13 meets the requirements of this subparagraph if the
14 indenture for the issue of which such bond is a
15 part provides that the issuer agrees—

16 “(i) to devote the gross proceeds of such
17 issue and any prior issue of student loan
18 bonds (after payment of expenses, debt serv-
19 ice, and the creation of reserves for the
20 same) to the making or financing of student
21 loans or to pay such gross proceeds to the
22 United States, and

23 “(ii) to pay to the United States (within
24 the 10 days after notice and demand for pay-
25 ment by the Secretary) an amount equal to

1 the amount of prohibited payments made by
2 the issuer with respect to such issue.

3 “(C) STUDENT LOAN BONDS.—For purposes
4 of this paragraph, the term ‘student loan bond’
5 means any obligation which is issued as part of an
6 issue all or a major portion of the proceeds of
7 which are to be used directly or indirectly to
8 make or finance loans to individuals for education-
9 al expenses.

10 “(D) PROHIBITED PAYMENT.—For purposes
11 of this paragraph, the term ‘prohibited payment’
12 means—

13 “(i) any payment to a State or political
14 subdivision thereof for general governmental
15 purposes that are not directly related to the
16 student loan program of the issuer, and

17 “(ii) any payment other than a payment
18 of expenses incurred by the issuer which—

19 “(I) relate to the origination, ac-
20 quisition, financing, or servicing of stu-
21 dent loans, and

22 “(II) are not lavish or extravagant
23 under the circumstances.

1 “(E) GROSS PROCEEDS.—The term ‘gross
2 proceeds’ has the meaning given to such term by
3 paragraph (6)(H)(ii).

4 “(F) NO APPLICATION TO CERTAIN PRO-
5 HIBITED PAYMENTS.—Subparagraph (B)(ii) shall
6 not apply with respect to any prohibited payment
7 which the issuer is required to make—

8 “(i) under any State law in effect on
9 March 15, 1984, or

10 “(ii) under any written contract which
11 was binding on March 15, 1984.

12 (2) QUALIFIED SCHOLARSHIP FUNDING BONDS.—
13 Paragraph (2) of section 103(e) (relating to qualified
14 scholarship funding bonds) is amended by striking out
15 “State or a political subdivision thereof” and inserting
16 in lieu thereof “United States”.

17 (3) EFFECTIVE DATES.—

18 (A) IN GENERAL.—The amendment made by
19 paragraph (1) shall apply to obligations issued
20 after the date of enactment of this Act.

21 (B) QUALIFIED SCHOLARSHIP FUNDING
22 BONDS.—The amendment made by paragraph (2)
23 shall apply to obligations issued after December
24 31, 1984.

1 (c) ISSUANCE OF STUDENT LOAN BONDS WHICH ARE
2 NOT TAX-EXEMPT.—Any issuer who may issue obligations
3 described in section 103(a) of the Internal Revenue Code of
4 1954 may elect to issue student loan bonds which are not
5 described in such section 103(a) of such Code without preju-
6 dice to—

7 (1) the status of any other obligations issued, or to
8 be issued, by such issuer as obligations described in
9 section 103(a) of such Code, or

10 (2) the status of the issuer as an organization
11 exempt from taxation under such Code.

12 (d) FEDERAL EXECUTIVE BRANCH JURISDICTION
13 OVER TAX-EXEMPT STATUS.—For purposes of Federal
14 law, any determination by the executive branch of the Feder-
15 al Government of whether interest on any obligation is
16 exempt from taxation under the Internal Revenue Code of
17 1954 shall be exclusively within the jurisdiction of the De-
18 partment of the Treasury.

19 (e) STUDY ON TAX EXEMPT STUDENT LOAN
20 BONDS.—

21 (1) IN GENERAL.—The Comptroller General of
22 the United States, in conjunction with the Director of
23 the Congressional Budget Office, shall conduct a study
24 of—

1 (A) the appropriate role of tax-exempt bonds
2 which are issued in connection with the guaran-
3 teed student loan program and the PLUS pro-
4 gram established under the Higher Education Act
5 of 1965, and

6 (B) the appropriate tax treatment of arbi-
7 trage on the proceeds of such bonds.

8 (2) REPORT.—The Comptroller General of the
9 United States, in conjunction with the Director of the
10 Congressional Budget Office shall submit to the Com-
11 mittee on Finance and the Committee on Labor and
12 Human Resources of the Senate and the Committee on
13 Ways and Means and the Committee on Education and
14 Labor of the House of Representatives a report on the
15 study conducted under paragraph (1) by no later than 9
16 months after the date of enactment of this Act.

17 **SEC. 720. CERTAIN PUBLIC UTILITIES TREATED AS EXEMPTED**
18 **PERSONS UNDER SECTION 103(b).**

19 For purposes of applying section 103(b)(3) of the Inter-
20 nal Revenue Code with respect to—

21 (1) any obligations issued after the date of enact-
22 ment of this Act, and

23 (2) any obligations issued after December 31,
24 1969, which were treated as obligations described in

1 section 103(a) of such Code on the day on which such
2 obligations were issued,
3 the term "exempt person" shall include a regulated public
4 utility having any customer service area within a State
5 served by a public power authority which was required as a
6 condition of a Federal Power Commission license specified by
7 an Act of Congress enacted prior to the enactment of section
8 107 of the Revenue and Expenditure Control Act of 1968
9 (Public Law 90-364) to contract to sell power to one such
10 utility and which is authorized by State law to sell power to
11 other such utilities, but only with respect to the purchase by
12 any such utility and resale to its customers of any output of
13 any electrical generation facility or any portion thereof or any
14 use of any electrical transmission facility or any portion
15 thereof financed by such power authority and owned by it or
16 by such State, and provided that by agreement between such
17 power authority and any such utility there shall be no
18 markup in the resale price charged by such utility of that
19 component of the resale price which represents the price paid
20 by such utility for such output or use.

21 **SEC. 721. EFFECTIVE DATES.**

22 (a) **IN GENERAL.**—Except as otherwise provided in this
23 section, the amendments made by this subtitle shall apply to
24 obligations issued after December 31, 1983.

1 (b) CONSTRUCTION OR BINDING AGREEMENT.—The
2 amendments made by this subtitle (other than by section 713
3 or 715 shall not apply to obligations with respect to facili-
4 ties—

5 (1) the original use of which commences with the
6 taxpayer and the construction of which began before
7 October 19, 1983, or

8 (2) with respect to which a binding contract to
9 incur significant expenditures was entered into before
10 October 19, 1983.

11 (c) PROVISIONS RELATING TO FEDERAL GUARAN-
12 TEES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), amendments made by section 713 shall
15 apply to—

16 (A) any obligation described in section
17 103(h)(1)(A)(ii) of such Code which is issued after
18 April 15, 1983, and

19 (B) any obligation described in section
20 103(h)(1)(A)(i) or 103(h)(1)(B) which is issued
21 after the date of enactment of this Act.

22 (2) BINDING CONTRACTS.—The amendments
23 made by section 713 shall not apply to any obligation
24 described in section 103(h)(1)(A)(ii) which is issued

1 pursuant to a written contract that was binding on the
2 issuer on March 4, 1983, and at all times thereafter.

3 (d) RESTRICTIONS ON COST RECOVERY.—

4 (1) IN GENERAL.—Except as otherwise provided
5 in this subsection or subsection (e), the amendments
6 made by section 715 shall apply to property placed in
7 service after June 30, 1984, to the extent such proper-
8 ty is financed by the proceeds of an obligation (includ-
9 ing a refunding obligation) issued after March 15,
10 1984.

11 (2) EXCEPTIONS.—

12 (A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by section 715
13 shall not apply with respect to facilities—
14

15 (i) the original use of which commences
16 with the taxpayer and the construction of
17 which began before March 15, 1984, or

18 (ii) with respect to which a binding con-
19 tract to incur significant expenditures was
20 entered into before March 15, 1984.

21 (B) REFUNDING.—

22 (i) IN GENERAL.—Except as provided
23 in clause (ii), in the case of property placed
24 in service after June 30, 1984, which is fi-
25 nanced by the proceeds of an obligation

1 which is issued solely to refund another obli-
2 gation which was issued before March 15,
3 1984, the amendments made by section 715
4 shall apply only with respect to an amount
5 equal to the basis in such property which has
6 not been recovered before the date such re-
7 funded obligation is issued.

8 (e) PROVISIONS OF THIS SUBTITLE NOT TO APPLY TO
9 CERTAIN PROPERTY.—

10 (1) PROJECTS EXEMPTED FROM GOVERNMENT
11 LEASING.—

12 (A) IN GENERAL.—The amendments made
13 by this subtitle (other than by section 713 shall
14 not apply to any property (and shall not apply to
15 obligations issued to finance such property) if such
16 property is placed in service in connection with
17 projects described in section 22(g)(8)(A) of this
18 Act.

19 (B) LIMITATION.—Subparagraph (A) shall
20 apply to property included in a project described
21 in section 22(g)(8)(A) of this Act only to the
22 extent—

23 (i) such property was substantially in-
24 cluded in such project at the time of the
25 qualifying action, and

1 (ii) the issuer had evidenced an intent as
 2 of December 31, 1983, to issue obligations
 3 exempt from taxation under the Internal
 4 Revenue Code of 1954 in connection with
 5 such project.

6 (2) OTHER PROJECTS.—

7 (A) IN GENERAL.—The amendments made
 8 by this subtitle (other than section 713) shall not
 9 apply to any property (and shall not apply to obli-
 10 gations issued to finance such property) if such
 11 property is placed in service in connection with
 12 any of the following projects:

Project	Location	Qualifying action	Date of Qualifying Action	Amount of Allowable Obligations
Charleston Convention Center.	Charleston, South Carolina	Preliminary UDAG approval	April 4, 1983	\$50 million
Kalispell Center	Kalispell, Montana	UDAG application submitted	August 30, 1983	\$10 million
Florida Crushed Stone Project.	Hernando County, Florida	Inducement Resolution passed	August 24, 1982	\$100 million
Willamette Plywood Plant.	Natchitoches, Louisiana	UDAG application approved	February 3, 1984	\$10 million

Project	Location	Qualifying action	Date of Qualifying Action	Amount of Allowable Obligations
Godchaux/Maison Blanche Downtown Store and Distribution Center.	Baton Rouge, Louisiana	City Council approved	December 14, 1983	\$9 million
Atchinson North-West Pipe and Casing Company Project.	Atchison, Kansas	Resolution adopted	July 5, 1983	\$7.5 million
Downtown Redevelopment Project.	Manhattan, Kansas	Preliminary UDAG approval	November 3, 1983	\$26 million
China Trade Center..	Boston, Massachusetts	UDAG application approved	July 2, 1981	\$4.8 million
World Forum Project.	Philadelphia, Pennsylvania	UDAG application approved	July 6, 1981	\$5 million
Downtown UDAG.....	Muscogee, Oklahoma	UDAG application approved	May 5, 1981	\$22.2 million
Park Central New Town In Town Project-365 Ltd Project, Park Central West, Ltd. Project, Park Central Storage Limited Project, Energy City, Ltd. Project.	Port Authur, Texas	Bond purchase agreements executed	March 4, 1983	\$24 million
Park Central New Town In Town Project.	Port Authur, Texas	City ordinance adopted	August 18, 1980 April 26, 1982	\$80 million for period 1984-1992

1 (B) LIMITATIONS.—

2 (i) PROPERTY.—Subparagraph (A) shall
3 apply to property included in a project de-
4 scribed in the table contained in subpara-
5 graph (A) only to the extent such property
6 was substantially included in such project at
7 the time of the qualifying action.

8 (ii) OBLIGATIONS.—Subparagraph (A)
9 shall apply to an obligation issued to finance
10 property in connection with a project de-

1 scribed in subparagraph (A) only if the sum
2 of—

3 (I) the face amount of such obliga-
4 tion, plus

5 (II) the aggregate face amount of
6 all obligations previously issued to fi-
7 nance such property,

8 does not exceed the amount of allowable ob-
9 ligations that is specified in the table in sub-
10 paragraph (A) with respect to such project.

11 (f) **GAMBLING FACILITIES.**—The amendment made by
12 section 712 shall not apply to any obligations issued as part
13 of an issue the proceeds of which are expected to be used to
14 finance a facility which is primarily for horse racing if an
15 inducement resolution (or other comparable preliminary ap-
16 proval) was adopted by the issuing authority on November
17 15, 1983.

18 (g) **DETERMINATION OF SIGNIFICANT EXPENDI-**
19 **TURE.**—For purposes of this section, the term “significant
20 expenditures” means expenditures which equal or exceed the
21 lesser of—

22 (1) \$15,000,000, or

23 (2) 20 percent of the estimated cost of the facili-
24 ties.

1 (h) NO APPLICATION TO CERTAIN SECTIONS.—This
 2 section shall not apply to the amendments made by sections
 3 717, 718, 719, and 720.

4 **TITLE VIII—MISCELLANEOUS REVENUE**
 5 **PROVISIONS**

6 **Subtitle A—Estate and Gift Tax Provisions**

7 **SEC. 801. INSTALLMENT PAYMENT OF ESTATE TAXES FOR**
 8 **CERTAIN INDIRECTLY HELD STOCK OF A**
 9 **CLOSELY HELD OPERATING COMPANY.**

10 (a) IN GENERAL.—Subsection (b) of section 6166 (pro-
 11 viding definitions and special rules for extension of time for
 12 payment of estate tax where estate consists largely of inter-
 13 est in closely held business) is amended by adding after para-
 14 graph (7) the following new paragraph:

15 “(8) INDIRECTLY OWNED INTEREST IN CLOSELY
 16 HELD BUSINESS.—

17 “(A) IN GENERAL.—If the executor elects
 18 the benefits of this paragraph and if one corpora-
 19 tion holds non-readily-tradable stock (as defined in
 20 paragraph (7)(B)) in a second corporation carrying
 21 on a trade or business, then—

22 “(i) for purposes of this section (other
 23 than paragraph (1)(C)(i)), a proportionate
 24 part of the stock of the first corporation shall
 25 be treated as stock of the second corporation,

1 “(ii) paragraph (1)(C)(i) shall apply to
2 voting stock directly or indirectly included in
3 determining the gross estate of the decedent,

4 “(iii) the executor shall be treated as
5 having selected under subsection (a)(3) the
6 date prescribed by section 6151(a), and

7 “(iv) section 6601(j) (relating to 4-per-
8 cent rate of interest) shall not apply.

9 “(B) EXTENT OF ELECTION.—

10 “(i) IN GENERAL.—Subparagraph (A)
11 shall be applied only to the stock of such
12 corporations as the executor elects, and shall
13 be successively applied to such corporations
14 in a chain, beginning with the corporation in-
15 cluded in the election which is at the bottom
16 of such chain.

17 “(ii) 20-PERCENT VALUE REQUIRE-
18 MENT.—For purposes of clause (i), the elec-
19 tion shall be limited to any corporation in
20 which the interest included in the gross
21 estate equals or exceeds 20 percent of the
22 value of such corporation.

23 “(C) DETERMINATION OF PROPORTIONATE
24 PART.—The proportionate part referred to in sub-
25 paragraph (A)(i) shall be determined according to

1 the ratio which the value of the stock of the
2 second corporation which is held by the first cor-
3 poration bears to the value of all assets of the
4 first corporation.

5 “(D) 20-PERCENT REQUIREMENT.—For pur-
6 poses of subparagraph (A)(ii), stock shall be treat-
7 ed as indirectly included in determining the gross
8 estate only by attribution through voting stock.

9 “(E) VALUATION.—The treatment of stock
10 as stock of a second corporation by reason of sub-
11 paragraph (A)(i) shall not affect the value of such
12 stock.”.

13 (b) NONBUSINESS ASSETS EXCLUDED.—Paragraph (2)
14 of section 6166(b) (relating to interest in closely held busi-
15 ness) is amended by adding at the end thereof the following
16 new subparagraph:

17 “(E) NONBUSINESS ASSETS EXCLUDED.—

18 “(i) IN GENERAL.—An interest in a
19 closely held business shall not include the
20 portion of an interest in a partnership or
21 stock in a corporation carrying on a trade or
22 business that is attributable to property held
23 (directly or indirectly) by or for such partner-
24 ship or corporation unless such property is
25 directly related to the reasonable needs of

1 such trade or business, or property which has
2 been contributed to such partnership or cor-
3 poration and which is not used directly in the
4 conduct of such trade or business.

5 “(ii) SUCCESSIVE EXCLUSIONS.—

6 Where a partnership or a corporation carry-
7 ing on a trade or business holds an interest
8 in another entity, the portion of such interest
9 which is attributable to property which
10 would be described in clause (i) if this sub-
11 paragraph were applied to such entity shall
12 be treated as property described in clause
13 (i).”.

14 (c) ACCELERATION OF PAYMENT.—Paragraph (1) of
15 section 6166(g) (relating to disposition of interest; withdraw-
16 al of funds from business) is amended by adding at the end
17 thereof the following new subparagraphs:

18 “(E) If any portion of stock in a corporation
19 (described as the first corporation in subparagraph
20 (A) of subsection (b)(8)) is treated as stock in one
21 or more corporations by reason of such subpara-
22 graph, then—

23 “(i) any disposition of any interest in
24 such stock in such first corporation, which

1 was included in determining the gross estate
2 of the decedent, or

3 “(ii) any withdrawal of any money or
4 other property from such first corporation at-
5 tributable to any interest included in deter-
6 mining the gross estate of the decedent,

7 shall be treated for purposes of subparagraph (A)
8 as a disposition of (or a withdrawal with respect
9 to) such stock qualifying under subsection (a)(1).

10 “(F) If any portion of stock in a corporation
11 (described as the first corporation in subparagraph
12 (A) of subsection (b)(8)) is treated as stock in one
13 or more corporations by reason of such subpara-
14 graph, then—

15 “(i) any disposition of any interest in
16 such stock of such other corporation or cor-
17 porations directly or indirectly owned by
18 such first corporation, or

19 “(ii) any withdrawal of any money or
20 other property from such other corporation
21 or corporations attributable to such stock di-
22 rectly or indirectly owned by such first cor-
23 poration,

24 shall, to the extent attributable to any interest in-
25 cluded in determining the gross estate of the dece-

1 dent, be treated for purposes of subparagraph (A)
2 as a disposition of (or a withdrawal with respect
3 to) such stock qualifying under subsection (a)(1).”.

4 (d) PAYMENT OF DIVIDENDS.—Paragraph (2) of section
5 6166(g) (relating to undistributed income of estate) is amend-
6 ed by adding at the end thereof the following new subpara-
7 graph:

8 “(C) For purposes of this paragraph, dividends paid with
9 respect to non-readily-tradable stock in a corporation carry-
10 ing on a trade or business (as described in subsection
11 (b)(8)(A)) shall be treated as paid to the estate of the dece-
12 dent to the extent attributable to stock treated as stock of
13 such corporation by subsection (b)(8)(A)(i).”.

14 (e) EFFECTIVE DATE.—The amendments made by this
15 section shall apply with respect to estates of decedents dying
16 after the date of the enactment of this Act.

17 **SEC. 802. REPEAL OF GENERATION-SKIPPING TRANSFER TAX.**

18 (a) IN GENERAL.—Subtitle B is amended by striking
19 out chapter 13 (relating to tax on certain generation-skipping
20 transfers).

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 303 (relating to distributions in re-
23 demption of stock to pay death taxes) is amended by
24 striking out subsection (d).

1 (2) Paragraph (6) of section 667(b) (relating to
2 treatment of amounts deemed distributed by trust in
3 preceding years) is amended—

4 (A) by striking out “or 13, as the case may
5 be” each place it appears in subparagraph (A),

6 (B) by striking out “or the date of the gen-
7 eration-skipping transfer” in subparagraph (C),
8 and

9 (C) by striking out “AND GENERATION-SKIP-
10 PING TRANSFER” in the heading of such para-
11 graph.

12 (3) Subsection (c) of section 691 (relating to de-
13 duction for estate tax) is amended by striking out para-
14 graph (3) and by redesignating paragraphs (4) and (5)
15 as paragraphs (3) and (4), respectively.

16 (4) Section 2013 (relating to credit for tax on
17 prior transfers) is amended by striking out subsection
18 (g).

19 (5) The first sentence of subsection (a) of section
20 7517 (relating to furnishing on request of statement ex-
21 plaining estate or gift valuation) is amended to read as
22 follows: “If the Secretary makes a determination or a
23 proposed determination of the value of an item of prop-
24 erty for purposes of the tax imposed under chapter 11
25 or 12, he shall furnish, on the written request of the

1 executor or donor (as the case may be), to such execu-
2 tor or donor a written statement containing the materi-
3 al required by subsection (b).”

4 (6) The analysis of chapters for subtitle B is
5 amended by striking out the item relating to chapter
6 13.

7 (c) EFFECTIVE DATE.—The amendments made by this
8 section shall apply to generation-skipping transfers occurring
9 after June 11, 1976.

10 **SEC. 803. TREATMENT OF CERTAIN DISCLAIMERS.**

11 (a) IN GENERAL.—Subsection (c) of section 2518 (relat-
12 ing to disclaimers) is amended by adding at the end thereof
13 the following new paragraph:

14 “(4) PRIOR TRANSFERS.—Any disclaimer of an
15 interest created by a transfer of property which was
16 made before November 15, 1958, shall be treated as a
17 qualified disclaimer for purposes of this section if—

18 “(A) such disclaimer satisfies the require-
19 ments of subsection (b) without regard to para-
20 graph (2) of such subsection, and

21 “(B) such disclaimer was received by the
22 transferor of the interest, his legal representative,
23 or the holder of the legal title to the property to
24 which the interest relates at any time prior to the
25 date which is 90 days after the date of the enact-

1 ment of the Deficit Reduction Tax Act of 1984,
2 and

3 “(C) such person disclaiming has not accept-
4 ed the interest or any of its benefits.”.

5 (b) CONFORMING AMENDMENT.—Paragraph (2) of sec-
6 tion 2009(e) of the Tax Reform Act of 1976 (26 U.S.C. 2518
7 note) is amended by striking out “after December 31, 1976”
8 and inserting in lieu thereof “before November 15, 1958, or
9 after December 31, 1976”.

10 **SEC. 804. MARITAL DEDUCTION FOR A USUFRUCT.**

11 (a) IN GENERAL.—Subclause (I) of section
12 2056(b)(7)(B)(ii) (relating to qualifying income interest for
13 life) is amended by inserting “, or has a usufruct interest for
14 life in the property” after “intervals”.

15 (b) LIMITATION ON DEDUCTIONS FROM GROSS
16 ESTATE.—Paragraph (1) of section 2053(c) (relating to limi-
17 tations on deductions for expenses, indebtedness, and taxes)
18 is amended by adding at the end thereof the following new
19 subparagraph:

20 “(C) CERTAIN CLAIMS BY REMAINDER-
21 MEN.—No deduction shall be allowed under this
22 section for a claim against the estate by a remain-
23 derman relating to any property described in sec-
24 tion 2044.”.

1 (c) **EFFECTIVE DATE.**—The amendments made by this
2 section shall take effect as if included in the amendment
3 made by section 403 of the Economic Recovery Tax Act of
4 1981.

5 **SEC. 805. CREDIT AGAINST ESTATE TAX FOR TRANSFERS TO**
6 **TOIYABE NATIONAL FOREST.**

7 (a) **CREDIT ALLOWED.**—Subject to the provisions of
8 this section, and notwithstanding any period of limitation or
9 lapse of time, the Secretary of the Treasury or his delegate
10 shall allow credit against the tax imposed by chapter 11 of
11 the Internal Revenue Code of 1954 (relating to the imposi-
12 tion of estate tax)—

13 (1) upon the estate of Nell J. Redfield for the con-
14 veyance by the estate to the United States of real
15 property included in the gross estate and located within
16 the boundaries of the Toiyabe National Forest; and

17 (2) upon the estate of Elizabeth Schultz Rabe for
18 the conveyance by the estate to the United States of
19 real property included in the gross estate and known as
20 Parcel No. 4 containing .97.60 acres, more or less, lo-
21 cated in the County of Douglas, State of Nevada, and
22 described as follows:

23 The NE 1/4 of the SW 1/4, the NW 1/4 of the
24 SE 1/4, and a portion of the SE 1/4 of the NW
25 1/4 of Section 23, Township 13 North, Range 18

1 East, M.D.B.&M., more particularly described as
2 follows:

3 All that portion of the SE 1/4 of the NW 1/4
4 excepting therefrom the following:

5 Beginning at a United States Forest Service
6 Brass Cap, being the C-N 1/16 corner of Section
7 23; thence South $0^{\circ}45'24''$ West 500.00 feet to
8 an iron pipe; thence South $44^{\circ}50'02''$ West
9 945.42 feet to an iron pipe; thence North
10 $89^{\circ}46'12''$ West 301.78 feet to a point; thence
11 tangent North $20^{\circ}28'20''$ East on the arc of a cir-
12 cular curve to the left with a radius of 800 feet
13 through a central angle of $40^{\circ}44'50''$ an arc dis-
14 tance of 568.94 feet to a point; thence North
15 $20^{\circ}02'42''$ West 683.17 feet to a point; thence
16 South $88^{\circ}35'38''$ East 1206.29 feet to the Point
17 of Beginning, containing 22.40 acres, more or
18 less.

19 (b) AMOUNT OF CREDIT.—The amount allowed as a
20 credit under subsection (a) shall be equal to the lesser of—

21 (1) fair market value of the real property trans-
22 ferred by each estate as of the valuation date used for
23 purposes of the tax imposed by chapter 11 of such
24 Code, or

1 “(i) IN GENERAL.—Except as provided
2 in clause (ii), in the case of a contribution of
3 any interest where there is a retention of a
4 qualified mineral interest, subparagraph (A)
5 shall not be treated as met if at any time
6 there may be extraction or removal of miner-
7 als by any surface mining method.

8 “(ii) SPECIAL RULE.—With respect to
9 any contribution of property in which the
10 ownership of the surface estate and mineral
11 interests were separated before June 13,
12 1976, and remain so separated, subpara-
13 graph (A) shall be treated as met if the prob-
14 ability of surface mining occurring on such
15 property is so remote as to be negligible.”.

16 (b) EFFECTIVE DATE.—The amendment made by sub-
17 section (a) shall apply to contributions made after the date of
18 the enactment of this Act.

19 **SEC. 807. DESIGNATION OF OVERPAYMENTS AND CONTRIBU-**
20 **TIONS FOR UNITED STATES OLYMPIC TRUST**
21 **FUND.**

22 (a) IN GENERAL.—Subchapter A of chapter 61 (relat-
23 ing to returns and records) is amended by adding at the end
24 thereof the following new part:

1 "PART IX—DESIGNATION OF OVERPAYMENTS AND CON-
2 TRIBUTIONS FOR UNITED STATES OLYMPIC TRUST
3 FUND

"Sec. 6097. Amounts for United States Olympic Trust Fund.

4 "SEC. 6097. AMOUNTS FOR UNITED STATES OLYMPIC TRUST
5 FUND.

6 "(a) IN GENERAL.—With respect to each individual's
7 return for the taxable year of the tax imposed by chapter 1,
8 such individual may designate that—

9 "(1) \$1 of any overpayment of such tax for such
10 taxable year, or

11 "(2) in the absence of any overpayment of such
12 tax, a \$1 contribution which the individual includes
13 with such return,

14 be paid over to the United States Olympic Trust Fund.

15 "(b) MANNER AND TIME OF DESIGNATION.—A desig-
16 nation under subsection (a) may be made with respect to any
17 taxable year only at the time of filing the return of the tax
18 imposed by chapter 1 for such taxable year.

19 "(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No
20 amount designated on any taxpayer's return pursuant to sub-
21 section (a) shall be allowed as a deduction under section 170
22 or any other section for any taxable year.

23 "(d) OVERPAYMENTS TREATED AS REFUNDED.—For
24 purposes of this title, any overpayment of tax designated

1 under subsection (a) shall be treated as being refunded to the
2 individual as of the last date prescribed for filing the return of
3 tax imposed by chapter 1 (determined without regard to ex-
4 tensions) or, if later, the date the return is filed.”.

5 (b) ESTABLISHMENT OF UNITED STATES OLYMPIC
6 TRUST FUND.—Subchapter A of chapter 98 (relating to trust
7 fund code) is amended by adding at the end thereof the fol-
8 lowing new section:

9 “SEC. 9501. UNITED STATES OLYMPIC TRUST FUND.

10 “(a) CREATION OF TRUST FUND.—There is established
11 in the Treasury of the United States a trust fund to be known
12 as the ‘United States Olympic Trust Fund’, consisting of
13 such amounts as may be appropriated or credited to the
14 United States Olympic Trust Fund as provided in this section
15 or section 9602(b).

16 “(b) TRANSFER TO UNITED STATES OLYMPIC TRUST
17 FUND OF AMOUNTS DESIGNATED.—There is hereby appro-
18 priated to the United States Olympic Trust Fund amounts
19 equivalent to the amounts designated under section 6097 and
20 received in the Treasury.

21 “(c) EXPENDITURES FROM TRUST FUND.—

22 “(1) IN GENERAL.—The Secretary shall pay, not
23 less often than quarterly, to the United States Olympic
24 Committee from the United States Olympic Trust
25 Fund an amount equal to the amount in such Fund as

1 of the time of such payment less any administrative ex-
2 penses of the Secretary which may be paid under para-
3 graph (2).

4 “(2) ADMINISTRATIVE EXPENSES.—Amounts in
5 the United States Olympic Trust Fund shall be availa-
6 ble to pay the administrative expenses of the Depart-
7 ment of the Treasury directly allocable to—

8 “(A) modifying the individual income tax
9 return forms to carry out section 6097,

10 “(B) carrying out this chapter with respect
11 to such Fund, and

12 “(C) processing amounts received under sec-
13 tion 6097 and transferring such amounts to and
14 from such Fund.”.

15 (c) CROSS REFERENCE.—Subsection (l) of section 170
16 (relating to disallowance of charitable deductions in certain
17 cases) (as designated by section 154 of this Act) is further
18 amended—

19 (1) by striking out “For disallowance” and insert-
20 ing in lieu thereof “(1) For disallowance”; and

21 (2) by adding at the end thereof the following new
22 paragraph:

23 “(2) For disallowance of deductions for contributions to
24 Olympics, see section 6097 (c).”.

25 (d) CLERICAL AMENDMENTS.—

1 ~~(1)~~ The table of parts for subchapter A of chapter
 2 61 is amended by adding at the end thereof the follow-
 3 ing new item:

"PART IX--DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR
 UNITED STATES OLYMPIC TRUST FUND."

4 (2) The table of sections for subchapter A of chap-
 5 ter 98 is amended by adding at the end thereof the fol-
 6 lowing new item:

"Sec. 9504. United States Olympic Trust Fund."

7 (e) EFFECTIVE DATE.—The amendments made by sub-
 8 section (a) shall apply to returns filed for taxable years begin-
 9 ning after December 31, 1983, and ending before January 1,
 10 1989.

11 **SEC. 808. INCREASE IN CHARITABLE VOLUNTEER MILEAGE.**

12 (a) IN GENERAL.—Section 170 (relating to charitable,
 13 etc., contributions and gifts) (as amended by section 154 of
 14 this Act) is further amended by redesignating subsections (l)
 15 and (m) as subsections (m) and (n), respectively, and by in-
 16 serting after subsection (k) the following new subsection:

17 “(l) STANDARD MILEAGE RATE FOR USE OF PASSEN-
 18 GER AUTOMOBILE.—For purposes of computing the deduc-
 19 tion under this section for use of a passenger automobile the
 20 standard mileage rate shall be 12 cents per mile.”.

21 (b) EFFECTIVE DATE.—The amendments made by sub-
 22 section (a) shall apply to taxable years beginning after De-
 23 cember 31, 1984.

1 SEC. 809. PERMANENT RULES FOR REFORMING GOVERNING
2 INSTRUMENTS CREATING CHARITABLE RE-
3 MAINDER TRUSTS AND OTHER CHARITABLE IN-
4 TERESTS.

5 (a) GENERAL RULE.—Paragraph (3) of section 2055(e)
6 (relating to disallowance of deductions in certain cases) is
7 amended to read as follows:

8 “(3) REFORMATIONS TO COMPLY WITH PARA-
9 GRAPH (2).—

10 “(A) IN GENERAL.—A deduction shall be al-
11 lowed under subsection (a) in respect of any quali-
12 fied reformation.

13 “(B) QUALIFIED REFORMATION.—For pur-
14 poses of this paragraph, the term ‘qualified refor-
15 mation’ means a change of a governing instru-
16 ment by reformation, amendment, construction, or
17 otherwise which changes a reformable interest
18 into a qualified interest but only if—

19 “(i) any difference between—

20 “(I) the actuarial value (deter-
21 mined as of the date of the decedent’s
22 death) of the qualified interest, and

23 “(II) the actuarial value (as so de-
24 termined) of the reformable interest,

1 does not exceed 5 percent of the actuarial
2 value (as so determined) of the reformable in-
3 terest,

4 “(ii) in the case of—

5 “(I) a charitable remainder inter-
6 est, the nonremainder interest (before
7 and after the qualified reformation) ter-
8 minated at the same time, or

9 “(II) any other interest, the re-
10 formable interest and the qualified inter-
11 est are for the same period, and

12 “(iii) such change is effective as of the
13 date of the decedent’s death.

14 A nonremainder interest (before reformation) for a
15 term of years in excess of 20 years shall be treat-
16 ed as satisfying subclause (I) of clause (ii) if such
17 interest (after reformation) is for a term of 20
18 years.

19 “(C) REFORMABLE INTEREST.—For pur-
20 poses of this paragraph—

21 “(i) IN GENERAL.—The term ‘reform-
22 able interest’ means any interest for which a
23 deduction would be allowable under subsec-
24 tion (a) at the time of the decedent’s death
25 but for paragraph (2).

1 “(ii) BENEFICIARY’S INTEREST MUST
2 BE FIXED.—The term ‘reformable interest’
3 does not include any interest unless, before
4 the remainder vests in possession, all pay-
5 ments to persons other than an organization
6 described in subsection (a) are expressed
7 either in specified dollar amounts or a fixed
8 percentage of the fair market value of the
9 property. For purposes of determining
10 whether all such payments are expressed as
11 a fixed percentage of the fair market value of
12 the property, section 664(d)(3) shall be taken
13 into account.

14 “(iii) SPECIAL RULE WHERE TIMELY
15 COMMENCEMENT OF REFORMATION.—
16 Clause (ii) shall not apply to any interest if a
17 judicial proceeding is commenced to change
18 such interest into a qualified interest not
19 later than the 90th day after—

20 “(I) if an estate tax return is re-
21 quired to be filed, the last date (includ-
22 ing extensions) for filing such return, or

23 “(II) if no estate tax return is re-
24 quired to be filed, the last date (includ-
25 ing extensions) for filing the income tax

1 return for the 1st taxable year for
2 which such a return is required to be
3 filed by the trust.

4 “(iv) SPECIAL RULE FOR WILL EX-
5 ECUTED BEFORE JANUARY 1, 1979, ETC.—

6 In the case of any interest passing under a
7 will executed before January 1, 1979, or
8 under a trust created before such date,
9 clause (ii) shall not apply.

10 “(D) QUALIFIED INTEREST.—For purposes
11 of this paragraph, the term ‘qualified interest’
12 means an interest for which a deduction is allow-
13 able under subsection (a).

14 “(E) LIMITATION.—The deduction referred
15 to in subparagraph (A) shall not exceed the
16 amount of the deduction which would have been
17 allowable for the reformable interest but for para-
18 graph (2).

19 “(F) SPECIAL RULE WHERE INCOME BENE-
20 FICIARY DIES.—If (by reason of the death of any
21 individual, or by termination or distribution of a
22 trust in accordance with the terms of the trust in-
23 strument) by the due date for filing the estate tax
24 return (including any extension thereof) a reform-
25 able interest is in a wholly charitable trust or

1 passes directly to a person or for a use described
2 in subsection (a), a deduction shall be allowed for
3 such reformable interest as if it had met the re-
4 quirements of paragraph (2) on the date of the de-
5 cedent's death. For purposes of the preceding sen-
6 tence, the term 'wholly charitable trust' means a
7 charitable trust which, upon the allowance of a
8 deduction, would be described in section
9 4947(a)(1).

10 "(G) STATUTE OF LIMITATIONS.—The
11 period for assessing any deficiency of any tax at-
12 tributable to the application of this paragraph
13 shall not expire before the date 1 year after the
14 date on which the Secretary is notified that such
15 reformation has occurred.

16 "(H) REGULATIONS.—The Secretary shall
17 prescribe such regulations as may be necessary to
18 carry out the purposes of this paragraph, includ-
19 ing regulations providing such adjustments in the
20 application of the provisions of section 508 (relat-
21 ing to special rules relating to section 501(c)(3)
22 organizations), subchapter J (relating to estates,
23 trusts, beneficiaries, and decedents), and chapter
24 42 (relating to private foundations) as may be
25 necessary by reason of the qualified reformation.

1 “(I) REFORMATIONS PERMITTED IN CASE
2 OF REMAINDER INTERESTS IN RESIDENCE OR
3 FARM, POOLED INCOME FUNDS, ETC.—The Sec-
4 retary shall prescribe regulations (consistent with
5 the provisions of this paragraph) permitting refor-
6 mations in the case of any failure—

7 “(i) to meet the requirements of section
8 170(f)(3)(B) (relating to remainder interests
9 in personal residence or farm, etc.), or

10 “(ii) to meet the requirements of section
11 642(c)(5).”.

12 (b) INCOME TAX DEDUCTION.—Subsection (f) of sec-
13 tion 170 (relating to disallowance of deduction in certain
14 cases and special rules) is amended by adding at the end
15 thereof the following new paragraph:

16 “(7) REFORMATIONS TO COMPLY WITH PARA-
17 GRAPH (2).—

18 “(A) IN GENERAL.—A deduction shall be al-
19 lowed under subsection (a) in respect of any quali-
20 fied reformation (within the meaning of section
21 2055(e)(3)(B)).

22 “(B) RULES SIMILAR TO SECTION 2055
23 (e)(3) TO APPLY.—For purposes of this paragraph,
24 rules similar to the rules of section 2055(e)(3)
25 shall apply.”.

1 (c) GIFT TAX DEDUCTION.—Subsection (c) of section
2 2522 is amended by adding at the end thereof the following
3 new paragraph:

4 “(4) REFORMATIONS TO COMPLY WITH PARA-
5 GRAPH (2).—

6 “(A) IN GENERAL.—A deduction shall be al-
7 lowed under subsection (a) in respect of any quali-
8 fied reformation (within the meaning of section
9 2055(e)(3)(B)).

10 “(B) RULES SIMILAR TO SECTION 2055(e)(3)
11 TO APPLY.—For purposes of this paragraph, rules
12 similar to the rules of section 2055(e)(3) shall
13 apply.”.

14 (d) TREATMENT OF CERTAIN CONTINGENCIES UNDER
15 SECTION 664.—Section 664 (relating to charitable remain-
16 der trusts) is amended by adding at the end thereof the fol-
17 lowing new subsection:

18 “(f) CERTAIN CONTINGENCIES PERMITTED.—

19 “(1) GENERAL RULE.—If a trust would, but for a
20 qualified contingency, meet the requirements of para-
21 graph (1)(A) or (2)(A) of subsection (d), such trust shall
22 be treated as meeting such requirements.

23 “(2) VALUE DETERMINED WITHOUT REGARD TO
24 QUALIFIED CONTINGENCY.—For purposes of determin-
25 ing the amount of any charitable contribution (or the

1 actuarial value of any interest), a qualified contingency
2 shall not be taken into account.

3 “(3) QUALIFIED CONTINGENCY.—For purposes of
4 this subsection, the term ‘qualified contingency’ means
5 any provision of a trust which provides that, upon the
6 happening of a contingency, the payments described in
7 paragraph (1)(A) or (2)(A) of subsection (d) (as the case
8 may be) will terminate not later than such payments
9 would otherwise terminate under the trust.”.

10 (e) EFFECTIVE DATE.—

11 (1) SUBSECTIONS (A), (B), AND (C).—The amend-
12 ments made by subsections (a), (b), and (c) shall apply
13 to reformations after December 31, 1978; except that
14 such amendments shall not apply to any reformation to
15 which section 2055(e)(3) of the Internal Revenue Code
16 of 1954 (as in effect on the day before the date of the
17 enactment of this Act) applies. For purposes of apply-
18 ing clause (iii) of section 2055(e)(3)(C) of such Code (as
19 amended by this section), the 90th day described in
20 such clause shall be treated as not occurring before the
21 90th day after the date of the enactment of this Act.

22 (2) SUBSECTION (D).—The amendment made by
23 subsection (d) shall apply to transfers after December
24 31, 1978.

25 (3) STATUTE OF LIMITATIONS.—

1 (A) IN GENERAL.—If on the date of the en-
2 actment of this Act (or at any time before the
3 date 1 year after such date of enactment), credit
4 or refund of any overpayment of tax attributable
5 to the amendments made by this section is barred
6 by any law or rule of law, such credit or refund of
7 such overpayment may nevertheless be made if
8 claim therefor is filed before the date 1 year after
9 the date of the enactment of this Act.

10 (B) NO INTEREST WHERE STATUTE CLOSED
11 ON DATE OF ENACTMENT.—In any case where
12 the making of the credit or refund of the overpay-
13 ment described in subparagraph (A) is barred on
14 the date of the enactment of this Act, no interest
15 shall be allowed with respect to such overpayment
16 (or any related adjustment) for the period before
17 the date 180 days after the date on which the
18 Secretary of the Treasury (or his delegate) is noti-
19 fied that the reformation has occurred.

20 **SEC. 810. CERTAIN CONTRIBUTIONS OF PROPERTY USED IN**
21 **QUALIFIED VOCATIONAL EDUCATION PRO-**
22 **GRAMS.**

23 (a) IN GENERAL.—Subsection (e) of section 170 (relat-
24 ing to certain contributions of ordinary income and capital

1 gain property) is amended by adding at the end thereof the
2 following new paragraph:

3 “(4) SPECIAL RULE FOR CERTAIN CONTRIBU-
4 TIONS OF PROPERTY USED IN QUALIFIED VOCATION-
5 AL EDUCATION PROGRAMS.—

6 “(A) LIMIT ON REDUCTION.—In the case of
7 a qualified vocational education contribution, the
8 reduction under paragraph (1)(A) shall be no
9 greater than the amount determined under para-
10 graph (3)(B).

11 “(B) QUALIFIED VOCATIONAL EDUCATION
12 CONTRIBUTION.—For purposes of this paragraph,
13 the term ‘qualified vocational education contribu-
14 tion’ means a charitable contribution by a corpo-
15 ration of tangible personal property described in
16 paragraph (1) of section 1221, but only if—

17 “(i) such contribution is to a public com-
18 munity college or public technical institute
19 (within the meaning of section 742(b) of the
20 Higher Education Act of 1965 (20 U.S.C.
21 1132e-1)), and is made through the govern-
22 ing body of the donee,

23 “(ii) the property is scientific or techni-
24 cal equipment or apparatus,

1 “(iii) substantially all of the use of such
2 property by the donee is for training students
3 enrolled in a postsecondary vocational educa-
4 tion program offered by the donee,

5 “(iv) the property is not computer soft-
6 ware, a microcomputer, or any other com-
7 puter designed generally for use in the home
8 or other personal use,

9 “(v) the fair market value of the proper-
10 ty exceeds \$250,

11 “(vi) the property is manufactured, pro-
12 duced, or assembled by the taxpayer, and the
13 contribution is made not later than six
14 months after the date on which the manufac-
15 ture, production, or assembly of the property
16 is substantially completed,

17 “(vii) the original use of the property is
18 by the donee,

19 “(viii) the property is accompanied by
20 the same warranty or warranties normally
21 provided by the manufacturer in connection
22 with a sale of the property contributed,

23 “(ix) such property is not transferred by
24 the donee in exchange for money, other

1 property, or services within 5 years of the
2 date of original transfer to the donee,

3 “(x) such property is functional and
4 usable in the condition in which it is trans-
5 ferred for the purposes described in clause
6 (iii), without the necessity of any repair, re-
7 conditioning, or other similar investment by
8 the donee, and

9 “(xi) the taxpayer receives from the
10 governing body of the donee a written state-
11 ment, executed under penalties of perjury,
12 representing that the property and its use
13 and disposition by the donee will be in ac-
14 cordance with the provisions of clauses (iii),
15 (ix) and (x).”.

16 “(C) CORPORATION.—For purposes of this
17 paragraph, the term ‘corporation’ shall not in-
18 clude—

19 “(i) an S corporation,

20 “(ii) a personal holding company (within
21 the meaning of section 542), or

22 “(iii) a service organization (within the
23 meaning of section 414(m)(3)).”.

1 (b) EFFECTIVE DATE.—The amendment made by this
2 section shall apply to contributions made after December 31,
3 1984.

4 SEC. 811. POSTSECONDARY VOCATIONAL EDUCATION IN-
5 STRUCTION CREDIT.

6 (a) IN GENERAL.—Subpart A of part IV of subchapter
7 A of chapter 1 (relating to credits allowable against tax) is
8 amended by inserting after section 44K the following new
9 section:

10 "SEC. 44L. VOCATIONAL EDUCATION INSTRUCTION CREDIT.

11 "(a) IN GENERAL.—In the case of a corporation, there
12 shall be allowed as a credit against the tax imposed by this
13 chapter for the taxable year an amount equal to the sum of—

14 "(1) the product of—

15 "(A) \$100, multiplied by

16 "(B) the number of postsecondary vocational
17 education courses taught by qualified teaching em-
18 ployees of the taxpayer during the taxable year,
19 plus

20 "(2) the product of—

21 "(A) \$100, multiplied by

22 "(B) the number of qualified vocational edu-
23 cation instructors who were employed by the tax-
24 payer during the taxable year.

25 "(b) LIMITATIONS.—

1 “(1) DOLLAR LIMITATION.—The aggregate
2 amount allowable as a credit under subsection (a) to
3 any taxpayer for any taxable year shall not exceed
4 \$20,000.

5 “(2) LIMITATION ON THE NUMBER OF COURSES
6 TAUGHT PER EMPLOYEE.—No more than 5 postsec-
7 ondary vocational education courses taught by the same
8 qualified teaching employee may be taken into account
9 under subsection (a)(1)(B).

10 “(3) LIMITATION BASED ON AMOUNT OF TAX.—
11 The credit allowed by subsection (a) for any taxable
12 year shall not exceed the amount of the tax imposed by
13 this chapter for the taxable year reduced by the sum of
14 the credits allowable for the taxable year under a sec-
15 tion of this part having a lower number or letter desig-
16 nation than this section, other than the credits allow-
17 able by sections 31, 39, and 43. For purposes of the
18 preceding sentence, the term ‘tax imposed by this
19 chapter’ shall not include any tax treated as not im-
20 posed by this chapter under the last sentence of section
21 53(a).

22 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
23 poses of this section—

1 “(1) POSTSECONDARY VOCATIONAL EDUCATION
2 COURSES.—The term ‘postsecondary vocational educa-
3 tion course’ means any course of instruction which—

4 “(A) is offered by an institution of higher
5 education as part of an organized education pro-
6 gram,

7 “(B) is in the physical, biological, computer,
8 or engineering technologies, or electronic and
9 automated industrial, medical, and agricultural
10 equipment and instrumentation operation,

11 “(C) consists of a period of instruction which
12 is at least equivalent to a course of instruction
13 that provides 3 hours of instruction per week
14 during an academic semester, and

15 “(D) has been completed before the close of
16 the taxable year.

17 “(2) QUALIFIED VOCATIONAL EDUCATION IN-
18 STRUCTOR.—The term ‘qualified vocational education
19 instructor’ means an individual who—

20 “(A) was employed by the taxpayer on a
21 full-time basis for at least 3 months but not more
22 than 12 months during the 2-year period ending
23 at the close of the taxable year,

1 “(B) prior to such employment, taught post-
2 secondary vocational education courses on a full-
3 time basis at an institution of higher education,

4 “(C) is teaching such courses on a full-time
5 basis at an institution of higher education at the
6 close of such taxable year, and

7 “(D) is not employed by the taxpayer at the
8 close of the taxable year.

9 “(3) QUALIFIED TEACHING EMPLOYEE.—The
10 term ‘qualified teaching employee’ means an individual
11 who—

12 “(A) taught at least one postsecondary voca-
13 tional education course on a part-time basis at an
14 institution of higher education during the taxable
15 year,

16 “(B) is a full-time employee of the taxpayer
17 for the entire taxable year,

18 “(C) does not receive any compensation from
19 such institution of higher education, and

20 “(D) was not a qualified vocational education
21 instructor at any time during the taxable year.

22 “(4) INSTITUTION OF HIGHER EDUCATION.—The
23 term ‘institution of higher education’ has the meaning
24 given such term in section 1201(a) of the Higher Edu-
25 cation Act of 1965.

1 “(5) ALLOCATION IN CASE OF CONTROLLED
2 GROUP OF CORPORATIONS.—

3 “(A) IN GENERAL.—In determining the
4 amount of the credit under this section—

5 “(i) all members of the same controlled
6 group of corporations shall be treated as a
7 single taxpayer, and

8 “(ii) the credit (if any) allowable by this
9 section to each such member with respect to
10 any qualified teaching employee or qualified
11 vocational education instructor shall be in
12 proportion to the member's share of the
13 wages paid for the taxable year to such
14 qualified teaching employee or qualified voca-
15 tional education instructor.

16 “(B) CONTROLLED GROUP OF CORPORA-
17 TIONS.—The term ‘controlled group of corpora-
18 tions’ has the same meaning given to such term
19 by section 1563(a), except that—

20 “(i) ‘more than 50 percent’ shall be sub-
21 stituted for ‘at least 80 percent’ each place it
22 appears in section 1563(a)(1), and

23 “(ii) the determination shall be made
24 without regard to subsections (a)(4) and
25 (e)(3)(C) of section 1563.

1 “(6) CORPORATION.—The term ‘corporation’
2 shall not include—

3 “(A) an S corporation,

4 “(B) a personal holding company
5 (within the meaning of section 542), or

6 “(C) a service organization (within the
7 meaning of section 414(m)(3)).

8 “(7) DOUBLE BENEFIT.—Any credit allowable
9 under this section for the taxable year with respect to
10 any employee of the taxpayer shall be in addition to
11 any deduction under this chapter which is allowable to
12 the taxpayer for such taxable year with respect to
13 compensation paid to such employee.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) The table of sections for subpart A of part IV
16 of subchapter A of chapter 1 is amended by inserting
17 after the item relating to section 44K the following
18 new item:

 “Sec. 44L. Vocational education instruction credit.”.

19 (2) Section 6096(b) (relating to designation of
20 income tax payments to Presidential Election Cam-
21 paign Fund) is amended by striking out “and 44I” and
22 inserting in lieu thereof “44I, and 44J”.

23 (c) EFFECTIVE DATE.—The amendments made by this
24 section shall apply to taxable years beginning after December
25 31, 1984.

1 SEC. 812. INCREASE IN CERTAIN DEDUCTION LIMITS FOR
2 CHARITABLE CONTRIBUTION DEDUCTION.

3 (a) INCREASE IN PERCENTAGE OF CONTRIBUTION
4 BASE LIMITATION FOR INDIVIDUALS.—Subsections (b)(1)
5 and (d)(1) of section 170 (relating to charitable, etc., contri-
6 butions and gifts) are amended by striking out “50 percent”
7 each place it appears and inserting in lieu thereof “60 per-
8 cent”.

9 (b) CARRYOVER OF EXCESS CONTRIBUTIONS BY INDIVIDUALS EXTENDED TO 15 YEARS.—
10

11 (1) IN GENERAL.—Subparagraph (A) of section
12 170(d)(1) (relating to carryovers of excess contributions
13 by individuals) is amended—

14 (A) by striking out “5 years” and inserting
15 in lieu thereof “15 years”, and

16 (B) by striking out “the second, third, fourth,
17 or fifth succeeding taxable year” in clause (ii) and
18 inserting in lieu thereof “each of the fourteen suc-
19 ceeding taxable years”.

20 (2) CONFORMING AMENDMENT.—Clause (ii) of
21 section 170(b)(1)(C) (relating to special limitation with
22 respect to contributions of certain capital gain proper-
23 ty) is amended by striking out “5” and inserting in lieu
24 thereof “14”.

1 (c) EFFECTIVE DATE.—The amendments made by this
2 section shall apply with respect to gifts made after December
3 31, 1984.

4 Subtitle C—Excise Tax Provisions

5 PART I—BOATING SAFETY AND SPORT FISH

6 RESTORATION

7 SUBPART A—BOATING SAFETY AMENDMENTS

8 SEC. 813. POLICY.

9 It is declared to be the policy of Congress and the pur-
10 pose of this part to improve recreational boating safety and to
11 foster greater development, use, and enjoyment of all waters
12 of the United States by encouraging and assisting participa-
13 tion by the States, the boating industry, and the boating
14 public in activities related to increasing boating safety; by
15 authorizing the establishment of national construction and
16 performance standards for boats and associated equipment;
17 by creating more flexible authority governing the use of boats
18 and equipment; and by facilitating the provision of services by
19 the United States Coast Guard on behalf of boating safety. It
20 is further declared to be the policy of Congress to encourage
21 greater and continuing uniformity of boating laws and regula-
22 tions among the States and the Federal Government, to en-
23 courage and assist the States in exercising their authorities in
24 boating safety, to foster greater cooperation and assistance
25 between the Federal Government and the States in adminis-

1 tering and enforcing Federal and State laws and regulations
2 pertaining to boating safety, and to equitably utilize taxes
3 paid on fuel use in motor boats in a manner which enhances
4 boating safety.

5 **SEC. 814. GENERAL AMENDMENTS TO TITLE 46.**

6 (a) Section 2102 of title 46, United States Code is
7 amended—

8 (1) by striking out “and facilities improvement” in
9 paragraph (1);

10 (2) by striking out paragraphs (3) and (4); and

11 (3) by redesignating paragraph (5) as paragraph
12 (3).

13 (b)(1) Section 13101 of such title is amended—

14 (A) by striking out “and facility improvement” in
15 subsection (a); and

16 (B) by striking out “and facilities improvement”
17 each place it appears.

18 (2) Subsection (a) of section 13101 of such title is
19 amended by striking out “may” in the second sentence and
20 inserting in lieu thereof “shall”.

21 (c)(1) Section 13102 of such title is amended by striking
22 out “and facilities improvement” each place it appears.

23 (2) Subsection (a) of section 13102 of such title is
24 amended by striking out “may” and inserting in lieu thereof
25 “shall”.

1 (3) Paragraph (2) of section 13102(a) of such title is
2 amended by striking out “, (d), or (f)”.

3 (4) Subsections (d) and (f) of section 13102 of such title
4 are repealed, and subsection (e) of such section (and any ref-
5 erence thereto) is redesignated as subsection (d).

6 (d)(1) Subsections (b) and (f) of section 13103 of such
7 title are repealed, and subsections (c), (d), and (e) of such
8 section (and all references thereto) are redesignated as sub-
9 sections (b), (c), and (d), respectively.

10 (2) Subsections (b) and (c) of section 13103 of such title
11 (as redesignated by paragraph (1) of this subsection) are
12 amended by striking out “and facilities improvement” each
13 place it appears.

14 (e) Section 13105 of such title is amended by striking
15 out “and facilities improvement”.

16 (f) Subsection (c) of section 13108 of such title is amend-
17 ed by striking out “and facilities improvement” each place it
18 appears.

19 (g) Section 13109 of such title is amended by striking
20 out “and facilities improvement” each place it appears.

21 **SEC. 815. AUTHORIZATION OF FUNDS FOR BOATING SAFETY.**

22 Section 13106 of title 46, United States Code, is
23 amended to read as follows:

24 “(a) The Secretary may expend in each of the fiscal
25 years 1985, 1986, 1987, and 1988, subject to amounts as

1 are provided in appropriations laws for liquidation of contract
2 authority, an amount equal to two-thirds of the amount trans-
3 ferred for such fiscal year to the Boating Safety Account
4 under section 9503(c)(4) of the Internal Revenue Code of
5 1954 (26 U.S.C. 9503(c)(4)). The amount shall be allocated
6 as provided under section 13103 of this title and shall be
7 available for State recreational boating safety programs as
8 provided under the guidelines established under subsection (b)
9 of this section. Amounts authorized to be expended for State
10 recreational boating safety programs shall remain available
11 until expended and are deemed to have been expended only if
12 an amount equal to the total amounts authorized to be ex-
13 pended under this section for the fiscal year in question and
14 all prior fiscal years have been obligated. Amounts previously
15 obligated but released by payment of a final voucher or modi-
16 fication of a program acceptance shall be credited to the bal-
17 ance of unobligated amounts and are immediately available
18 for expenditure.

19 “(b) The Secretary shall establish guidelines prescribing
20 the purposes for which amounts available under this chapter
21 for State recreational boating safety programs may be used.
22 Those purposes may include—

23 “(1) providing facilities, equipment, and supplies
24 for boating safety education and law enforcement, in-
25 cluding purchase, operation, maintenance, and repair;

1 “(2) training personnel in skills related to boating
2 safety and to the enforcement of boating safety laws
3 and regulations;

4 “(3) providing public boating safety education, in-
5 cluding educational programs and lectures, to the boat-
6 ing community and the public school system;

7 “(4) acquiring, constructing, or repairing public
8 access sites used primarily by recreational boaters;

9 “(5) conducting boating safety inspections and
10 marine casualty investigations;

11 “(6) establishing and maintaining emergency or
12 search and rescue facilities, and providing emergency
13 or search and rescue assistance;

14 “(7) establishing and maintaining waterway mark-
15 ers and other appropriate aids to navigation; and

16 “(8) providing State recreational vessel numbering
17 or titling programs.

18 “(c) An amount equal to one-third of the amount trans-
19 ferred for each fiscal year to the Boating Safety Account
20 under section 9503(c)(4) of the Internal Revenue Code of
21 1954 (26 U.S.C. 9503 (c)(4)) is available to the Secretary for
22 expenditures out of the operating expenses account of the
23 Coast Guard for services provided by the Coast Guard for
24 recreational boating safety, including services provided by the

1 Coast Guard Auxiliary. Amounts made available by this sub-
2 section shall remain available until expended.”.

3 **SEC. 816. EFFECTIVE DATE.**

4 The amendments made by this subpart shall take effect
5 on October 1, 1984, and shall apply with respect to fiscal
6 years beginning after September 30, 1984.

7 **SUBPART B—SPORT FISH RESTORATION PROGRAM**

8 **SEC. 817. AMENDMENTS TO THE SPORT FISH RESTORATION**
9 **PROGRAM.**

10 (a) The Act entitled “An Act to provide that the United
11 States shall aid the States in fish restoration and manage-
12 ment projects, and for other purposes”, approved August 9,
13 1950 (16 U.S.C. 777 et seq.), is amended as follows:

14 (1) The first section is amended—

15 (A) by inserting “(a)” after “That”; and

16 (B) by adding at the end thereof the follow-
17 ing new subsection:

18 “(b) Each coastal State, to the extent practicable, shall
19 equitably allocate the following sums between marine fish
20 projects and freshwater fish projects in the same proportion
21 as the estimated number of resident marine anglers and the
22 estimated number of resident freshwater anglers, respective-
23 ly, bear to the estimated number of all resident anglers in
24 that State:

1 “(1) The additional sums apportioned to such
2 State under this Act as a result of the taxes imposed
3 by the amendments made by the Sport Fish Restora-
4 tion Revenue Act of 1983 on items not taxed under
5 section 4161(a) of the Internal Revenue Code of 1954
6 before October 1, 1984.

7 “(2) The sums apportioned to such State under
8 this Act that are not attributable to any tax imposed
9 by section 4499(a) of such Code.

10 As used in this subsection, the term ‘coastal State’ means
11 any one of the States of Alabama, Alaska, California, Con-
12 necticut, Delaware, Florida, Georgia, Hawaii, Louisiana,
13 Maine, Maryland, Massachusetts, Mississippi, New Hamp-
14 shire, New Jersey, New York, North Carolina, Oregon,
15 Rhode Island, South Carolina, Texas, Virginia, and Wash-
16 ington. The term also includes the Commonwealth of Puerto
17 Rico, the United States Virgin Islands, Guam, American
18 Samoa, and the Commonwealth of the Northern Marianas.”.

19 (2) The first sentence of section 3 is amended to
20 read as follows: “To carry out the provisions of this
21 Act for fiscal years after September 30, 1984, there
22 are authorized to be appropriated from the Sport Fish
23 Restoration Account established by section 9505(a) of
24 the Internal Revenue Code of 1954 the amounts paid,
25 transferred, or otherwise credited to that Account. For

1 purposes of the provision of the Act of August 31,
2 1951, which refers to this section, such amounts shall
3 be treated as the amounts that are equal to the rev-
4 enues described in this section.”.

5 (3) The first sentence of section 4 is amended to
6 read as follows: “So much, not to exceed 6 per
7 centum, of each annual appropriation made in accord-
8 ance with the provisions of section 3 of this Act as the
9 Secretary of the Interior may estimate to be necessary
10 for his expenses in the conduct of necessary investiga-
11 tions, administration, and the execution of this Act and
12 for aiding in the formulation, adoption, or administra-
13 tion of any compact between two or more States for
14 the conservation and management of migratory fishes
15 in marine or freshwaters shall be deducted for that pur-
16 pose, and such sum is authorized to be made available
17 therefor until the expiration of the next succeeding
18 fiscal year.”.

19 (4) Section 5 is amended by striking all after the
20 first sentence.

21 (5) Section 6 is amended by adding at the end
22 thereof the following new subsection:

23 “(d) The Secretary of the Interior may enter into agree-
24 ments to finance up to 75 per centum of the initial costs of
25 the acquisition of lands or interests therein and the construc-

1 tion of structures or facilities for appropriations currently
2 available for the purposes of this Act; and to agree to finance
3 up to 75 per centum of the remaining costs over such a
4 period of time as the Secretary may consider necessary. The
5 liability of the United States in any such agreement is contin-
6 gent upon the continued availability of funds for the purposes
7 of this Act.”.

8 (6) Section 8 is amended by inserting “(a)” before
9 the first sentence, and by adding at the end thereof the
10 following new subsections:

11 “(b)(1) Each State shall allocate 10 per centum of the
12 funds apportioned to it for each fiscal year under section 4 of
13 this Act for the payment of up to 75 per centum of the costs
14 of the acquisition, development, renovation, or improvement
15 of facilities (and auxiliary facilities necessary to insure the
16 safe use of such facilities) that create, or add to, public access
17 to the waters of the United States to improve the suitability
18 of such waters for recreational boating purposes.

19 “(2) So much of the funds that are allocated by a State
20 under paragraph (1) in any fiscal year that remained unex-
21 pended or unobligated at the close of such year are author-
22 ized to be made available for the purposes described in para-
23 graph (1) during the succeeding fiscal year, but any portion of
24 such funds that remain unexpended or unobligated at the
25 close of such succeeding fiscal year are authorized to be made

1 **SEC. 819. TAX ON SALE OF SPORT FISHING EQUIPMENT.**

2 (a) **GENERAL RULE.**—Chapter 36 of subtitle D (relat-
3 mg to certain other excise taxes) is amended by adding at the
4 end thereof the following new subchapter:

5 **“Subchapter G—Sport Fishing Equipment**

“Sec. 4499. Tax on sport fishing equipment.

6 **“SEC. 4499. TAX ON SPORT FISHING EQUIPMENT.**

7 **“(a) IMPOSITION OF TAX.—**

8 **“(1) IN GENERAL.—**There is hereby imposed on
9 the tax trigger sale of any article of sport fishing
10 equipment a tax equal to 10 percent of the price for
11 which the article is sold.

12 **“(2) AMOUNT OF TAX ON ELECTRIC OUTBOARD**
13 **BOAT MOTORS, TACKLE BOXES, AND SONAR DEVICES**
14 **SUITABLE FOR FINDING FISH.—**

15 **“(A) IN GENERAL.—**In the case of any elec-
16 tric outboard boat motor, tackle box, or sonar
17 device suitable for finding fish, paragraph (1) shall
18 be applied by substituting ‘3 percent’ for ‘10 per-
19 cent’.

20 **“(B) \$30 LIMITATION OF TAX ON SONAR**
21 **DEVICES SUITABLE FOR FINDING FISH.—**The tax
22 imposed by paragraph (1) on any sonar device
23 suitable for finding fish shall not exceed \$30.

24 **“(3) PARTS OR ACCESSORIES SOLD IN CONNEC-**
25 **TION WITH TAX TRIGGER SALE.—**In the case of any

1 tax trigger sale of any article of sport fishing equip-
2 ment, such article shall be treated as including any
3 parts or accessories of such article sold on or in con-
4 nection therewith or with the sale thereof.

5 “(b) LIABILITY FOR TAX.—In the case of a tax trigger
6 sale, the tax imposed by subsection (a) on any sport fishing
7 equipment shall be paid by the person selling such article.

8 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
9 poses of this subchapter—

10 “(1) SPORT FISHING EQUIPMENT.—The term
11 ‘sport fishing equipment’ means—

12 “(A) fishing rods and poles (and component
13 parts therefor),

14 “(B) fishing reels,

15 “(C) fly fishing lines, and other fishing lines
16 not over 130 pounds test,

17 “(D) fishing spears, spear guns, and spear
18 tips,

19 “(E) items of terminal tackle, including—

20 “(i) leaders,

21 “(ii) artificial lures,

22 “(iii) artificial baits,

23 “(iv) artificial flies,

24 “(v) fishing hooks smaller than size 6/
25 0,

- 1 “(vi) bobbers,
2 “(vii) sinkers,
3 “(viii) snaps,
4 “(ix) drayles, and
5 “(x) swivels,

6 but not including natural bait or any item of ter-
7 minal tackle designed for use and ordinarily used
8 on fishing lines not described in subparagraph (C),
9 and

10 “(F) the following items of fishing supplies
11 and accessories—

- 12 “(i) fish stringers,
13 “(ii) creels,
14 “(iii) tackle boxes,
15 “(iv) bags, baskets, and other containers
16 designed to hold fish,
17 “(v) portable bait containers,
18 “(vi) fishing vests,
19 “(vii) landing nets,
20 “(viii) gaff hooks,
21 “(ix) fishing hook disgorgers, and
22 “(x) dressing for fishing lines and artifi-
23 cial flies,
24 “(G) fishing tip-ups and tilts,

1 “(H) fishing rod belts, fishing rodholders,
2 fishing harnesses, fish fighting chairs, fishing out-
3 riggers, and fishing downriggers,

4 “(I) electric outboard boat motors, and

5 “(J) sonar devices suitable for finding fish.

6 “(2) TAX TRIGGER SALE.—

7 “(A) IN GENERAL.—The term ‘tax trigger
8 sale’ means the last sale before any retail sale.

9 “(B) SALE OUTSIDE UNITED STATES.—If
10 the last sale before any retail sale occurs outside
11 the United States, the amount of tax imposed by
12 subsection (a) shall be paid by the importer at the
13 time of importation.

14 “(3) RETAIL SALE.—

15 “(A) IN GENERAL.—The term ‘retail sale’
16 means any sale to any person for purposes other
17 than resale.

18 “(B) LEASE OR USE TREATED AS SALE.—

19 The leasing of or use by any person of any sport
20 fishing equipment before any retail sale of such
21 equipment shall be treated as a retail sale of such
22 equipment by such person.

23 “(4) PRICE.—

24 “(A) IN GENERAL.—The term ‘price’ shall
25 include—

1 “(i) any charge for coverings and con-
2 tainers of whatever nature, and

3 “(ii) any charge incident to placing the
4 sport fishing equipment in condition ready for
5 any tax trigger sale,

6 but shall not include the amount of tax imposed
7 by subsection (a), whether or not stated as a sepa-
8 rate charge.

9 “(B) TRANSPORTATION, ETC. CHARGES.—

10 The term ‘price’ shall not include any transporta-
11 tion, delivery, insurance, installation, or other
12 charge which is not required to be included under
13 subparagraph (A) but only to the extent of the
14 amount thereof established to the satisfaction of
15 the Secretary in accordance with the regulations
16 prescribed under section 4216(a).

17 “(5) SONAR DEVICE SUITABLE FOR FINDING
18 FISH.—The term ‘sonar device suitable for finding
19 fish’ shall not include any sonar device which is—

20 “(A) a graph recorder,

21 “(B) a digital type,

22 “(C) a meter readout, or

23 “(D) any combination graph recorder or
24 meter readout.

1 “(6) TACKLE BOXES AND SONAR DEVICES SUIT-
2 ABLE FOR FINDING FISH.—Under regulations pre-
3 scribed by the Secretary, articles similar to tackle
4 boxes and sonar devices suitable for finding fish which
5 are not primarily designed or intended to be used for
6 sport fishing shall be delineated to ensure, to the maxi-
7 mum extent practicable, that the tax imposed by sub-
8 section (a) shall not apply to such articles.

9 “(7) CERTAIN EXEMPTIONS MADE APPLICA-
10 BLE.—Exemptions shall apply to the tax imposed by
11 subsection (a) under rules similar to the rules of sec-
12 tions 4221(a) and 4225.

13 “(8) SALES BETWEEN RELATED PARTIES.—In
14 the case of any tax trigger sale of sport fishing equip-
15 ment between related parties, rules similar to the rules
16 of section 4216 shall apply.

17 “(9) CROSS REFERENCE.—For penalties and ad-
18 ministrative provisions applicable to this subchapter,
19 see subtitle F.”.

20 (b) TIME FOR PAYMENT OF TAX.—Section 6302 (relat-
21 ing to mode or time of collecting tax) is amended by redес-
22 ignating subsection (d) as subsection (e) and by inserting after
23 subsection (e) the following new subsection:

24 “(d) TIME FOR PAYMENT OF EXCISE TAX ON SPORT
25 FISHING EQUIPMENT FOR SMALL MANUFACTURERS.—

1 “(1) IN GENERAL.—If any small manufacturer is
2 liable for the tax imposed by section 4499(a) (relating
3 to excise tax on sport fishing equipment), the deposit
4 requirements otherwise applicable under this section
5 shall not be required and such tax may be due and
6 payable on the date for filing a return for such tax
7 under section 6071.

8 “(2) SMALL MANUFACTURER.—

9 “(A) IN GENERAL.—For purposes of this
10 subsection, the term ‘small manufacturer’, means
11 any manufacturer whose gross receipts for the
12 preceding calendar year do not exceed \$100,000.

13 “(B) DETERMINATION OF SMALL MANUFAC-
14 TURER’S GROSS RECEIPTS.—For purposes of sub-
15 paragraph (A), the gross receipts of—

16 “(i) all trades or businesses (whether or
17 not incorporated) which are under common
18 control with the small manufacturer (within
19 the meaning of section 52(b)), and

20 “(ii) all members of any controlled
21 group of corporations of which the small
22 manufacturer is a member,

23 for the preceding calendar year described in sub-
24 paragraph (A) shall be included in the gross re-
25 ceipts of the small manufacturer. Under regula-

1 tions prescribed by the Secretary attribution rules
2 shall take into account, in addition to the persons
3 and entities described in the preceding sentence,
4 taxpayers who engage in manufacturing through
5 partnerships, joint ventures, and corporations.

6 “(C) CONTROLLED GROUP OF CORPORA-
7 TIONS.—The term ‘controlled group of corpora-
8 tions’ has the meaning given to such term by sec-
9 tion 1563(a), except that—

10 “(i) ‘more than 50 percent’ shall be sub-
11 stituted for ‘at least 80 percent’ each place it
12 appears in section 1563(a), and

13 “(ii) the determination shall be made
14 without regard to subsections (a)(4) and
15 (c)(3)(C) of section 1563.”.

16 (c) CLERICAL AMENDMENT.—The table of subchapters
17 for chapter 36 is amended by adding at the end thereof the
18 following new item:

 “Subchapter G. Sport Fishing Equipment.”.

19 (d) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as otherwise provided
21 in this subsection, the amendments made by this sec-
22 tion shall take effect on October 1, 1984.

23 (2) APPLICATION OF TAX.—The amendments
24 made by subsection (a) shall not apply with respect to

1 any article with respect to which any tax was imposed
2 under section 4161 before October 1, 1984.

3 (3) TACKLE BOXES AND SONAR DEVICES SUIT-
4 ABLE FOR FINDING FISH.—The amendments made by
5 subsection (a) with respect to tackle boxes and sonar
6 devices suitable for finding fish shall take effect on Oc-
7 tober 1, 1985.

8 **SEC. 820. ESTABLISHMENT OF AQUATIC RESOURCES TRUST**
9 **FUND.**

10 (a) GENERAL RULE.—Subchapter A of chapter 98 (re-
11 lating to Trust Fund Code) is amended by adding at the end
12 thereof the following new section:

13 **“SEC. 9505. AQUATIC RESOURCES TRUST FUND.**

14 **“(a) CREATION OF TRUST FUND.—**

15 **“(1) IN GENERAL.—**There is hereby established
16 in the Treasury of the United States a trust fund to be
17 known as the ‘Aquatic Resources Trust Fund’.

18 **“(2) ACCOUNTS IN TRUST FUND.—**The Aquatic
19 Resources Trust Fund shall consist of—

20 **“(A) a Sport Fish Restoration Account, and**

21 **“(B) a Boating Safety Account.**

22 Each such Account shall consist of such amounts as
23 may be appropriated, credited, or paid to it as provided
24 in this section, section 9503(c)(4), or section 9602(b).

25 **“(b) SPORT FISH RESTORATION ACCOUNT.—**

1 “(1) TRANSFER OF CERTAIN TAXES TO AC-
2 COUNT.—There is hereby appropriated to the Sport
3 Fish Restoration Account amounts equivalent to the
4 following amounts received in the Treasury on or after
5 October 1, 1984—

6 “(A) the taxes imposed by section 4499(a)
7 (relating to sport fishing equipment), and

8 “(B) the import duties imposed on fishing
9 tackle under subpart B of part 5 of schedule 7 of
10 the Tariff Schedules of the United States (19
11 U.S.C. 1202) and on yachts and pleasure craft
12 under subpart D of part 6 of schedule 6 of such
13 Schedules.

14 “(2) EXPENDITURES FROM ACCOUNT.—Amounts
15 in the Sport Fish Restoration Account shall be availa-
16 ble, as provided by appropriation Acts, to carry out the
17 purposes of the Act entitled ‘An Act to provide that
18 the United States shall aid the States in fish restora-
19 tion and management projects, and for other purposes’,
20 approved August 9, 1950 (16 U.S.C. 777 et seq.).

21 “(c) EXPENDITURES FROM BOATING SAFETY AC-
22 COUNT.—Amounts in the Boating Safety Account shall be
23 available, as provided by appropriation Acts, for making ex-
24 penditures before April 1, 1989, to carry out the purposes of
25 section 13106 of title 46, United States Code.

1 “(d) CROSS REFERENCE.—

 “**For provision transferring motorboat fuels taxes to Boating Safety Account and Sport Fish Restoration Account, see section 9503(c)(4).**”.

2 (b) TRANSFERS FROM HIGHWAY TRUST FUND.—

3 (1) Subparagraph (A) of section 9503(c)(4) is
4 amended—

5 (A) by striking out “the National Recreation-
6 al Boating Safety and Facilities Improvement
7 Fund established by section 13107 of title 46,
8 United States Code, in clause (i) and inserting in
9 lieu thereof “the Boating Safety Account in the
10 Aquatic Resources Trust Fund”,

11 (B) by striking out “the amount in the Na-
12 tional Recreational Boating Safety and Facilities
13 Improvement Fund” in clause (ii) and inserting in
14 lieu thereof “the amount in the Boating Safety
15 Account”, and

16 (C) by striking out “NATIONAL RECRE-
17 ATIONAL BOATING SAFETY AND FACILITIES IM-
18 PROVEMENT FUND” in the subparagraph heading
19 and inserting in lieu thereof “BOATING SAFETY
20 ACCOUNT”.

21 (2) Paragraph (4) of section 9503 (c) is amended
22 by redesignating subparagraph (C) as subparagraph (D)
23 and by striking out subparagraph (B) and inserting in
24 lieu thereof the following new subparagraphs:

1 “(B) \$1,000,000 per year of excess trans-
2 ferred to land and water conservation funds.—

3 “(i) IN GENERAL.—Any amount re-
4 ceived in the Highway Trust Fund—

5 “(I) which is attributable to motor-
6 boat fuel taxes, and

7 “(II) which is not transferred from
8 the Highway Trust Fund under subpar-
9 agraph (A),

10 shall be transferred (subject to the limitation
11 of clause (ii)) by the Secretary from the
12 Highway Trust Fund into the land and
13 water conservation fund provided for in title
14 I of the Land and Water Conservation Fund
15 Act of 1965.

16 “(ii) LIMITATION.—The aggregate
17 amount transferred under this subparagraph
18 during any fiscal year shall not exceed
19 \$1,000,000.

20 “(C) EXCESS FUNDS TRANSFERRED TO
21 SPORT FISH RESTORATION ACCOUNT.—Any
22 amount received in the Highway Trust Fund—

23 “(i) which is attributable to motorboat
24 fuel taxes, and

1 “(ii) which is not transferred from the
2 Highway Trust Fund under subparagraph
3 (A) or (B),

4 shall be transferred by the Secretary from the
5 Highway Trust Fund into the Sport Fish Restora-
6 tion Account in the Aquatic Resources Trust
7 Fund.”.

8 (c) CONFORMING AMENDMENT.—Section 13107 of title
9 46, United States Code, is hereby repealed.

10 (d) CLERICAL AMENDMENT.—The table of sections for
11 subchapter A of chapter 98 of such Code is amended by
12 adding at the end thereof the following new item:

 “Sec. 9505. Aquatic Resources Trust Fund.”

13 (e) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by this
15 section shall take effect on October 1, 1984.

16 (2) BOATING SAFETY ACCOUNT TREATED AS
17 CONTINUATION OF NATIONAL RECREATIONAL BOAT-
18 ING SAFETY AND FACILITIES IMPROVEMENT FUND.—

19 The Boating Safety Account in the Aquatic Resources
20 Trust Fund established by the amendments made by
21 this section shall be treated for all purposes of law as
22 the continuation of the National Recreational Boating
23 Safety and Facilities Improvement Fund established by
24 section 13107 of title 46, United States Code. Any ref-
25 erence in any law to the National Recreational Boating

1 Safety and Facilities Improvement Fund established by
 2 such section shall be deemed to include (wherever ap-
 3 propriate) a reference to such Boating Safety Account.

4 **SEC. 821. TAX ON CERTAIN BOWS AND ARROWS.**

5 (a) **GENERAL RULE**—Part 1 of subchapter D of chapter
 6 32 (relating to imposition of excise tax on sporting goods) is
 7 amended to read as follows:

8 “**PART I—BOWS AND ARROWS**

“Sec. 4161. Imposition of tax:

9 “**SEC. 4161. IMPOSITION OF TAX.**

10 “(a) **BOWS AND ARROWS.**—There is hereby imposed on
 11 the sale by the manufacturer, producer, or importer—

12 “(1) of any bow which has a draw weight of 10
 13 pounds or more, and

14 “(2) of any arrow which—

15 “(A) measures 18 inches overall or more in
 16 length, or

17 “(B) measures less than 18 inches overall in
 18 length but is suitable for use with a bow described
 19 in paragraph-(1),

20 a tax equal to 11 percent of the price for which so sold.

21 “(b) **PARTS AND ACCESSORIES.**—There is hereby im-
 22 posed upon the sale by the manufacturer, producer, or im-
 23 porter—

1 “(1) of any part or accessory suitable for inclusion
2 in or attachment to a bow or arrow described in sub-
3 section (a), and

4 “(2) of any quiver suitable for use with arrows de-
5 scribed in subsection (a), a tax equivalent to 11 percent
6 of the price for which so sold.

7 “(c) COORDINATION WITH SECTION 4499.—No tax
8 shall be imposed under this section with respect to any article
9 on which a tax is imposed under section 4499.”

10 (b) CLERICAL AMENDMENT.—The table of parts of sub-
11 chapter D of chapter 32 is amended by striking out the item
12 relating to sporting goods and inserting in lieu thereof the
13 following new item:

14 “PART 1. BOWS AND ARROWS.”

15 (c) EFFECTIVE DATE.—The amendments made by this
16 section shall apply with respect to articles sold by the manu-
17 facturer, producer, or importer after September 30, 1984.

18 Part II—Other Excise Taxes

19 SEC. 822. INCREASE IN TAX ON DISTILLED SPIRITS.

20 (a) DISTILLED SPIRITS.—

21 (1) IN GENERAL.—Paragraphs (1) and (3) of sec-
22 tion. 5001(a) (relating to rate of tax on distilled spirits)
23 are each amended by striking out “\$10.50” and insert-
24 ing in lieu thereof “\$12.50”.

1 (2) TECHNICAL AMENDMENT.—Paragraphs (1)
2 and (2) of section 5010(a) (relating to credit for wine
3 content and for flavors content) are each amended by
4 striking out “\$10.50” and inserting in lieu thereof
5 “12.50”.

6 (b) FLOOR STOCKS TAXES ON DISTILLED SPIRITS.—

7 (1) IMPOSITION OF TAX.—On distilled spirits pro-
8 duced in or imported into the United States which are
9 removed before January 1, 1985, and held on such
10 date for sale by any person, there shall be imposed a
11 tax at the rate of \$2.00 for each proof gallon and a
12 proportionate tax at the like rate on all fractional parts
13 of a proof gallon. Such tax imposed by this paragraph
14 shall be treated as a tax imposed by section 5001.

15 (2) LIABILITY FOR TAX AND METHOD OF PAY-
16 MENT.—

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

21 (B) METHOD OF PAYMENT.—The tax im-
22 posed by paragraph (1)—

23 (i) shall be paid in such manner as the
24 Secretary shall by regulations prescribe, and

1 (ii) shall be paid at such date (not later
2 than 6 months after the date of the enact-
3 ment of this Act) as the Secretary shall by
4 regulations prescribe.

5 (3) EXCEPTION FOR ON-PREMISES RETAIL ES-
6 TABLISHMENTS.—To the extent provided in regula-
7 tions prescribed by the Secretary, the tax imposed by
8 paragraph (1) shall not apply to distilled spirits held on
9 January 1, 1985, on the premises of a retail establish-
10 ment where alcoholic beverages are sold for consump-
11 tion on the premises only.

12 (4) DEFINITIONS.—For purposes of this subsec-
13 tion—

14 (A) DISTILLED SPIRITS.—The term “dis-
15 tilled spirits” has the meaning given such term by
16 section 5002(a)(8) of the Internal Revenue Code
17 of 1954.

18 (B) TREATMENT OF IMPORTED PERFUMES
19 CONTAINING DISTILLED SPIRITS.—Any article
20 described in section 5001(a)(3) of such Code shall
21 be treated as distilled spirits; except that the tax
22 imposed by paragraph (1) shall be imposed on a
23 wine gallon basis in lieu of a proof gallon basis.

24 (C) PERSON.—The term “person” includes
25 any State or political subdivision thereof, or any

1 agency or instrumentality of a State or political
2 subdivision thereof.

3 (D) SECRETARY.—The term “Secretary”
4 means the Secretary of the Treasury or his dele-
5 gate.

6 (c) EFFECTIVE DATE.—The amendment made by sub-
7 section (a) shall take effect on January 1, 1985.

8 **SEC. 823. EXEMPTION FROM AVIATION EXCISE TAX FOR CER-**
9 **TAIN HELICOPTER OPERATIONS.**

10 (a) EXEMPTION FROM FUEL TAX.—Paragraph (1) of
11 section 4041(l) (relating to exemption for certain helicopter
12 uses) is amended to read as follows:

13 “(1) transporting individuals, equipment, or sup-
14 plies in—

15 “(A) the exploration for, or the development
16 or removal of, hard minerals, or

17 “(B) the exploration for oil or gas, or”.

18 (b) EXEMPTION FROM TAX ON TRANSPORTATION BY
19 AIR.—Paragraph (1) of section 4261(e) (relating to exemp-
20 tion for certain helicopter uses) is amended to read as follows:

21 “(1) transporting individuals, equipment, or sup-
22 plies in—

23 “(A) the exploration for, or the development
24 or removal of, hard minerals, or

25 “(B) the exploration for oil or gas, or”.

1 (c) **EFFECTIVE DATE.**—The amendments made by this
 2 section shall apply to sales of fuel occurring and transporta-
 3 tion provided after March 31, 1984.

4 **SEC. 824. TECHNICAL AMENDMENTS TO THE HAZARDOUS SUB-**
 5 **STANCE RESPONSE REVENUE ACT OF 1980.**

6 (a) **CLARIFICATION OF EXCEPTED SUBSTANCES.**—
 7 Subsection (b) of section 4662 (relating to definitions and spe-
 8 cial rules with respect to tax on certain chemicals) is amend-
 9 ed by adding at the end thereof the following new para-
 10 graphs:

11 “(5) **SUBSTANCES USED IN THE PRODUCTION OF**
 12 **MOTOR FUEL, ETC.**—

13 “(A) **IN GENERAL.**—The term ‘taxable
 14 chemical’ shall not include any qualified petro-
 15 chemical which is used or sold for use in the man-
 16 ufacture or production of any qualified fuel, in-
 17 cluding the use of such petrochemical—

18 “(i) as a qualified fuel,

19 “(ii) reacted to make products used to
 20 make a qualified fuel, or

21 “(iii) blended with fuel products for use
 22 as a qualified fuel.

23 “(B) **QUALIFIED PETROCHEMICALS.**—The
 24 term ‘qualified petrochemical’ means acetylene,
 25 benzene, butape, butylene, butadiene, ethylene,

1 methane, naphthalene, propylene, toluene, or
2 xylene.

3 “(C) QUALIFIED FUELS.—The term ‘quali-
4 fied fuel’ means any motor fuel, diesel fuel, avi-
5 ation fuel, or jet fuel.

6 “(D) USE BY PURCHASER.—Under regula-
7 tions prescribed by the Secretary, if any person
8 purchases any qualified petrochemical for any use
9 or sale described in subparagraph (A) and then
10 uses or sells such petrochemical for a purpose
11 other than such use or sale, such person shall be
12 treated as the manufacturer thereof and liable for
13 tax under section 4661(a).

14 “(6) SUBSTANCES USED IN METAL REFINING
15. PROCESS.—

16 “(A) IN GENERAL.—No tax shall be imposed
17 under this subchapter on cupric sulfate, cupric
18 oxide, cuprous oxide, lead oxide, zinc chloride,
19 zinc sulfate, or on any solution or mixture con-
20 taining any of such chemicals, which have a tran-
21 sitory presence during any process of smelting, re-
22 fining, or otherwise extracting copper, lead, zinc,
23 or other metal from ores, concentrates, or other
24 metal-bearing substances which are not subject to
25 tax under section 4661(a).

1 “(B) REMOVAL OF SUBSTANCES.—The re-
2 moval by any person for use, sale, disposal, or
3 storage of cupric sulfate, cupric oxide, cuprous
4 oxide, lead oxide, zinc chloride, zinc sulfate, or
5 any solution or mixture containing any of such
6 chemicals, from any such process of smelting, re-
7 fining, or otherwise extracting metal from ores
8 shall be treated as the use of such chemicals by
9 such person, and shall be subject to tax under sec-
10 tion 4661(a).”.

11 (b) CLARIFICATION OF USE FOR FERTILIZER PRODUC-
12 TION.—Paragraph (2) of section 4662(b) (relating to excep-
13 tions and other special rules) is amended to read as follows:

14 “(2) SUBSTANCES USED IN THE PRODUCTION OF
15 FERTILIZER.—

16 “(A) IN GENERAL.—Under regulations pre-
17 scribed by the Secretary, no tax shall be imposed
18 under section 4661(a) on the use or resale for use
19 of any of the following chemicals:

20 “(i) methane used to produce ammonia,

21 “(ii) nitric acid,

22 “(iii) sulfuric acid, or

23 “(iv) ammonia,

24 as a qualified substance (and, for purposes of sec-
25 tion 4661(a), any person who uses or resells any

1 such chemical for use otherwise than as a quali-
2 fied substance shall be treated as the manufactur-
3 er thereof).

4 “(B) QUALIFIED SUBSTANCE.—The term
5 ‘qualified substance’ means any substance—

6 “(i) used in a qualified use by the manu-
7 facturer, producer, or importer,

8 “(ii) sold for use by any purchaser in a
9 qualified use, or

10 “(iii) sold for resale by any purchaser
11 for use or resale for ultimate use in a quali-
12 fied use.

13 “(C) QUALIFIED USE.—The term ‘qualified
14 use’ means any use in the manufacture or produc-
15 tion of a fertilizer or for direct application as a
16 fertilizer.”.

17 (c) CONFORMING AMENDMENT.—Subsection (c) of sec-
18 tion 4662 (relating to use by manufacturers, etc., considered
19 sale) is amended by inserting “(except as provided in subsec-
20 tion (b))” after “then”.

21 (d) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendments made by this
23 section shall take effect as if included in the amend-
24 ments made by section 211(a) of the Hazardous Sub-
25 stance Response Revenue Act of 1980.

1 (2) **WAIVER OF LIMITATIONS.**—Under regula-
2 tions prescribed by the Secretary, notwithstanding sec-
3 tion 6511(a) or any other period of limitation or lapse
4 of time, a claim for credit or refund of overpayment of
5 tax by reason of the amendments made by this section,
6 may be filed by any person within the 1-year period
7 beginning on the date of the enactment of this Act.
8 Section 6511(b) and section 6514 of the Internal Rev-
9 enue Code of 1954 shall not apply to any claim for
10 credit or refund filed under this paragraph within such
11 1-year period.

12 **Subtitle D—Employee Benefits**

13 **SEC. 825. TAXATION OF UNEMPLOYMENT COMPENSATION NOT**
14 **TO APPLY TO COMPENSATION PAID FOR**
15 **WEEKS OF UNEMPLOYMENT ENDING BEFORE**
16 **DECEMBER 1, 1978.**

17 (a) **GENERAL RULE.**—Subsection (d) of section 112 of
18 the Revenue Act of 1978 (relating to taxation of unemploy-
19 ment compensation benefits at certain income levels) is
20 amended to read as follows:

21 “(d) **EFFECTIVE DATE.**—The amendments made by
22 this section shall apply to payments of unemployment com-
23 pensation made after December 31, 1978, in taxable years
24 ending after such date; except that such amendments shall

1 not apply to payments made for weeks of unemployment
2 ending before December 1, 1978.”.

3 **(b) WAIVER OF STATUTE OF LIMITATIONS.**—If credit
4 or refund of any overpayment of tax resulting from the
5 amendment made by subsection (a) is barred on the date of
6 the enactment of this Act or at any time during the 1-year
7 period beginning on the date of the enactment of this Act by
8 the operation of any law or rule of law (including res judi-
9 cata), refund or credit of such overpayment (to the extent
10 attributable to the amendment made by subsection (a)) may,
11 nevertheless, be made or allowed if claim thereon is filed
12 before the close of such 1-year period.

13 **SEC. 826. EMPLOYEE STOCK OPTIONS.**

14 **(a) IN GENERAL.**—Section 83 (relating to property
15 transferred in connection with performance of services) is
16 amended by redesignating subsection (i) as subsection (j) and
17 by inserting after subsection (h) the following new subsection:

18 **“(i) ELECTION WITH RESPECT TO STOCK TRANS-**
19 **FERRED PURSUANT TO EMPLOYEE STOCK OPTION.**—

20 **“(1) IN GENERAL.**—If the application of this sub-
21 section is elected by a corporation with respect to any
22 transfer of stock of such corporation to an individual
23 pursuant to an employee stock option granted by such
24 corporation—

1 “(A) subsection (a) shall not apply with re-
2 spect to such transfer, and

3 “(B) the amount which would have been in-
4 cluded in the gross income of such individual for
5 any taxable year by reason of the application of
6 subsection (a) to such transfer shall be included in
7 the gross income of such individual for the taxable
8 year in which such individual disposes of such
9 stock.

10 “(2) EMPLOYMENT REQUIREMENT.—

11 “(A) IN GENERAL.—This subsection shall
12 not apply with respect to any employee stock
13 option granted by a corporation to an individual if
14 such individual was not an employee of such cor-
15 poration, or of a parent or subsidiary corporation
16 of such corporation, at any time during the period
17 that begins on the date on which such option is
18 granted and ends on the date which is 3 months
19 before the date such option is exercised.

20 “(B) RETIREMENT.—Any cessation of em-
21 ployment of an individual which is caused by the
22 retirement of such individual after such individual
23 has attained 55 years of age shall not be taken
24 into account under subparagraph (A).

1 “(iii) the option price is not less than
2 the fair market value of the stock at the time
3 such option is granted;

4 “(iv) the terms of such option provide
5 that the option is not exercisable while there
6 is outstanding any other option described in
7 this subparagraph or an incentive stock
8 option (within the meaning of section
9 422A(b)) to purchase stock in—

10 “(I) the employer corporation,

11 “(II) a corporation that (at the
12 time of the granting of such option) is a
13 parent or subsidiary corporation of the
14 employer corporation, or

15 “(III) a predecessor corporation of
16 any of such corporations,

17 which was granted before the granting of
18 such option;

19 “(v) such option by its terms is not
20 transferable by such individual otherwise
21 than by will or the laws of descent and dis-
22 tribution and is exercisable, during the life-
23 time of such individual, only by such individ-
24 ual, and

25 “(vi) the sum of—

1 “(I) the fair market value of stock
2 that may be acquired pursuant to such
3 option (determined at the time such
4 option is granted), plus

5 “(II) the aggregate fair market
6 value of all stock that may be acquired
7 pursuant to options described in this
8 subparagraph to purchase stock in any
9 corporation described in subclause (I),
10 (II), or (III) of clause (iv) which were
11 granted to such individual prior to such
12 option during the calendar year in
13 which such option was granted (deter-
14 mined at the time such options were
15 granted), plus

16 “(III) the aggregate fair market
17 value of all stock that may be acquired
18 pursuant to incentive stock options
19 (within the meaning of section 422A(b))
20 to purchase stock in any corporation de-
21 scribed in subclause (I), (II), or (III) of
22 clause (iv) which were granted by such
23 corporation to such individual during
24 the calendar year in which such option
25 was granted (determined at the time

1 such incentive stock options were grant-
2 ed),
3 does not exceed \$100,000.

4 “(B) SPECIAL RULES.—

5 “(i) NOTICE OF DISPOSITION TO COR-
6 PORATION.—An option meets the require-
7 ments of subparagraph (A)(ii) if the terms of
8 the option require that any stock certificate
9 of a corporation issued upon exercise of such
10 option indicate on the face of such certificate
11 that transfer of the stock is subject to the
12 provision of notice to the corporation of such
13 transfer.

14 “(ii) OPTION OUTSTANDING.—For pur-
15 poses of subparagraph (A)(iv), an option shall
16 be treated as being outstanding if such
17 option—

18 “(I) has not been exercised in full,
19 or

20 “(II) has not expired by reason of
21 lapse of time.

22 “(iii) FAIR MARKET VALUE.—For pur-
23 poses of subparagraph (A), the fair market
24 value of stock shall be determined without

1 regard to any restriction other than a restric-
2 tion which, by its terms, will never lapse.

3 “(5) MODIFICATION, EXTENSION, OR RENEWAL
4 OF OPTION.—For purposes of this subsection—

5 “(A) IN GENERAL.—If the terms of any
6 option to purchase stock are modified, extended,
7 or renewed, such modification, extension, or re-
8 newal shall be considered as the granting of a
9 new option.

10 “(B) MODIFICATION DEFINED.—The term
11 ‘modification’ means any change in the terms of
12 the option which gives the employee additional
13 benefits under the option, but such term shall not
14 include a change in the terms of the option—

15 “(i) attributable to the issuance or as-
16 sumption of an option described in section
17 425 (a), or

18 “(ii) in the case of an option not imme-
19 diately exercisable in full, to accelerate the
20 time at which the option may be exercised.

21 “(6) NOTIFICATION OF SALE OF OPTION
22 STOCK.—No deduction shall be allowable under this
23 chapter to an employer corporation with respect to any
24 employee stock option until the employer corporation
25 provides notice to the Secretary (in such form and in

1 such manner as the Secretary may prescribe by regula-
2 tions) of the sale of stock pursuant to such employee
3 stock option.

4 “(7) NONDISCRIMINATING PROVISION.—

5 “(A) IN GENERAL.—A corporation may elect
6 the application of this subsection only if the corpo-
7 ration does not discriminate in favor of—

8 “(i) shareholders of the corporation who
9 own 5 percent or more of—

10 “(I) the total combined voting
11 power of all classes of stock of the cor-
12 poration entitled to vote, or

13 “(II) the total value of share of all
14 classes of stock of the corporation, or

15 “(ii) officers of the corporation who an-
16 nually earn more than twice the amount
17 specified in section 415 (c)(1)(A),

18 in the granting of employee stock options or in
19 the making of elections under this section.

20 “(B) DISCRIMINATION PRESUMED.—For
21 purposes of this paragraph, a corporation shall be
22 treated as discriminating in favor of shareholders
23 or officers described in subparagraph (A) in the
24 granting of employee stock options if—

1 “(i) more than 60 percent of the aggre-
2 gate fair market value of the employee stock
3 options granted by such corporation in any
4 calendar year beginning after 1983, or

5 “(ii) more than 60 percent of the aggre-
6 gate fair market value of employee stock op-
7 tions granted by such corporation at any
8 time before January 1, 1984,

9 is granted to shareholders or officers described in
10 subparagraph (A).

11 “(C) EMPLOYEES UNDER COMMON CON-
12 TROL.—For purposes of this paragraph—

13 “(i) CONTROLLED GROUP OF CORPORA-
14 TIONS.—All employees of all corporations
15 which are members of a controlled group of
16 corporations (within the meaning of sections
17 1563(a), determined without regard to sec-
18 tion 1563(a)(4) and (e)(3)(C)) shall be treated
19 as employed by a single employer.

20 “(ii) PARTNERSHIPS, PROPRIETOR-
21 SHIPS, ETC.—Under regulations prescribed
22 by the Secretary, all employees of trades or
23 businesses (whether or not incorporated)
24 which are under common control shall be
25 treated as employed by a single employer.

1 The regulations prescribed under this subsection
2 tion shall be based on principles similar to
3 the principles which apply under clause (i).

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

6 “(A) DISPOSITION.—For purposes of this
7 subsection, the term ‘disposition’ has the meaning
8 given such term in section 425(c)(1) (determined
9 without regard to subparagraph (A) thereof).

10 “(B) PARENT CORPORATION.—The term
11 ‘parent corporation’ has the meaning given to
12 such term by section 425(e).

13 “(C) SUBSIDIARY CORPORATION.—The term
14 ‘subsidiary corporation’ has the meaning given to
15 such term by section 425(f).”.

16 (b) DEDUCTION FOR EMPLOYER.—Subsection (h) of
17 section 83 (relating to deduction by employer) is amended by
18 striking out “or (d)(2)” and inserting in lieu thereof “(d)(2),
19 or (i)”.

20 (c) DEFERRED INCOME TREATED AS ITEM OF TAX
21 PREFERENCE FOR MINIMUM TAX PURPOSES.—Subsection
22 (a) of section 57 (relating to items of tax preference) is
23 amended by adding at the end thereof the following new
24 paragraph:

1 “For purposes of this paragraph, the fair market value
2 of a share of stock shall be determined without regard
3 to any restriction which, by its terms, will never
4 lapse.”.

5 **(b) MODIFICATION OF INCENTIVE STOCK OPTIONS.—**

6 Subparagraph (B) of section 425(h)(3) (relating to modifica-
7 tions) is amended by striking out “422A(b)(5),”.

8 **(c) EFFECTIVE DATES.—**

9 **(1) FAIR MARKET VALUE.—**The amendment
10 made by subsection (a) shall apply to options granted
11 after March 20, 1984.

12 **(2) ITEMS OF TAX PREFERENCE.—**The amend-
13 ment made by subsection (b) shall apply to options ex-
14 ercised after March 20, 1984.

15 **(3) MODIFICATIONS.—**The amendment made by
16 subsection (c) shall apply with respect to modifications
17 of options after March 20, 1984.”.

18 **SEC. 828. EMPLOYEE ACHIEVEMENT AWARDS.**

19 **(a) EXCLUSION FROM GROSS INCOME.—**Section 74
20 (relating to prizes and awards) is amended—

21 (1) by striking out “Except as provided in subsec-
22 tion (b) and” in subsection (a) and inserting in lieu
23 thereof “Except as otherwise provided in this section
24 or”, and

1 (2) by adding at the end thereof the following new
2 subsection:

3 “(c) QUALIFIED EMPLOYEE ACHIEVEMENT
4 AWARDS.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this title, gross income shall include that
7 portion of the value of a qualified employee achieve-
8 ment award received by the taxpayer that does not
9 exceed an amount equal to the excess of—

10 “(A) the lesser of—

11 “(i) the cost to the employer of the
12 qualified employee achievement award, or

13 “(ii) the value to the employee of the
14 qualified employee achievement award, over

15 “(B) the amount allowable to the employer
16 (or which would be allowable if the employer
17 were not exempt from taxation under this title) as
18 a deduction for the cost of the qualified employee
19 achievement award.

20 The remaining portion of the value of the qualified em-
21 ployee achievement award shall not be included in the
22 gross income of the recipient.

23 “(2) QUALIFIED EMPLOYEE ACHIEVEMENT
24 AWARD.—For purposes of this subsection, the term
25 ‘qualified employee achievement award’ means any em-

1 ployee achievement award (within the meaning of sec-
2 tion 274(k)(3)(A)) which—

3 “(A) is awarded as part of a meaningful
4 presentation,

5 “(B) is awarded under conditions and circum-
6 stances that do not create a significant likelihood
7 of the payment of disguised compensation, and

8 “(C) constitutes—

9 “(i) a watch, clock, or other timepiece,

10 “(ii) an item of emblematic jewelry or a
11 ring that has been custom designed and man-
12 ufactured to identify or symbolize the award-
13 ing employer or the achievement being rec-
14 ognized,

15 “(iii) to the extent provided in regula-
16 tions prescribed by the Secretary, an item
17 which is of a type traditionally used to make
18 a retirement award,

19 “(iv) to the extent provided in regula-
20 tions prescribed by the Secretary, an item
21 which is of a type traditionally used to make
22 a nonretirement employee achievement
23 award, or

24 “(v) any accessory for personal wear,
25 use, or display which is permanently and

1 prominently affixed to an item described in
2 clause (i) or (ii) provided that such accessory
3 does not constitute a significant element of
4 cost.”.

5 (b) GIFTS.—Section 274(b) (relating to gifts) is amend-
6 ed—

7 (1) by inserting “, or” after “generally by the tax-
8 payer” in subparagraph (1)(A),

9 (2) by striking out “or” after “of the recipient” in
10 subparagraph (1)(B), and inserting a period,

11 (3) by striking out subparagraph (1)(C), and

12 (4) by striking out paragraph (3).

13 (c) EMPLOYEE BENEFIT PLANS.—Section 414 (relat-
14 ing to employee benefits plans) is amended—

15 (1) by inserting “274(j),” before “401” in subsec-
16 tion (b),

17 (2) by inserting “274(j),” before “401” in subsec-
18 tion (c), and

19 (3) by striking out “and (D) section 125.” after
20 “(C) section 105(h),” and inserting in lieu thereof “(D)
21 section 125, and (E) section 274(j).” in subsection (m).

22 (d) DEDUCTION FOR COST OF EMPLOYEE ACHIEVE-
23 MENT AWARDS.—Section 274 (relating to certain entertain-
24 ment, etc., expenses) is amended by redesignating subsection

1 (k) as subsection (l) and by inserting after subsection (j) the
2 following new subsection:

3 “(k) Employee Achievement Awards.—

4 “(1) GENERAL RULE.—A deduction allowed
5 under section 162 or section 212 for the cost of an em-
6 ployee achievement award shall be allowed only to the
7 extent that such cost does not exceed the deduction
8 limitations of paragraph (2).

9 “(2) DEDUCTION LIMITATIONS.—The deduction
10 for the cost of one or more qualified plan awards
11 awarded by an employer to an employee during the
12 same year for the same qualifying achievement shall
13 not exceed \$1,600, and the deduction for the cost of
14 such items awarded by an employer to an employee
15 during the same year for the same qualifying achieve-
16 ment which are not qualified plan awards shall not
17 exceed \$400.

18 “(3) DEFINITIONS.—For purposes of this subsec-
19 tion—

20 “(A) EMPLOYEE ACHIEVEMENT AWARD.—

21 “(i) IN GENERAL.—The term ‘employee
22 achievement award’ means an item of tangi-
23 ble personal property transferred by an em-
24 ployer to an employee for a qualifying
25 achievement, which the employer does not

1 elect to treat in its entirety as compensation
2 to the employee.

3 “(ii) EXCEPTION.—An item shall not
4 constitute an employee achievement award
5 if—

6 “(I) such item is provided to a key
7 employee, and

8 “(II) more than 10 percent of the
9 cost paid or incurred by the taxpayer
10 during the same year is for items which
11 would, but for this clause, constitute
12 employee achievement awards awarded
13 to key employees.

14 “(B) QUALIFYING ACHIEVEMENT.—The
15 three qualifying achievements for an employee
16 achievement award are length of service (includ-
17 ing retirement), productivity, and safety achieve-
18 ment.

19 “(C) EMPLOYER.—All employees who are
20 treated as employed by a single employer under
21 subsection (b), (c), or (m) of section 414 shall be
22 treated as employed by a single employer.

23 “(D) QUALIFIED PLAN AWARD.—The term
24 ‘qualified plan award’ means an employee
25 achievement award provided under a qualified

1 plan which the employer elects to treat as a quali-
2 fied plan award, and which meets the requirement
3 of subparagraph (E).

4 “(E) QUALIFIED PLAN.—The term ‘qualified
5 plan’ means an established written plan or pro-
6 gram of the employer to provide employee
7 achievement awards.

8 “(F) KEY EMPLOYEE DEFINED.—The term
9 ‘key employee’ has the meaning given to such
10 term by paragraph (1) of section 416(i), except
11 that subparagraph (A)(iv) of such paragraph shall
12 be applied by not taking into account employees
13 described in paragraph (4)(C)(ii) who are not eligi-
14 ble to receive qualified plan awards under the
15 plan.

16 “(4) SPECIAL RULES FOR QUALIFIED PLAN
17 AWARDS.—

18 “(A) AVERAGE COST OF AWARDS.—An em-
19 ployee achievement award shall not be treated as
20 a qualified plan award if the average cost per re-
21 cipient of all employee achievement awards which
22 were provided by the employer during the year
23 for the same qualifying achievement, and which
24 would be qualified plan awards but for this sub-
25 paragraph, exceeds \$400. For purposes of this

1 subparagraph, a 'recipient' shall be any employee
2 who received a qualified plan award for that
3 qualifying achievement during the year, and aver-
4 age cost shall be calculated by including the
5 entire cost of qualified plan awards provided for
6 that qualifying achievement. Average cost shall be
7 calculated without taking into account employee
8 achievement awards of nominal value.

9 “(B) NONDISCRIMINATION REQUIRE-
10 MENT.—

11 “(i) IN GENERAL.—An employee
12 achievement award provided to a key em-
13 ployee under a discriminatory qualified plan
14 shall not be treated as a qualified plan
15 award.

16 “(ii) DISCRIMINATORY QUALIFIED
17 PLAN.—For purposes of this paragraph, the
18 term 'discriminatory qualified plan' means
19 any qualified plan of an employer unless—

20 “(I) the plan does not discriminate
21 in favor of key employees as to eligibil-
22 ity to receive qualified plan awards, and

23 “(II) the type and cost of qualified
24 plan awards available under the plan

1 does not discriminate in favor of partici-
2 pants who are key employees.

3 “(C) NONDISCRIMINATORY ELIGIBILITY
4 CLASSIFICATION.—

5 “(i) IN GENERAL.—A qualified plan
6 does not meet requirements of paragraph
7 (4)(B)(ii)(I) unless—

8 “(I) 70 percent or more of all em-
9 ployees of the employer are eligible for
10 qualified plan awards under such plan,

11 “(II) at least 85 percent of all em-
12 ployees who are eligible for qualified
13 plan awards under such plan are not
14 key employees, or

15 “(III) the employees who are eligi-
16 ble for qualified plan awards under such
17 plan are determined under a classifica-
18 tion set up by the employer and found
19 by the Secretary not to be discriminato-
20 ry in favor of key employees.

21 “(ii) EXCLUSION OF CERTAIN EMPLOY-
22 EES.—For purposes of this subparagraph,
23 there may be excluded from consideration—

24 “(I) employees who have not com-
25 pleted 3 years of service;

1 “(II) part-time or seasonal employ-
2 ees;

3 “(III) employees not included in
4 the qualified plan who are included in a
5 unit of employees covered by an agree-
6 ment between employee representatives
7 and one or more employers which the
8 Secretary finds to be a collective bar-
9 gaining agreement, if methods or stand-
10 ards for recognizing employee achieve-
11 ments were the subject of good faith
12 bargaining between such employee rep-
13 resentatives and such employer or em-
14 ployers; and

15 “(IV) employees who are nonresi-
16 dent aliens and who receive no earned
17 income (within the meaning of section
18 911(d)(2)) from the employer which con-
19 stitutes income from sources within the
20 United States (within the meaning of
21 section 861(a)(3)).

22 “(D) NONDISCRIMINATORY BENEFITS.—A
23 qualified plan does not meet the requirements of
24 paragraph (4)(B)(ii)(II) unless all qualified plan
25 awards available under the plan to key employees

1 are available under the plan to all other employ-
2 ees who are eligible to receive qualified plan
3 awards under the plan.

4 “(5) SPECIAL RULES.—For purposes of this sub-
5 section—

6 “(A) PARTNERSHIPS.—In the case of an
7 employee achievement award provided by a part-
8 nership, the deduction limitations contained in
9 paragraph (2) shall apply to the partnership as
10 well as to each member thereof.

11 “(B) LENGTH OF SERVICE AWARDS.—

12 “(i) IN GENERAL.—An item, other than
13 an exempted item, provided by an employer
14 to an employee, shall not be treated as
15 having been provided for length of service
16 achievement if an employee achievement
17 award other than an exempted item was pro-
18 vided by the employer to the employee for
19 length of service achievement during that
20 year or any of the prior three years.

21 “(ii) EXEMPTED ITEM.—For purposes
22 of this subparagraph, the term exempted
23 item’ means an employee achievement award
24 which is of nominal value, is provided as
25 part of the replacement of one length of

1 service plan by another, is a retirement
2 award, or is an initial years award.

3 “(iii) INITIAL YEARS AWARD.—For
4 purposes of this subparagraph, the term ‘ini-
5 tial years award’ means an employee
6 achievement award provided to an employee
7 for length of service achievement during the
8 first five years of employment with the em-
9 ployer, but only to the extent that the cost of
10 the award, when combined with the cost of
11 all other such awards provided to that em-
12 ployee for those years, does not exceed
13 \$200.

14 “(C) DOLLAR LIMITATIONS.—Except for
15 employee achievement awards of nominal value,
16 the aggregate amount that an employer may
17 deduct for the cost of one or more employee
18 achievement awards provided to an employee for
19 productivity or safety achievement for any con-
20 secutive four-year period shall not exceed \$1,600
21 for each category of award.

22 “(D) LIMITATION ON NUMBER OF RECIPI-
23 ENTS.—An item provided by an employer to an
24 employee shall not be treated as having been pro-
25 vided for productivity or safety achievement if,

1 during the same year, employee achievement
2 awards (other than awards of nominal value) for
3 productivity or safety achievement, have previous-
4 ly been awarded by the employer to, or earned
5 by, more than 10 percent of the employer's em-
6 ployees.

7 “(E) NO MULTIPLE ACHIEVEMENT
8 AWARDS.—No item shall be treated as an em-
9 ployee achievement award for more than one
10 qualifying achievement.

11 “(F) INFORMATION AND RETURNS.—The
12 Secretary shall have authority to require any
13 person, by notice served upon such person or by
14 regulations, to make such returns, render such
15 statements, and keep such records as may be ap-
16 propriate to show whether or not such person has
17 complied with the provisions of this section, in-
18 cluding information with respect to numbers,
19 types, costs, and recipients of employee achieve-
20 ment awards, and the numbers and types of quali-
21 fied plans maintained, the numbers and costs of
22 items awarded under such plans, and the employ-
23 ees eligible to receive awards under such plans.”.

1 (e) EFFECTIVE DATE.—The amendments made by this
2 section shall apply to awards received after the date of enact-
3 ment of this Act.

4 SEC. 829. MORATORIUM ON ISSUANCE OF FRINGE BENEFIT
5 REGULATIONS.

6 (a) IN GENERAL.—Section 1 of the Act entitled “An
7 Act to prohibit the issuance of regulations on the taxation of
8 fringe benefits, and for other purposes”, approved October 7,
9 1978 (26 U.S.C. 61 note) (relating to fringe benefit regula-
10 tions), is amended by striking out “December 31, 1983” each
11 place it appears and inserting in lieu thereof “December 31,
12 1985”.

13 (b) FACULTY HOUSING.—

14 (1) IN GENERAL.—For purposes of section 1(a) of
15 such Act, any regulation providing for the inclusion in
16 gross income under section 61 of the Internal Revenue
17 Code of 1954 of the excess (if any) of the fair market
18 value of qualified campus lodging over the greater of—

19 (A) the operating costs paid or incurred in
20 furnishing such lodging, or

21 (B) the rent received for such lodging,
22 shall be considered to be a fringe benefit regulation.

23 (2) QUALIFIED CAMPUS LODGING.—For purposes
24 of this subsection, the term “qualified campus lodging”
25 means lodging which is—

1 (A) located on (or in close proximity to) a
2 campus of an educational institution (described in
3 section 170(b)(1)(A)(ii) of the Internal Revenue
4 Code of 1954), and

5 (B) provided by such institution to an em-
6 ployee of such institution, or to a spouse or de-
7 pendent (within the meaning of section 152 of
8 such Code) of such employee.

9 (3) SECTION NOT TO APPLY TO AMOUNTS
10 TREATED AS WAGES (OR INCOME).—An amount—

11 (A) shall not be excluded from treatment as
12 wages by reason of this subsection if the employer
13 treated such amount as wages when paid, and

14 (B) shall not be excluded from gross income
15 by reason of this subsection if such amount was
16 included in gross income by the taxpayer for the
17 taxable year during which such amount was re-
18 ceived or accrued.

19 (c) EFFECTIVE DATE.—

20 (1) SUBSECTION (a).—The amendments made by
21 subsection (a) of this section shall take effect on the
22 date of the enactment of this Act.

23 (2) SUBSECTION (b).—Subsection (b) of this sec-
24 tion shall apply to lodging furnished after December
25 31, 1983, and before January 1, 1986.

1 SEC. 830. PICKUPS UNDER SALARY REDUCTION ARRANGE-
2 MENTS.

3 (a) SOCIAL SECURITY ACT.—Section 209 of the Social
4 Security Act is amended by striking out “section 414(h)(2) of
5 such Code” in the matter added by section 324(c)(1) of the
6 Social Security Amendments of 1983 and inserting in lieu
7 thereof “section 414(h)(2) of such Code where the pickup re-
8 ferred to in such section is pursuant to a salary reduction
9 arrangement (whether evidenced by a written instrument or
10 otherwise)”.

11 (b) INTERNAL REVENUE CODE OF 1954.—

12 (1) FICA.—Subparagraph (B) of section
13 3121(v)(1) is amended to read as follows:

14 “(B) any amount treated as an employer
15 contribution under section 414(h)(2) where the
16 pickup referred to in such section is pursuant to a
17 salary reduction arrangement (whether evidenced
18 by a written instrument or otherwise).”.

19 (2) FUTA.—Subparagraph (B) of section
20 3306(r)(1) is amended to read as follows:

21 “(B) any amount treated as an employer
22 contribution under section 414(h)(2) where the
23 pickup referred to in such section is pursuant to a
24 salary reduction arrangement (whether evidenced
25 by a written instrument or otherwise).”.

1 **Subtitle E—Miscellaneous Treasury**

2 **Administrative Provisions**

3 **SEC. 831. SIMPLIFICATION OF CERTAIN REPORTING REQUIRE-**

4 **MENTS.**

5 (a) **DISC REPORT.—**

6 (1) Section 506 of the Revenue Act of 1971 (re-
7 relating to submission of annual reports to Congress) is
8 amended to read as follows:

9 **“SEC. 506. SUBMISSION OF REPORTS TO CONGRESS.**

10 **“The Secretary of the Treasury shall, for the calendar**
11 **year 1981 and each second calendar year thereafter, submit a**
12 **report to the Congress within 27½ months following the**
13 **close of such calendar year setting forth an analysis of the**
14 **operation and effect of the provisions of this title.”.**

15 (2) The amendment made by paragraph (1) shall
16 apply to reports for calendar years after 1980.

17 (b) **REPORT ON POSSESSIONS CORPORATIONS.—The**
18 **Secretary of the Treasury shall, for the calendar year 1981**
19 **and each second calendar year thereafter, submit a report to**
20 **the Congress within 24 months following the close of such**
21 **calendar year setting forth an analysis of the operation and**
22 **effect of sections 936 and 934(b) of the Internal Revenue**
23 **Code of 1954.**

24 (c) **HIGH INCOME TAXPAYER REPORT.—**

1 (1) Section 2123 of the Tax Reform Act of 1976
2 is amended to read as follows:

3 **“SEC. 2123. HIGH INCOME TAXPAYER REPORT.**

4 “The Secretary of the Treasury shall publish annually
5 information on the amount of tax paid by individual taxpayers
6 with high total incomes. Total income for this purpose is to
7 be calculated and set forth by adding to adjusted gross
8 income any items of tax preference excluded from, or deduct-
9 ed in arriving at, adjusted gross income, and by subtracting
10 any investment expenses incurred in the production of such
11 income to the extent of the investment income. These data
12 are to include the number of such individuals with total
13 income over \$200,000 who owe no Federal income tax (after
14 credits) and the deductions, exclusions, or credits used by
15 them to avoid tax.”.

16 (2) The amendment made by paragraph (1) shall
17 apply to information published after the date of the en-
18 actment of this Act.

19 **(d) INTERNATIONAL BOYCOTT REPORTS.—**

20 (1) Section 1067 of the Tax Reform Act of 1976
21 is amended to read as follows:

22 **“SEC. 1067. REPORTS BY THE SECRETARY.**

23 “(a) **GENERAL RULE.—**As soon after the close of each
24 4-year period as the data become available, the Secretary
25 shall transmit a report to the Committee on Ways and Means

1 of the House of Representatives and to the Committee on
2 Finance of the Senate setting forth for such 4-year period—

3 “(1) the number of reports filed under section
4 999(a) of the Internal Revenue Code of 1954 for tax-
5 able years ending with or within each calendar year in
6 such 4-year period,

7 “(2) the number of such reports with respect to
8 each such calendar year on which the taxpayer indicat-
9 ed international boycott participation or cooperation
10 (within the meaning of section 999(b)(3) of such Code),
11 and

12 “(3) a detailed description of the manner in which
13 the provisions of such Code relating to international
14 boycott activity have been administered during such 4-
15 year period.

16 “(b) 4-YEAR PERIOD.—For purposes of subsection (a),
17 the term ‘4-year period’ means the period consisting of 4
18 calendar years beginning with calendar year 1982 and each
19 subsequent fourth calendar year.”.

20 (2) The amendment made by paragraph (1) shall
21 apply to reports for periods after December 31, 1981.

22 **SEC. 832. REMOVAL OF \$1,000,000 LIMITATION ON WORKING**
23 **CAPITAL FUND.**

24 The last sentence of section 322(a) of title 31, United
25 States Code (placing a \$1,000,000 limitation on the working

1 capital fund for the Department of the Treasury), is hereby
2 repealed.

3 **SEC. 833. INCREASE IN LIMITATION ON REVOLVING FUND FOR**
4 **REDEMPTION OF REAL PROPERTY.**

5 Subsection (a) of section 7810 (relating to revolving
6 fund for redemption of real property) is amended by striking
7 out "\$1,000,000" and inserting in lieu thereof
8 "\$10,000,000".

9 **SEC. 834. REMOVAL OF \$1,000,000 LIMITATION ON SPECIAL AU-**
10 **THORITY TO DISPOSE OF OBLIGATIONS.**

11 Subsection (b) of section 324 of title 31, United States
12 Code (relating to disposing and extending the maturity of ob-
13 ligations), is amended by striking out the last sentence.

14 **SEC. 835. SECRETARY OF THE TREASURY AUTHORIZED TO**
15 **ACCEPT GIFTS AND BEQUESTS.**

16 Section 321 of title 31, United States Code, is amended
17 by adding at the end thereof the following new subsection:

18 "(d)(1) The Secretary of the Treasury may accept, hold,
19 administer, and use gifts and bequests of property, both real
20 and personal, for the purpose of aiding or facilitating the
21 work of the Department of the Treasury. Gifts and bequests
22 of money and the proceeds from sales of other property re-
23 ceived as gifts or bequests shall be deposited in the Treasury
24 in a separate fund and shall be disbursed on order of the
25 Secretary of the Treasury. Property accepted under this

1 paragraph, and the proceeds thereof, shall be used as nearly
2 as possible in accordance with the terms of the gift or
3 bequest.

4 “(2) For purposes of the Federal income, estate, and gift
5 taxes, property accepted under paragraph (1) shall be consid-
6 ered as a gift or bequest to or for the use of the United
7 States.

8 “(3) The Secretary of the Treasury may invest and rein-
9 vest the fund in public debt securities with maturities suitable
10 for the needs of the fund and bearing interest at rates deter-
11 mined by the Secretary of the Treasury, taking into consider-
12 ation the current average market yield on outstanding mar-
13 ketable obligations of the United States of comparable matu-
14 rities. Income accruing from the securities, and from any
15 other property accepted under paragraph (1), shall be depos-
16 ited to the credit of the fund, and shall be disbursed on order
17 of the Secretary of the Treasury for purposes as nearly as
18 possible in accordance with the terms of the gifts or be-
19 quests.

20 “(4) The Secretary of the Treasury shall, not less fre-
21 quently than annually, make a public disclosure of the
22 amount (and sources) of the gifts and bequests received under
23 this subsection, and the purposes for which amounts in the
24 separate fund established under this subsection are
25 expended.”

1 **SEC. 836. EXTENSION OF PERIOD FOR COURT REVIEW OF**
2 **JEOPARDY ASSESSMENT WHERE PROMPT**
3 **SERVICE NOT MADE ON THE UNITED STATES.**

4 (a) **GENERAL RULE.**—Paragraph (2) of section 7429(b)
5 (relating to judicial review) is amended by adding at the end
6 thereof the following new sentence:

7 “If the court determines that proper service was not
8 made on the United States within 5 days after the date
9 of the commencement of the action, the running of the
10 20-day period set forth in the preceding sentence shall
11 not begin before the day on which proper service was
12 made on the United States.”.

13 (b) **EFFECTIVE DATE.**—The amendment made by sub-
14 section (a) shall apply to actions commenced after the date of
15 the enactment of this Act.

16 **SEC. 837. EXTENSION OF PERIOD DURING WHICH ADDITION-**
17 **AL TAX SHOWN ON AMENDED RETURN MAY BE**
18 **ASSESSED.**

19 (a) **GENERAL RULE.**—Subsection (c) of section 6501
20 (relating to exceptions) is amended by adding at the end
21 thereof the following new paragraph:

22 “(7) **SPECIAL RULE FOR CERTAIN AMENDED RE-**
23 **TURNS.**—Where, within the 60-day period ending on
24 the day on which the time prescribed in this section for
25 the assessment of any tax imposed by subtitle A for
26 any taxable year would otherwise expire, the Secretary

1 receives a written document signed by the taxpayer
2 showing that the taxpayer owes an additional amount
3 of such tax for such taxable year, the period for the
4 assessment of such additional amount shall not expire
5 before the day 60 days after the day on which the Sec-
6 retary receives such document.”.

7 (b) **EFFECTIVE DATE.**—The amendment made by sub-
8 section (a) shall apply with respect to documents received by
9 the Secretary of the Treasury (or his delegate) after the date
10 of the enactment of this Act.

11 **SEC. 838. FINANCIAL REPORTING OF INVESTMENT TAX CRED-**
12 **ITS.**

13 (a) **IN GENERAL.**—Paragraph (1) of section 101(c) of
14 the Revenue Act of 1971 (85 Stat. 499) (relating to account-
15 ing for investment credit in certain financial reports and re-
16 ports to Federal agencies) is amended—

17 (1) by inserting “and” at the end of subparagraph
18 (A),

19 (2) by striking out “, and” at the end of subpara-
20 graph (B) and inserting in lieu thereof a period, and

21 (3) by striking out subparagraph (C).

22 (b) **EFFECTIVE DATE.**—The amendments made by this
23 section shall take effect as if included in the Revenue Act of
24 1971.

1 **SEC. 839. REPORT ON REGULATED FUTURES CONTRACTS LITI-**
2 **GATION.**

3 The Secretary of the Treasury or his delegate shall
4 report to the Committee on Finance of the Senate and the
5 Committee on Ways and Means of the House of Representa-
6 tives before October 1, 1984, with respect to progress made
7 by the Secretary of the Treasury or his delegate in reducing
8 the backlog of cases involving the tax treatment of certain
9 regulated futures contracts to which the provisions of Federal
10 tax law in effect before 1981 apply.

11 **SEC. 840. TREATMENT OF CERTAIN GUARANTEED DRAFTS**
12 **ISSUED BY FINANCIAL INSTITUTIONS.**

13 (a) **GENERAL RULE.**—Paragraph (2) of section 6311(b)
14 (relating to liability of banks and others) is amended—

15 (1) by striking out “or cashier’s check” and in-
16 serting in lieu thereof “or cashier’s check (or other
17 guaranteed draft)”,

18 (2) by striking out “the amount of such check”
19 and inserting in lieu thereof “the amount of such check
20 (or draft)”,

21 (3) by striking out “the bank or trust company”
22 and inserting in lieu thereof “the financial institution”,
23 and

24 (4) by striking out “such bank” each place it ap-
25 pears and inserting in lieu thereof “such financial insti-
26 tution”.

1 (b) **EFFECTIVE DATE.**—The amendments made by sub-
2 section (a) shall take effect on the date of the enactment of
3 this Act.

4 **SEC. 841. DISCLOSURE OF WINDFALL PROFIT TAX INFORMA-**
5 **TION TO STATE TAX OFFICIALS.**

6 (a) **GENERAL RULE.**—Paragraph (1) of section 6103(d)
7 (relating to disclosure to State tax officials) is amended by
8 striking out “44, 51” and inserting in lieu thereof “44, 45,
9 51”.

10 (b) **EFFECTIVE DATE.**—The amendment made by sub-
11 section (a) shall take effect on the date of the enactment of
12 this Act.

13 **SEC. 842. EXTENSION OF STATUTORY LIMITATIONS TO THE**
14 **EXTENDED TIME GIVEN TO DESIGNATE RE-**
15 **CEIPTS AS CAPITAL CONTRIBUTIONS.**

16 (a) **IN GENERAL.**—Section 6501 (relating to limitations
17 on assessment and collection) is amended by adding at the
18 end thereof the following new subsection:

19 “(r) **SPECIAL RULES FOR CONTRIBUTIONS TO CAPI-**
20 **TAL OF CORPORATION.**—In the case of a deficiency attribut-
21 able to the failure to meet the requirements of the expendi-
22 ture rule of section 118(b)(2), such deficiency may be as-
23 sessed at any time within 3 years after such failure.”.

1 (b) EFFECTIVE DATE.—The amendment made by this
 2 section shall apply to failures occurring after December 31,
 3 1984.

4 **Subtitle F—Provisions Relating to Distilled Spirits**

5 ~~SEC. 513. REPEAL OF OCCUPATIONAL TAX ON MANUFACTUR-~~
 6 **ERS OF STILLS AND CONDENSERS; NOTICES OF**
 7 **MANUFACTURE AND SET UP OF STILLS.**

8 (a) IN GENERAL.—Subpart C of part II of subchapter
 9 A of chapter 51 (relating to manufacturers of stills) is amend-
 10 ed to read as follows:

11 **“Subpart C—Manufacturers of Stills**

“Sec. 5101. Notice of manufacture of still; notice of set up of still.
 “Sec. 5102. Definition of manufacturer of stills.

12 **“SEC. 5101. NOTICE OF MANUFACTURE OF STILL; NOTICE OF**
 13 **SET UP OF STILL.**

14 **“(a) NOTICE REQUIREMENTS.—**

15 **“(1) NOTICE OF MANUFACTURE OF STILL.—**The
 16 Secretary may, pursuant to regulations, require any
 17 person who manufactures any still, boiler, or other
 18 vessel to be used for the purpose of distilling, to give
 19 written notice, before the still, boiler, or other vessel is
 20 removed from the place of manufacture, setting forth
 21 by whom it is to be used, its capacity, and the time of
 22 removal from the place of manufacture.

23 **“(2) NOTICE OF SET UP OF STILL.—**The Secre-
 24 tary may, pursuant to regulations, require that no still,

1 boiler, or other vessel be set up without the manufac-
 2 turer of the still, boiler, or other vessel first giving
 3 written notice to the Secretary of that purpose.

4 “(b) PENALTIES, ETC.—

“(1) For penalty and forfeiture for failure to give notice of manufacture, or for setting up a still without first giving notice, when required by the Secretary, see sections 5615(2) and 5687.

“(2) For penalty and forfeiture for failure to register still or distilling apparatus when set up, see section 5601(a)(1) and 5615(1).

5 “SEC. 5102. DEFINITION OF MANUFACTURER OF STILLS.

6 “Any person who manufactures any still or condenser to
 7 be used in distilling shall be deemed a manufacturer of stills.”

8 (b) TECHNICAL AMENDMENTS.—

9 (1) Paragraph (2) of section 5179(b) (relating to
 10 registration of stills) is amended to read as follows:

“(2) For provisions requiring notification to set up a still, boiler, or other vessel for distilling, see section 5101(a)(2).”.

11 (2) Paragraph (2) of section 5615 (relating to
 12 property subject to forfeiture) is amended to read as
 13 follows:

14 “(2) DISTILLING APPARATUS REMOVED WITH-
 15 OUT NOTICE OR SET UP WITHOUT NOTICE.—Any
 16 still, boiler, or other vessel to be used for the purpose
 17 of distilling—

18 “(A) which is removed without notice having
 19 been given when required by section 5101(a)(1),
 20 or

1 “(B) which is set up without notice having
2 been given when required by section 5101(a)(2);
3 and”.

4 (3) Subsection (a) of section 5691 (relating to pen-
5 alties for nonpayment of special taxes relating to liq-
6 uors) is amended by striking out “limited retail dealer,
7 or manufacturer of stills” and inserting in lieu thereof
8 “or limited retail dealer”.

9 **SEC. 844. ALLOWANCE OF DRAWBACK CLAIMS EVEN WHERE**
10 **CERTAIN REQUIREMENTS NOT MET.**

11 Section 5134 (relating to drawback) is amended by
12 adding at the end thereof the following new subsection:

13 “(c) **ALLOWANCE OF DRAWBACK EVEN WHERE CER-**
14 **TAIN REQUIREMENTS NOT MET.—**

15 “(1) **IN GENERAL.—**No claim for drawback under
16 this section shall be denied in the case of a failure to
17 comply with any requirement imposed under this sub-
18 part or any rule or regulation issued thereunder upon
19 the claimant’s establishing to the satisfaction of the
20 Secretary that distilled spirits on which the tax has
21 been paid or determined were in fact used in the manu-
22 facture or production of medicines, medicinal prepara-
23 tions, food products, flavors, or flavoring extracts,
24 which were unfit for beverage purposes.

25 “(2) **PENALTY.—**

1 “(A) IN GENERAL.—In the case of a failure
2 to comply with any requirement imposed under
3 this subpart or any rule or regulation issued
4 thereunder, the claimant shall be liable for a pen-
5 alty of \$1,000 for each failure to comply unless it
6 is shown that the failure to comply was due to
7 reasonable cause.

8 “(B) PENALTY MAY NOT EXCEED AMOUNT
9 OF CLAIM.—The aggregate amount of the penal-
10 ties imposed under subparagraph (A) for failures
11 described in paragraph (1) in respect of any claim
12 shall not exceed the amount of such claim (deter-
13 mined without regard to subparagraph (A)).

14 “(3) PENALTY TREATED AS TAX.—The penalty
15 imposed by paragraph (2) shall be assessed, collected,
16 and paid in the same manner as taxes, as provided in
17 section 6662(a).”.

18 **SEC. 6103. DISCLOSURE OF ALCOHOL FUEL PRODUCERS TO AD-**
19 **MINISTRATORS OF STATE ALCOHOL LAWS.**

20 (a) IN GENERAL.—Subsection (l) of section 6103 (relat-
21 ing to confidentiality and disclosure of returns and return in-
22 formation) is amended by adding at the end thereof the fol-
23 lowing new paragraph:

24 “(9) DISCLOSURE OF ALCOHOL FUEL PRODUC-
25 ERS TO ADMINISTRATORS OF STATE ALCOHOL

1 LAWS.—Notwithstanding any other provision of this
2 section, the Secretary may disclose—

3 “(A) the name and address of any person
4 who is qualified to produce alcohol for fuel use
5 under section 5181, and

6 “(B) the location of any premises to be used
7 by such person in producing alcohol for fuel,
8 to any State agency, body, or commission, or its legal
9 representative, which is charged under the laws of
10 such State with responsibility for administration of
11 State alcohol laws solely for use in the administration
12 of such laws.”.

13 (b) TECHNICAL AMENDMENTS.—

14 (1) Subparagraph (A) of section 6103(p)(3) (relat-
15 ing to records of inspection and disclosure) is amended
16 by striking out “(5), or (7)” and inserting in lieu there-
17 of “(5), (7), (8), or (9)”.

18 (2) The material preceding subparagraph (A) of
19 paragraph (4) of section 6103(p) is amended by striking
20 out “or (7)” and inserting in lieu thereof “(7), (8), or
21 (9)”.

22 (3) Clause (i) of section 6103(p)(4)(F) is amended
23 by striking out “(l) (6) or (7)” and inserting in lieu
24 thereof “(l) (6), (7), (8), or (9)”.

1 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

2 (1) The second sentence of section 5062(b) (relat-
3 ing to drawback in case of exportation) is amended by
4 striking out “stamped or restamped, and”.

5 (2) Paragraph (2) of section 5066(a) (relating to
6 bottled distilled spirits eligible for export with benefit of
7 drawback) is amended by striking out “stamped or re-
8 stamped, and marked,” and inserting in lieu thereof
9 “marked”.

10 (3) Subsection (b) of section 5116 (relating to
11 cross references) is amended to read as follows:

12 “(b) CROSS REFERENCE.—

“For provisions relating to containers of distilled spir-
its, see section 5206.”.

13 (4) Subsection (c) of section 5204 (relating to
14 gauging) is amended—

15 (A) by striking out “STAMPING,” in the
16 heading, and

17 (B) by striking out “stamping,” in the text.

18 (5)(A) Section 5206 (relating to containers) is
19 amended by redesignating subsections (d) and (e) as
20 subsections (e) and (f), respectively, and by inserting
21 after subsection (c) the following new subsection:

22 “(d) EFFACEMENT OF MARKS AND BRANDS ON EMP-
23 TIED CONTAINERS.—Every person who empties, or causes
24 to be emptied, any container of distilled spirits bearing any

1 mark or brand required by law (or regulations pursuant
 2 thereto) shall at the time of emptying such container efface
 3 and obliterate such mark or brand; except that the Secretary
 4 may, by regulations, waive any requirement of this subsec-
 5 tion where he determines that no jeopardy to the revenue
 6 will be involved.”.

7 (B) Subsection (f) of section 5206, as redesignated
 8 by subparagraph (A), is amended by adding at the end
 9 thereof the following new paragraphs:

“(3) For provisions relating to the marking and brand-
 ing of containers of distilled spirits by proprietors, see
 section 5204(c).

“(4) For penalties and forfeitures relating to marks
 and brands, see sections 5604 and 5613.”.

10 (6) Paragraph (4) of section 5207(a) (relating to
 11 records and reports) is amended by striking out subpar-
 12 agraph (D), by adding “and” at the end of subpara-
 13 graph (B), and by striking out “, and” at the end of
 14 subparagraph (C) and inserting in lieu thereof a period.

15 (7) Subsection (c) of section 5215 (relating to
 16 return of tax determined distilled spirits to bonded
 17 premises) is amended—

18 (A) by striking out “RESTAMPING” in the
 19 heading and inserting in lieu thereof “RECLOS-
 20 ING”, and

21 (B) by striking out “restamping” in the text
 22 and inserting in lieu thereof “reclosing”.

1 (8) Section 5235 (relating to bottling of alcohol
2 for industrial purposes) is amended by striking out
3 “stamped,” in the first sentence and by striking out the
4 second sentence.

5 (9) Subsection (c) of section 5301 (relating to reg-
6 ulation of traffic in containers of distilled spirits) is
7 amended—

8 (A) by striking out “stamping” in paragraphs
9 (1) and (3) and inserting in lieu thereof “tax de-
10 termination”, and

11 (B) by striking out “, if the liquor bottles are
12 to be again stamped under the provisions of this
13 chapter”.

14 (10) Subsection (a) of section 5555 (relating to
15 records, statements, and returns) is amended by strik-
16 ing out “or for the affixing of any stamp required to be
17 affixed by this chapter,”.

18 (11)(A) Section 5604 (relating to penalties relat-
19 ing to stamps, marks, brands, and containers) is
20 amended to read as follows:

21 **“SEC. 5604. PENALTIES RELATING TO MARKS, BRANDS, AND**
22 **CONTAINERS.**

23 **“(a) IN GENERAL.—Any person who shall—**

24 **“(1) transport, possess, buy, sell, or transfer any**
25 **distilled spirits unless the immediate container bears**

1 the type of closure or other device required by section
2 5301(d);

3 “(2) with intent to defraud the United States,
4 empty a container bearing the closure or other device
5 required by section 5301(d) without breaking such clo-
6 sure or other device,

7 “(3) empty, or cause to be emptied, any distilled
8 spirits from an immediate container bearing any mark
9 or brand required by law without effacing and obliter-
10 ating such mark or brand as required by section
11 5206(d),

12 “(4) place any distilled spirits in any bottle, or
13 reuse any bottle for the purpose of containing distilled
14 spirits, which has once been filled and fitted with a clo-
15 sure or other device under the provisions of this chap-
16 ter, without removing and destroying such closure or
17 other device,

18 “(5) willfully and unlawfully remove, change, or
19 deface any mark, brand, label, or seal affixed to any
20 case of distilled spirits, or to any bottle contained
21 therein,

22 “(6) with intent to defraud the United States, pur-
23 chase, sell, receive with intent to transport, or trans-
24 port any empty cask or package having thereon any

1 mark or brand required by law to be affixed to any
2 cask or package containing distilled spirits, or

3 “(7) change or alter any mark or brand on any
4 cask or package containing distilled spirits, or put into
5 any cask or package spirits of greater strength than is
6 indicated by the inspection mark thereon, or fraudu-
7 lently use any cask or package having any inspection
8 mark thereon, for the purpose of selling other spirits,
9 or spirits of quantity or quality different from the spir-
10 its previously inspected,

11 shall be fined not more than \$10,000 or imprisoned not more
12 than 5 years, or both, for each such offense.

13 “(b) CROSS REFERENCES.—

“For provisions relating to the authority of internal
revenue officers to enforce provisions of this section, see
sections 5203, 5557, and 7608.”.

14 (B) The table of sections for part I of subchapter
15 J of chapter 51 is amended by striking out the item
16 relating to section 5604 and inserting in lieu thereof
17 the following:

“Sec. 5604. Penalties relating to marks, brands, and containers.”.

18 (12)(A) Subsection (b) of section 5613 (relating to
19 forfeiture of distilled spirits not stamped, marked, or
20 branded as required by law) is amended to read as fol-
21 lows:

22 “(b) CONTAINERS WITHOUT CLOSURES.—All distilled
23 spirits found in any container which is required by this chap-

1 ter to bear a closure or other device and which does not bear
2 a closure or other device in compliance with this chapter
3 shall be forfeited to the United States.”.

4 (B) The section heading of section 5613 is amend-
5 ed by striking out “STAMPED” and inserting in lieu
6 thereof “CLOSED”.

7 (C) The item relating to section 5613 in the table
8 of sections for part I of subchapter J of chapter 51 is
9 amended by striking out “stamped” and inserting in
10 lieu thereof “closed”.

11 (13) Subsection (b) of section 6801 (relating to au-
12 thority for establishment, alteration, and distribution) is
13 amended by striking out “several stamp taxes;” and all
14 that follows and inserting in lieu thereof “several
15 stamp taxes.” .

16 (14) The table of sections for part I of subchapter
17 C of chapter 51 is amended by striking out the item
18 relating to section 5205.

19 **SEC. 847. MODIFICATION OF PAYMENT DATE AND REQUIRE-**
20 **MENT OF ELECTRONIC FUNDS TRANSFER FOR**
21 **ALCOHOL AND TOBACCO EXCISE TAXES.**

22 (a) **ALCOHOL PRODUCTS.**—Section 5061 (relating to
23 method of collecting tax on distilled spirits, etc.) is amend-
24 ed—

25 (1) by striking out subsection (d), and

1 (2) by adding at the end thereof the following new
2 subsections:

3 “(d) TIME FOR PAYMENT OF TAXES ON DISTILLED
4 SPIRITS, WINES, AND BEER.—

5 “(1) IN GENERAL.—In the case of distilled spirits,
6 wines, and beer to which this part applies (other than
7 subsection (b) of this section) which are withdrawn
8 under bond for deferred payment of tax or from bonded
9 premises (including customs custody), the last day for
10 such payment of such tax shall be the 14th day after
11 the last day of the semimonthly period during which
12 the withdrawal occurred.

13 “(2) SPECIAL RULE WHERE 14TH DAY FALLS ON
14 SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this
15 subsection, the due date under paragraph (1) would fall
16 on a Saturday, Sunday, or a Federal holiday, such due
17 date shall be the immediately preceding day which is
18 not a Saturday, Sunday, or such a holiday.

19 “(e) PAYMENT BY ELECTRONIC FUND TRANSFER.—

20 “(1) IN GENERAL.—Any person who in any 12-
21 month period ending December 31, was liable for a
22 gross amount equal to or exceeding \$5,000,000 in
23 taxes imposed on distilled spirits, wines, or beer by
24 sections 5001, 5041, and 5051 (or 7652), respectively,
25 shall pay such taxes during the succeeding calendar

1 year by electronic fund transfer to a Federal Reserve
2 Bank.

3 “(2) ELECTRONIC FUND TRANSFER.—The term
4 ‘electronic fund transfer’ means any transfer of funds,
5 other than a transaction originated by check, draft, or
6 similar paper instrument, which is initiated through an
7 electronic terminal, telephonic instrument, or computer
8 or magnetic tape so as to order, instruct, or authorize
9 a financial institution to debit or credit an account.”.

10 (b) TOBACCO PRODUCTS.—Subsection (b) of section
11 5703 (relating to method of payment of tax on tobacco) is
12 amended by striking out paragraph (2) and inserting in lieu
13 thereof the following new paragraphs:

14 “(2) TIME FOR PAYMENT OF TAXES.—

15 “(A) IN GENERAL.—In the case of taxes on
16 tobacco products and cigarette papers and tubes
17 removed during any semimonthly period, the last
18 day for the payment of such taxes shall be the
19 14th day after the last day of such semimonthly
20 period.

21 “(B) SPECIAL RULE WHERE 14TH DAY
22 FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—

23 If, but for this subsection, the due date under
24 paragraph (1) would fall on a Saturday, Sunday,
25 or a Federal holiday, such due date shall be the

1 immediately preceding day which is not a Satur-
2 day, Sunday, or such a holiday.

3 “(3) PAYMENT BY ELECTRONIC FUND TRANS-
4 FER.—Any person who in any 12-month period,
5 ending December 31, was liable for a gross amount
6 equal to or exceeding \$5,000,000 in taxes imposed on
7 tobacco products and cigarette papers and tubes by
8 section 5701 (or 7652) shall pay during the succeeding
9 calendar year such taxes by electronic fund transfer (as
10 defined in section 5061(b)(2)) to the Federal Reserve
11 Bank.”.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—The amendments made by this
14 section shall apply to taxes paid after June 30, 1984
15 for semimonthly periods ending on or after such date.

16 (2) SPECIAL RULE FOR SEMIMONTHLY PERIOD
17 ENDING JUNE 15, 1984.—With respect to remittances
18 for taxes imposed on distilled spirits under section
19 5001 of the Internal Revenue Code of 1954 and tobac-
20 co products and cigarette papers and tubes under sec-
21 tion 5701 of such Code for the semimonthly period
22 ending on June 15, 1984, the last day for such remit-
23 tances shall be July 16, 1984.

1 SEC. 848. COOKING WINE ~~MAY~~ BE FORTIFIED USING DIS-
2 TILLED SPIRITS.

3 (a) IN GENERAL.—Subsection (a) of section 5214 (relat-
4 ing to withdrawal of distilled spirits from bonded premises
5 free of tax or without payment of tax) is amended by striking
6 out the period at the end of paragraph (12) and inserting in
7 lieu thereof “; or”, and by adding at the end thereof the
8 following new paragraph:

9 “(13) without payment of tax for use on bonded
10 wine cellar premises in the production of wine or wine
11 products which will be rendered unfit for beverage use
12 and removed pursuant to section 5362(d).”.

13 (b) LIABILITY FOR TAX.—

14 (1) Paragraph (1) of section 5005(e) (relating to
15 withdrawals without payment of tax) is amended by
16 striking out “or (10)” and inserting in lieu thereof
17 “(10), or (13)”.

18 (2) Paragraph (2) of section 5005(e) is amended
19 by inserting “used in the production of nonbeverage
20 wine or wine products,” after “used in the production
21 of wine,”.

22 (c) TECHNICAL AMENDMENT.—Section 5354 (relating
23 to bonds for bonded wine cellars) is amended by striking out
24 “wine spirits” each place it appears and inserting in lieu
25 thereof “distilled spirits”.

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

4 **SEC. 849. EFFECTIVE DATES.**

5 (a) **IN GENERAL.**—Except as otherwise provided in this
 6 subtitle or in subsection (b) of this section, the amendments
 7 made by this subtitle shall take effect on the first day of the
 8 first calendar month which begins more than 90 days after
 9 the date of the enactment of this Act.

10 (b) **REPEAL OF STAMP REQUIREMENT.**—The amend-
 11 ments made by section 858 shall take effect on July 1, 1985.

12 **Subtitle G—Simplification and**
 13 **Extension of Income Tax Credits**

14 ~~SEC. 850. SHORT TITLE.~~

15 This subtitle may be cited as the “Tax Credit Simplifi-
 16 cation Act of 1984”.

17 **SEC. 851. CREDITS GROUPED TOGETHER IN MORE LOGICAL**
 18 **ORDER.**

19 (a) **CREDITS DIVIDED INTO 4 CATEGORIES.**—The
 20 table of subparts for part IV of subchapter A of chapter 1
 21 (relating to credits against tax) is amended to read as follows:

“Subpart A. Nonrefundable personal credits.

“Subpart B. Foreign tax credit, etc.

“Subpart C. Refundable credits.

“Subpart D. Business-related credits.”.

22 (b) **EXISTING CREDITS ASSIGNED TO APPROPRIATE**
 23 **CATEGORY.**—Part IV of subchapter A of chapter 1 is

1 amended by striking out the heading and table of sections for
 2 subpart A and inserting in lieu thereof the following:

3 **“Subpart A—Nonrefundable Personal Credits**

- “Sec. 21. Expenses for household and dependent care services necessary for gainful employment.
- “Sec. 22. Credit for the elderly and the permanently and totally disabled.
- “Sec. 23. Residential energy credit.
- “Sec. 24. Contributions to candidates for public office.
- “Sec. 25. Limitation based on tax liability; definition of tax liability.

4 **“Subpart B—Foreign Tax Credit, Etc.**

- “Sec. 27. Taxes of foreign countries and possessions of the United States; possession tax credit.
- “Sec. 28. Clinical testing expenses for certain drugs for rare diseases or conditions.
- “Sec. 29. Credit for producing fuel from a nonconventional source.
- “Sec. 30. Credit for increasing research activities.

5 **“Subpart C—Refundable Credits**

- “Sec. 31. Tax withheld on wages.
- “Sec. 32. Earned income.
- “Sec. 33. Tax withheld at source on nonresident aliens and foreign corporations.
- “Sec. 34. Certain uses of gasoline and special fuels.
- “Sec. 35. Overpayments of tax.

6 **“Subpart D—Business Related Credits**

- “Sec. 38. General business credit.
- “Sec. 39. Carryback and carry forward of unused credits.
- “Sec. 40. Alcohol used as fuel.
- “Sec. 41. Employee stock ownership credit.”.

7 (c) SECTIONS MOVED TO APPROPRIATE PLACE IN
 8 PART IV.—

9 (1) DESIGNATION.—The following sections of
 10 such part IV are henceforth to be designated in ac-
 11 cordance with the following table:

Old section number:	New section number:	New subpart designation:
44A.....	21	A

37	22	A
44C.....	23	A
41	24	A
33	27	B
44H.....	28	B
44D.....	29	B
44F.....	30	B
31	31	C
43	32	C
32	33	C
39	34	C
45	35	C
44E.....	40	D
44G.....	41	D

1 (2) PLACED IN APPROPRIATE SUBPARTS.—Each
2 section for which paragraph (1) provides a new section
3 number is hereby moved to the appropriate place in the
4 appropriate subpart of such part IV.

5 **SEC. 852. UNIFORM LIMITATION ON PERSONAL NONREFUND-**
6 **ABLE CREDITS.**

7 Subpart A of part IV of subchapter A of chapter 1 is
8 amended by adding after section 24 the following new sec-
9 tion:

10 **“SEC. 25. LIMITATION BASED ON TAX LIABILITY; DEFINITION**
11 **OF TAX LIABILITY.**

12 “(a) **LIMITATION BASED ON AMOUNT OF TAX.**—The
13 aggregate amount of credits allowed by this subpart for the
14 taxable year shall not exceed the taxpayer’s tax liability for
15 such taxable year.

16 “(b) **TAX LIABILITY.**—For purposes of this section—

17 “(1) **IN GENERAL.**—The term ‘tax liability’ means
18 the tax imposed by this chapter for the taxable year.

1 “(2) EXCEPTION FOR CERTAIN TAXES.—For
2 purposes of paragraph (1), any tax imposed by any of
3 the following provisions shall not be treated as tax im-
4 posed by this chapter:

5 “(A) section 56 (relating to corporate mini-
6 mum tax),

7 “(B) subsection (m)(5)(B), (o)(2), or (q) of sec-
8 tion 72 (relating to additional tax on certain dis-
9 tributions),

10 “(C) section 408(f) (relating to additional tax
11 on income from certain retirement accounts),

12 “(D) section 531 (relating to accumulated
13 earnings tax),

14 “(E) section 541 (relating to personal holding
15 company tax),

16 “(F) section 1351(d)(1) (relating to recoveries
17 of foreign expropriation losses),

18 “(G) section 1374 (relating to tax on certain
19 capital gains of S corporations), and

20 “(H) section 1375 (relating to tax imposed
21 when passive investment income of corporation
22 having subchapter C earnings and profits exceeds
23 25 percent of gross receipts).

24 “(c) SIMILAR RULE FOR ALTERNATIVE MINIMUM TAX
25 FOR TAXPAYERS OTHER THAN CORPORATIONS.—

“For treatment of tax imposed by section 55 as not imposed by this chapter, see section 55(c).”.

1 **SEC. 853. UNIFORM CARRYOVER PROVISIONS FOR BUSINESS-**
2 **RELATED CREDITS.**

3 Subpart D of part IV of subchapter A of chapter 1 is
4 amended by inserting before section 40 the following new
5 sections:

6 **“SEC. 38. GENERAL BUSINESS CREDIT.**

7 **“(a) ALLOWANCE OF CREDIT.—**There shall be allowed
8 as a credit against the tax imposed by this chapter for the
9 taxable year an amount equal to the sum of—

10 **“(1) the business credit carryforwards carried to**
11 **such taxable year,**

12 **“(2) the amount of the current year business**
13 **credit, plus**

14 **“(3) the business credit carrybacks carried to such**
15 **taxable year.**

16 **“(b) CURRENT YEAR BUSINESS CREDIT.—**For pur-
17 poses of this subpart, the amount of the current year business
18 credit is the sum of the following credits determined for the
19 taxable year:

20 **“(1) the investment credit determined under sec-**
21 **tion 46(a),**

22 **“(2) the targeted jobs credit determined under**
23 **section 51(a),**

1 “(3) the alcohol fuels credit determined under sec-
2 tion 40(a), plus

3 “(4) the employee stock ownership credit deter-
4 mined under section 41(a).

5 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

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

9 “(A) so much of the taxpayer’s net tax liabil-
10 ity for the taxable year as does not exceed
11 \$25,000, plus

12 “(B) 85 percent of so much of the taxpayer’s
13 net tax liability for the taxable year as exceeds
14 \$25,000.

15 “(2) NET TAX LIABILITY.—For purposes of para-
16 graph (1), the term ‘net tax liability’ means the tax lia-
17 bility (as defined in section 25(b)), reduced by the sum
18 of the credits allowable under subparts A and B of this
19 part.

20 “(3) SPECIAL RULES.—

21 “(A) MARRIED INDIVIDUALS.—In the case
22 of a husband or wife who files a separate return,
23 the amount specified under subparagraphs (A) and
24 (B) of paragraph (1) shall be \$12,500 in lieu of
25 \$25,000. This subparagraph shall not apply if the

1 spouse of the taxpayer has no business credit
2 carryforward or carryback to, and has no current
3 year business credit for, the taxable year of such
4 spouse which ends within or with the taxpayer's
5 taxable year.

6 “(B) CONTROLLED GROUPS.—In the case of
7 a controlled group, the \$25,000 amount specified
8 under subparagraphs (A) and (B) of paragraph (1)
9 shall be reduced for each component member of
10 such group by apportioning \$25,000 among the
11 component members of such group in such
12 manner as the Secretary shall by regulations pre-
13 scribe. For purposes of the preceding sentence,
14 the term ‘controlled group’ has the meaning given
15 to such term by section 1563(a).

16 “(C) LIMITATIONS WITH RESPECT TO CER-
17 TAIN PERSONS.—In the case of a person de-
18 scribed in subparagraph (A) or (B) of section
19 46(e)(1), the \$25,000 amount specified under sub-
20 subparagraphs (A) and (B) of paragraph (1) shall
21 equal such person's ratable share (as determined
22 under section 46(e)(2)) of such amount.

23 “(D) ESTATES AND TRUSTS.—In the case of
24 an estate or trust, the \$25,000 amount specified
25 under subparagraphs (A) and (B) of paragraph (1)

1 shall be reduced to an amount which bears the
2 same ratio to \$25,000 as the portion of the
3 income of the estate or trust which is not allo-
4 cated to beneficiaries bears to the total income of
5 the estate or trust.

6 **“(d) SPECIAL RULES FOR CERTAIN REGULATED COM-**
7 **PANIES.**—In the case of any taxpayer to which section 46(f)
8 applies, for purposes of sections 46(f), 47(a), 196(a), and
9 404(i) and any other provision of this title where it is neces-
10 sary to ascertain the extent to which the credits determined
11 under section 40(a), 41(a), 46(a), or 51(a) are used in a tax-
12 able year or as a carryback or carryforward, the order in
13 which such credits are used shall be determined on the basis
14 of the order in which they are listed in subsection (b).

15 **“SEC. 39. CARRYBACK AND CARRYFORWARD OF UNUSED**
16 **CREDITS.**

17 **“(a) IN GENERAL.**—

18 **“(1) 3 YEAR CARRYBACK AND 15 YEAR CARRY-**
19 **FORWARD.**—If the sum of the business credit carryfor-
20 wards to the taxable year plus the amount of the cur-
21 rent year business credit for the taxable year exceeds
22 the amount of the limitation imposed by subsection (c)
23 of section 38 for such taxable year (hereinafter in this
24 section referred to as the ‘unused credit year’), such

1 excess (to the extent attributable to the amount of the
2 current year business credit) shall be—

3 “(A) a business credit carryback to each of
4 the 3 taxable years preceding the unused credit
5 year, and

6 “(B) a business credit carryforward to each
7 of the 15 taxable years following the unused
8 credit year,

9 and, subject to the limitations imposed by subsections
10 (b) and (c), shall be taken into account under the provi-
11 sions of section 38(a) in the manner provided in section
12 38(a).

13 “(2) AMOUNT CARRIED TO EACH YEAR.—

14 “(A) ENTIRE AMOUNT CARRIED TO FIRST
15 YEAR.—The entire amount of the unused credit
16 for an unused credit year shall be carried to the
17 earliest of the 18 taxable years to which (by
18 reason of paragraph (1)) such credit may be car-
19 ried.

20 “(B) AMOUNT CARRIED TO OTHER 17
21 YEARS.—The amount of the unused credit for the
22 unused credit year shall be carried to each of the
23 other 17 taxable years to the extent that such
24 unused credit may not be taken into account

1 under section 38(a) for a prior taxable year be-
2 cause of the limitations of subsections (b) and (c).

3 “(b) **LIMITATION ON CARRYBACKS.**—The amount of
4 the unused credit which may be taken into account under
5 section 38(a)(3) for any preceding taxable year shall not
6 exceed the amount by which the limitation imposed by sec-
7 tion 38(c) for such taxable year exceeds the sum of—

8 “(1) the amounts determined under paragraphs (1)
9 and (2) of section 38(a) for such taxable year, plus

10 “(2) the amounts which (by reason of this section)
11 are carried back to such taxable year and are attributa-
12 ble to taxable years preceding the unused credit year.

13 “(c) **LIMITATION ON CARRYFORWARDS.**—The amount
14 of the unused credit which may be taken into account under
15 section 38(a)(1) for any succeeding taxable year shall not
16 exceed the amount by which the limitation imposed by sec-
17 tion 38(c) for such taxable year exceeds the sum of the
18 amounts which, by reason of this section, are carried to such
19 taxable year and are attributable to taxable years preceding
20 the unused credit year.

21 “(d) **TRANSITIONAL RULES.**—

22 “(1) **CARRYFORWARDS.**—

23 “(A) **IN GENERAL.**—Any carryforward from
24 an unused credit year under section 46, 50A, 53,
25 44E, or 44G which has not expired before the be-

1 ginning of the first taxable year beginning after
2 December 31, 1983, shall be aggregated with
3 other such carryforwards from such unused credit
4 year and shall be a business credit carryforward
5 to each taxable year beginning after December
6 31, 1983, which is 1 of the first 15 taxable years
7 after such unused credit year.

8 “(B) AMOUNT CARRIED FORWARD.—The
9 amount carried forward under subparagraph (A) to
10 any taxable year shall be properly reduced for any
11 amount allowable as a credit with respect to such
12 carryforward for any taxable year before the year
13 to which it is being carried.

14 “(2) CARRYBACKS.—In determining the amount
15 allowable as a credit for any taxable year beginning
16 before January 1, 1984, as the result of the carryback
17 of a general business tax credit from a taxable year be-
18 ginning after December 31, 1983, paragraph (1) of
19 subsection (b) shall be applied as if it read as follows:

20 “(1) the sum of the credits allowable for such
21 taxable year under sections 38, 40, 44B, 44E, and
22 44G, plus’.”.

23 **SEC. 854. TECHNICAL AND CONFORMING AMENDMENTS.**

24 (a) REFERENCES TO OLD AND NEW PROVISIONS.—

25 Whenever in this section reference is made to an old or new

1 section or other provision, the reference is to the provision
2 before (in the case of "old") or after (in the case of "new")
3 the changes made by section 851 of this Act.

4 (b) OLD SECTION 21.—

5 (1) REDESIGNATION.—Old section 21 (relating to
6 effect of changes) is redesignated as section 15.

7 (2) CONFORMING AMENDMENTS.—Sections
8 441(f)(2)(A) and 6013(c) are each amended by striking
9 out "21" and inserting in lieu thereof "15".

10 (3) TABLE OF SECTIONS.—The table of sections
11 for part III of subchapter A of chapter 1 is amended
12 by striking out the item relating to section 21 and in-
13 serting in lieu thereof the following:
"Sec. 15. Effect of changes."

14 (c) NEW SECTION 21.—New section 21 (relating to ex-
15 penses for household and dependent care services necessary
16 for gainful employment) is amended—

17 (1) by striking out subsection (b) and by redesi-
18 gnating subsections (c), (d), (e), (f), and (g) as subsec-
19 tions (b), (c), (d), (e), and (f), respectively,

20 (2) by striking out "subsection (c)(1)" in subsec-
21 tion (a) and inserting in lieu thereof "subsection (b)(1)",

22 (3) by striking out "subsection (c)(2)" in subsec-
23 tion (a) and inserting in lieu thereof "subsection (b)(2)",

24 (4) by striking out "subsection (c)(1)(C)" in para-
25 graph (2) of subsection (d) (as redesignated by para-

1 graph (1)) and inserting in lieu thereof "subsection
2 (b)(1)(C)",

3 (5) by striking out "subsection (d)(1)" in subpara-
4 graph (A) of subsection (d)(2) (as redesignated by para-
5 graph (1)) and inserting in lieu thereof, "subsection
6 (c)(1)",

7 (6) by striking out "subsection (d)(2)" in subpara-
8 graph (B) of subsection (d)(2) (as redesignated by para-
9 graph (1)) and inserting in lieu thereof "subsection
10 (c)(2)", and

11 (7) by striking out "subsection (c)(1)" in subsec-
12 tion (e)(5) (as redesignated by paragraph (1)) and in-
13 serting in lieu thereof "subsection (b)(1)".

14 (d) NEW SECTION 22.—New section 22 (relating to the
15 credit for the elderly and the permanently and totally dis-
16 abled) is amended—

17 (1) by striking out "section 37 amount" each
18 place it appears in the text and inserting in lieu thereof
19 "section 22 amount",

20 (2) by striking out the heading of subsection (c)
21 and inserting in lieu thereof "(c) SECTION 22
22 AMOUNT.—", and

23 (3) by amending subsection (d) to read as follows:

24 "(d) ADJUSTED GROSS INCOME LIMITATION.—If the
25 adjusted gross income of the taxpayer exceeds—

1 “(1) \$7,500 in the case of a single individual,
2 “(2) \$10,000 in the case of a joint return, or
3 “(3) \$5,000 in the case of a married individual
4 filing a separate return,
5 the section 22 amount shall be reduced by one-half of the
6 excess of the adjusted gross income over \$7,500, \$10,000, or
7 \$5,000, as the case may be.”.

8 (e) **NEW SECTION 23.**—Subsection (b) of new section
9 23 (relating to residential energy credit) is amended by strik-
10 ing out paragraphs (5) and (6) and inserting in lieu thereof
11 the following:

12 “(5) **CARRYFORWARD OF UNUSED CREDIT.**—

13 “(A) **IN GENERAL.**—If the credit allowable
14 under subsection (a) for any taxable year exceeds
15 the limitation imposed by section 25(a) for such
16 taxable year reduced by the sum of the credits al-
17 lowable under this subpart (other than this sec-
18 tion), such excess shall be carried to the succeed-
19 ing taxable year and added to the credit allowable
20 under subsection (a) for such succeeding taxable
21 year.

22 “(B) **NO CARRYFORWARD TO TAXABLE**
23 **YEARS BEGINNING AFTER DECEMBER 31,**
24 **1987.**—No amount may be carried under subpar-

1 agraph (A) to any taxable year beginning after
2 December 31, 1987.”.

3 (f) **NEW SECTION 24.**—Subsection (b) of new section 24
4 (relating to contributions to candidates for political office) is
5 amended by striking out paragraph (2) and by redesignating
6 paragraph (3) as paragraph (2).

7 (g) **NEW SECTION 28.**—

8 (1) New section 28 is amended—

9 (A) by striking out “section 44F” each place
10 it appears and inserting in lieu thereof “section
11 30”, and

12 (B) by striking out “section 44F(b)” in sub-
13 section (c)(2) and inserting in lieu thereof “section
14 30(b),” and

15 (C) by striking out “section 44F(f)” in sub-
16 section (d)(4) and inserting in lieu thereof “section
17 30(f)”.

18 (2) Paragraph (2) of new section 28(d) is amended
19 to read as follows:

20 “(2) **LIMITATION BASED ON AMOUNT OF TAX.**—

21 The credit allowed by this section for any taxable year
22 shall not exceed the taxpayer’s tax liability for the tax-
23 able year (as defined in section 25(b)), reduced by the
24 sum of the credits allowable under subpart A and sec-
25 tion 28.”.

1 (h) NEW SECTION 29.—Paragraph (5) of new section
2 29(b) (relating to credit for producing fuel from a nonconven-
3 tional source) is amended to read as follows:

4 “(5) APPLICATION WITH OTHER CREDITS.—The
5 credit allowed by subsection (a) for a taxable year shall
6 not exceed the taxpayer’s tax liability for the taxable
7 year (as defined in section 25(b)), reduced by the sum
8 of the credits allowable under subpart A and sections
9 27 and 28.”.

10 (i) NEW SECTION 30.—

11 (1) New section 30 (relating to credit for increas-
12 ing research activities) is amended—

13 (A) by striking out “in computing the credit
14 under section 40 or 44B” in subsection
15 (b)(2)(D)(iii) and inserting in lieu thereof “in deter-
16 mining the targeted jobs credit under section
17 51(a)”, and

18 (B) by amending subparagraph (A) of subsec-
19 tion (g)(1) to read as follows:

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), the credit allowed by subsection
22 (a) for any taxable year shall not exceed the tax-
23 payer’s tax liability for the taxable year (as de-
24 fined in section 25(b)), reduced by the sum of the

1 credits allowable under subpart A and sections
2 27, 28, and 29.”.

3 (2) **NEW SECTION 30 TREATED AS CONTINU-**
4 **ATION OF OLD SECTION 44F.**—For purposes of deter-
5 mining—

6 (A) whether any excess credit under old sec-
7 tion 44F for a taxable year beginning before Jan-
8 uary 1, 1984, is allowable as a carryover under
9 new section 30, and

10 (B) the period during which new section 30
11 is in effect,

12 new section 30 shall be treated as a continuation of old
13 section 44F (and shall apply only to the extent old sec-
14 tion 44F would have applied).

15 (j) **NEW SECTION 33.**—New section 33 (relating to tax
16 withheld at source on nonresident aliens and foreign corpora-
17 tions and on tax-free covenant bonds) is amended to read as
18 follows:

19 **“SEC. 33. TAX WITHHELD AT SOURCE ON NONRESIDENT**
20 **ALIENS AND FOREIGN CORPORATIONS.**

21 “There shall be allowed as a credit against the tax im-
22 posed by this subtitle the amount of tax withheld at source
23 under subchapter A of chapter 3 (relating to withholding of
24 tax on nonresident aliens and on foreign corporations).”.

1 (k) **NEW SECTION 40.**—New section 40 (relating to al-
2 cohol used as fuel) is amended—

3 (1) by amending subsection (a) to read as follows:

4 “(a) **GENERAL RULE.**—For purposes of section 38, the
5 alcohol fuels credit determined under this section for the tax-
6 able year is an amount equal to the sum of—

7 “(1) the alcohol mixture credit, plus

8 “(2) the alcohol credit.”,

9 (2) by striking out “the credit allowable under this
10 section” in subsection (c) and inserting in lieu thereof
11 “the credit determined under this section”,

12 (3) by striking out “credit was allowable” each
13 place it appears in paragraph (3) of subsection (d) and
14 inserting in lieu thereof “credit was determined”,

15 (4) by striking out subsection (e) and redesignating
16 subsection (f) as subsection (e),

17 (5) by amending paragraph (2) of subsection (e)
18 (as redesignated by paragraph (4)) to read as follows:

19 “(2) **NO CARRYOVERS TO YEARS AFTER 1994.**—
20 No amount may be carried under section 39 by reason
21 of this section (treating the amount allowed by reason
22 of this section as the first amount allowed by this sub-
23 part) to any taxable year beginning after December 31,
24 1994.”, and

1 (6) by adding at the end thereof the following new
2 subsection:

3 “(f) ELECTION TO HAVE ALCOHOL FUELS CREDIT
4 NOT APPLY.—

5 “(1) IN GENERAL.—A taxpayer may elect to
6 have this section not apply for any taxable year.

7 “(2) TIME FOR MAKING ELECTION.—An election
8 under paragraph (1) for any taxable year may be made
9 (or revoked) at any time before the expiration of the 3-
10 year period beginning on the last date prescribed by
11 law for filing the return for such taxable year (deter-
12 mined without regard to extensions).

13 “(3) MANNER OF MAKING ELECTION.—An elec-
14 tion under subsection (a) (or revocation thereof) shall
15 be made in such manner as the Secretary may by reg-
16 ulations prescribe.”.

17 (l) NEW SECTION 41.—New section 41 (relating to em-
18 ployee stock ownership plan) is amended—

19 (1) by amending paragraph (1) of subsection (a) to
20 read as follows:

21 “(1) AMOUNT OF CREDIT.—In the case of a cor-
22 poration which elects to have this section apply for the
23 taxable year and which meets the requirements of sub-
24 section (c)(1), for purposes of section 38, the amount of
25 the employee stock ownership credit determined under

1 this section for the taxable year is an amount equal to
2 the amount of the credit determined under paragraph
3 (2) for such taxable year.”,

4 (2) by amending subsection (b) to read as follows:

5 “(b) CERTAIN REGULATED COMPANIES.—No credit
6 attributable to compensation taken into account for the rate-
7 making purposes involved shall be determined under this sec-
8 tion with respect to a taxpayer if—

9 “(1) the taxpayer’s cost of service for ratemaking
10 purposes or in its regulated books of account is reduced
11 by reason of any portion of such credit which results
12 from the transfer of employer securities or cash to a
13 tax credit employee stock ownership plan which meets
14 the requirements of section 409;

15 “(2) the base to which the taxpayer’s rate of
16 return for ratemaking purposes is applied is reduced by
17 reason of any portion of such credit which results from
18 a transfer described in paragraph (1) to such employee
19 stock ownership plan; or

20 “(3) any portion of the amount of such credit
21 which results from a transfer described in paragraph
22 (1) to such employee stock ownership plan is treated
23 for ratemaking purposes in any way other than as
24 though it had been contributed by the taxpayer’s
25 common shareholders.

1 Under regulations prescribed by the Secretary, rules similar
2 to the rules of paragraphs (4) and (7) of section 46(f) shall
3 apply for purposes of the preceding sentence.”, and

4 (3) by striking out “the credit allowed under this
5 section” in subsection (c)(3) and inserting in lieu there-
6 of “the credit determined under this section”.

7 (m) REPEAL OF CERTAIN OLD PROVISIONS.—

8 (1) Old sections 38, 40, 44, and 44B are hereby
9 repealed.

10 (2) Old subpart C of part IV of subchapter A of
11 chapter 1 is hereby repealed.

12 (n) REDESIGNATION OF OLD SUBPARTS.—

13 (1) Old subparts B and D of part IV of subchapter
14 A of chapter 1 are redesignated as subparts E and F,
15 respectively.

16 (2) The subpart heading for subpart F of part IV
17 of subchapter A of chapter 1 (as so redesignated) is
18 amended to read as follows:

19 **“Subpart F—Rules for Computing Targeted Jobs Credit”.**

20 (3) The table of subparts for such part IV (as
21 amended by subsection (a) of section 851) is amended
22 by adding at the end thereof the following:

“Subpart E. Rules for computing credit for investment in certain de-
preciable property.

“Subpart F. Rules for computing targeted jobs credit.”.

23 (o) INVESTMENT TAX CREDIT.—

1 (1) Section 46 (relating to amount of investment
2 tax credit) is amended by striking out subsections (a)
3 and (b) and inserting in lieu thereof the following:

4 “(a) AMOUNT OF INVESTMENT CREDIT.—For purposes
5 of section 38, the amount of the investment credit determined
6 under this section for any taxable year shall be an amount
7 equal to the sum of the following percentages of the qualified
8 investment (as determined under subsections (c) and (d)):

9 “(1) the regular percentage,

10 “(2) in the case of energy property, the energy
11 percentage, and

12 “(3) in the case of that portion of the basis of any
13 property which is attributable to qualified rehabilitation
14 expenditures, the rehabilitation percentage.

15 “(b) DETERMINATION OF PERCENTAGES.—For pur-
16 poses of subsection (a)—

17 “(1) REGULAR PERCENTAGE.—The regular per-
18 centage is 10 percent.

19 “(2) ENERGY PERCENTAGE.—

20 “(A) IN GENERAL.—The energy percentage
21 shall be determined in accordance with the follow-
22 ing table:

"Column A—Description	Column B— Percentage	Column C—Period	
In the case of:	The energy percentage is:	For the period:	
		Beginning on	And ending on:
(i) GENERAL RULE.— Property not described in any of the following provisions of this column.	10 percent.....	Oct. 1, 1978	Dec. 31, 1982.
(ii) SOLAR, WIND, OR GEOTHERMAL PROPERTY.— Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(vii).	A. 10 percent. B. 15 percent.	Oct. 1, 1978 Jan. 1, 1980	Dec. 31, 1979. Dec. 31, 1985.
(iii) OCEAN THERMAL PROPERTY.— Property described in section 48(l)(3)(A)(ix).	15 percent.....	Jan. 1, 1980	Dec. 31, 1985.
(iv) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.— Property described in section 48(l)(2)(A)(vii).	11 percent.....	Jan. 1, 1980	Dec. 31, 1985.
(v) QUALIFIED INTERCITY BUSES.— Property described in section 48(l)(2)(A)(ix).	10 percent.....	Jan. 1, 1980	Dec. 31, 1985.
(vi) BIOMASS PROPERTY.— Property described in section 48(l)(15).	10 percent.....	Oct. 1, 1978	Dec. 31, 1985.
(vii) CHLOR-ALKALI ELECTROLYTIC CELLS.— Property described in section 48(l)(5)(M).	10 percent.....	Jan. 1, 1980	Dec. 31, 1982.

1 “(B) PERIODS FOR WHICH PERCENTAGE
2 NOT SPECIFIED.—In the case of any energy prop-
3 erty, the energy percentage shall be zero for any
4 period for which an energy percentage is not
5 specified for such property under subparagraph
6 (A) (as modified by subparagraphs (C) and (D)).

1 “(C) LONGER PERIOD FOR CERTAIN LONG-
2 TERM PROJECTS.—For the purpose of applying
3 the energy percentage contained in clause (i) of
4 subparagraph (A) with respect to property which
5 is part of a project with a normal construction
6 period of 2 years or more (within the meaning of
7 subsection (d)(2)(A)(i)), ‘December 31, 1990’ shall
8 be substituted for ‘December 31, 1982’ if—

9 “(i) before January 1, 1983, all engi-
10 neering studies in connection with the com-
11 mencement of the construction of the project
12 have been completed and all environmental
13 and construction permits required under Fed-
14 eral, State, or local law in connection with
15 the commencement of the construction of the
16 project have been applied for, and

17 “(ii) before January 1, 1986, the tax-
18 payer has entered into binding contracts for
19 the acquisition, construction, reconstruction,
20 or erection of equipment specially designed
21 for the project and the aggregate cost to the
22 taxpayer of that equipment is at least 50
23 percent of the reasonably estimated cost for
24 all such equipment which is to be placed in

1 service as part of the project upon its com-
2 pletion.

3 “(D) LONGER PERIOD FOR CERTAIN HYDRO-
4 ELECTRIC GENERATING PROPERTY.—If an appli-
5 cation has been docketed by the Federal Energy
6 Regulatory Commission before January 1, 1986,
7 with respect to the installation of any qualified
8 hydroelectric generating property, for purposes of
9 applying the energy percentage contained in
10 clause (iv) of subparagraph (A) with respect to
11 such property, ‘December 31, 1988’ shall be sub-
12 stituted for ‘December 31, 1985’.

13 “(3) SPECIAL RULE FOR CERTAIN ENERGY PROP-
14 erty.—The regular percentage shall not apply to any
15 energy property which, but for section 48(l)(1), would
16 not be section 38 property. In the case of any qualified
17 hydroelectric generating property which is a fish pas-
18 sagemway, the preceding sentence shall not apply to any
19 period after 1979 for which the energy percentage for
20 such property is greater than zero.

21 “(4) REHABILITATION PERCENTAGE.—

22 “(A) IN GENERAL.—

“In the case of qualified rehabilitation expenditures with respect to a:	The rehabilitation percentage is:
30-year building	15
40-year building	20
Certified historic structure	25.

1 “(B) REGULAR AND ENERGY PERCENTAGES
2 NOT TO APPLY.—The regular percentages and
3 the energy percentages shall not apply to that
4 portion of the basis of any property which is at-
5 tributable to qualified rehabilitation expenditures.

6 “(C) DEFINITIONS.—For purpose of this
7 paragraph—

8 “(i) 30-YEAR BUILDING.—The term
9 ‘30-year building’ means a qualified rehabili-
10 tated building other than a 40-year building
11 and other than a certified historic structure.

12 “(ii) 40-YEAR BUILDING.—The term
13 ‘40-year building’ means a qualified rehabili-
14 tated building (other than a certified historic
15 structure) which would meet the require-
16 ments of section 48(g)(B) if ‘40’ were substi-
17 tuted for ‘30’ each place it appears in sub-
18 paragraph (B) thereof.

19 “(iii) CERTIFIED HISTORIC STRUC-
20 TURE.—The term ‘certified historic struc-
21 ture’ means a qualified rehabilitated building
22 which meets the requirements of section
23 48(g)(3).”.

1 (2) Subclause (II) of section 46(c)(8)(F)(ii) is
2 amended by striking out “section 46(a)(2)(C)” and in-
3 serting in lieu thereof “subsection (b)(2)”.

4 (3)(A) Paragraph (1) of section 46(e) is amend-
5 ed—

6 (i) by striking out “and the \$25,000 amount
7 specified under subparagraphs (A) and (B) of sub-
8 section (a)(3)”, and

9 (ii) by striking out “such items” and insert-
10 ing in lieu thereof “such qualified investment”.

11 (B) Paragraph (2) of section 46(e) is amended by
12 striking out “the items described therein” and inserting
13 in lieu thereof “qualified investment”.

14 (4)(A) Paragraphs (1) and (2) of section 46(f) are
15 each amended by striking out “no credit shall be al-
16 lowed by section 38” and inserting in lieu thereof “no
17 credit determined under subsection (a) shall be allowed
18 by section 38”.

19 (B) Paragraphs (1) and (2) of section 46(f) are
20 each amended by striking out “the credit allowable by
21 section 38” each place it appears and inserting in lieu
22 thereof “the credit determined under subsection (a) and
23 allowable by section 38”.

24 (C) Subparagraph (B) of section 46(f)(4) is amend-
25 ed by striking out “the credit allowed by section 38”

1 and inserting in lieu thereof “the credit determined
2 under subsection (a) and allowed by section 38”.

3 (5) Paragraph (8) of section 46(f) is amended—

4 (A) by striking out “the credit allowable
5 under section 38” each place it appears and in-
6 serting in lieu thereof “the credit determined
7 under subsection (a) and allowable under section
8 38”, and

9 (B) by striking out “(within the meaning of
10 subsection (a)(7)(C))” and inserting in lieu thereof
11 “(within the meaning of the first sentence of sub-
12 section (c)(3)(B))”.

13 (6) Paragraph (2) of section 46(g) is amended by
14 striking out “the limitation of subsection (a)(3)” and in-
15 serting in lieu thereof “the limitation of section 38(c)”.

16 (7) Paragraph (1) of section 46(h) is amended—

17 (A) by striking out “the credit allowable to
18 the organization under section 38” and inserting
19 in lieu thereof “the credit determined under sub-
20 section (a) and allowable to the organization
21 under section 38”, and

22 (B) by striking out “the limitation contained
23 in subsection (a)(3)” and inserting in lieu thereof
24 “the limitation contained in section 38(c)”.

1 (8) Paragraphs (5) and (6) of section 47(a) are
2 each amended by striking out “under section 46(b)”
3 and inserting in lieu thereof “under section 39”.

4 (9) Subsection (c) of section 47 is amended by
5 striking out “subpart A” and inserting in lieu thereof
6 “subpart A, B, or D”.

7 (10) Subparagraph (B) of section 48(c)(3) is
8 amended by striking out “section 46(b)” and inserting
9 in lieu thereof “section 39”.

10 (11) Subparagraph (B) of section 48(d)(1) is
11 amended by striking out “section 46(a)(6)” and insert-
12 ing in lieu thereof “section 38(c)(3)(B)”.

13 (12) Subsection (f) of section 48 is amended—

14 (A) by adding “and” at the end of paragraph
15 (1),

16 (B) striking out “, and” at the end of para-
17 graph (2) and inserting in lieu thereof a period,
18 and

19 (C) by striking out paragraph (3).

20 (13) Paragraph (1) of section 48(l) is amended by
21 striking out “section 46(a)(2)(C)” and inserting in lieu
22 thereof “section 46(b)(2)”.

23 (14) Subsection (m) of section 48 is amended by
24 striking out “subsection (a)(2)” and inserting in lieu
25 thereof “subsection (b)”.

1 (15) Subsection (n) of section 48 (relating to re-
2 quirements for allowance of employee plan percentage)
3 is hereby repealed; except that paragraph (4) of section
4 48(n) of the Internal Revenue Code of 1954 (as in
5 effect before its repeal by this paragraph) shall contin-
6 ue to apply in the case of any recapture under section
7 47(f) of such Code of a credit allowable for a taxable
8 year beginning before January 1, 1984.

9 (16) Subsection (o) of section 48 (defining certain
10 credits) is amended by striking out paragraphs (3), (4),
11 (5), (6), and (7) and by redesignating paragraph (8) as
12 paragraph (3).

13 (17) Subsection (q) of section 48 is amended—

14 (A) by striking out “section 46(a)(2)” each
15 place it appears and inserting in lieu thereof “sec-
16 tion 46(a)”, and

17 (B) by striking out “section 46(a)(2)(B)” each
18 place it appears and inserting in lieu thereof “sec-
19 tion 46(b)(1)”.

20 (18) Subsection (r) of section 48 is amended by
21 striking out “section 381(c)(23)” and inserting in lieu
22 thereof “section 381(c)(26)”.

23 (p) TARGETED JOBS CREDIT.—

1 (1) Subsection (a) of section 51 (relating to
2 amount of targeted jobs credit) is amended to read as
3 follows:

4 “(a) DETERMINATION OF AMOUNT.—For purposes of
5 section 38, the amount of the targeted jobs credit determined
6 under this section for the taxable year shall be the sum of—

7 “(1) 50 percent of the qualified first-year wages
8 for such year, and

9 “(2) 25 percent of the qualified second-year wages
10 for such year.”.

11 (2) Subsection (g) of section 51 is amended by
12 striking out “the credit provided by section 44B” and
13 inserting in lieu thereof “the targeted jobs credit deter-
14 mined under this subpart”.

15 (3) Section 51 is amended by adding at the end
16 thereof the following new subsection:

17 “(j) ELECTION TO HAVE TARGETED JOBS CREDIT
18 NOT APPLY.—

19 “(1) IN GENERAL.—A taxpayer may elect to
20 have this section not apply for any taxable year.

21 “(2) TIME FOR MAKING ELECTION.—An election
22 under paragraph (1) for any taxable year may be made
23 (or revoked) at any time before the expiration of the 3-
24 year period beginning on the last date prescribed by

1 law for filing the return for such taxable year (deter-
2 mined without regard to extensions).

3 “(3) MANNER OF MAKING ELECTION.—An elec-
4 tion under paragraph (1) (or revocation thereof) shall
5 be made in such manner as the Secretary may by reg-
6 ulations prescribe.”.

7 (4) Subsection (a) of section 52 is amended by
8 striking out “the credit (if any) allowable by section
9 44B to each such member” and inserting in lieu there-
10 of “the credit (if any) determined under section 51(a)
11 with respect to each such member”.

12 (5) Subsection (b) of section 52 is amended by
13 striking out “the credit (if any) allowable by section
14 44B” and inserting in lieu thereof “the credit (if any)
15 determined under section 51(a)”.

16 (6) Subsection (c) of section 52 is amended by
17 striking out “credit shall be allowed under section
18 44B” and inserting in lieu thereof “credit shall be al-
19 lowed under section 38 for any targeted jobs credit de-
20 termined under this subpart”.

21 (7) Paragraph (2) of section 52(d) is amended by
22 striking out “, subject to section 53, a credit under
23 section 44B” and inserting in lieu thereof “, subject to
24 section 38(c), a credit under section 38(a)”.

1 (8) Section 53 (relating to limitation based on
2 amount of tax) is hereby repealed.

3 (9) The table of sections for old subpart D of part
4 IV of subchapter A of chapter 1 is amended by strik-
5 ing out the item relating to section 53.

6 (q) SECTION 55.—

7 (1) Paragraph (1) of section 55(c) (relating to
8 credits) is amended—

9 (A) by striking out “subpart A of part IV”
10 and inserting in lieu thereof “subpart A, B, or D
11 of part IV”, and

12 (B) by striking out “section 33(a)” each
13 place it appears and inserting in lieu thereof “sec-
14 tion 27(a)”.

15 (2) Clause (i) of section 55(c)(2)(B) is amended by
16 striking out “section 33(a)” and inserting in lieu there-
17 of “section 27(a)”.

18 (3) Paragraph (3) of section 55(c) is amended to
19 read as follows:

20 “(3) CARRYOVER AND CARRYBACK OF CERTAIN
21 CREDITS.—In the case of any taxable year for which a
22 tax is imposed by this section, for purposes of deter-
23 mining the amount of any carryover or carryback to
24 any other taxable year of any credit allowable under
25 section 23, 30 or 38, the amount of the limitation

1 under section 25, 30(g), or 38(c) (as the case may be)
2 shall be deemed to be—

3 “(A) the amount of such limitation for such
4 taxable year (determined without regard to this
5 paragraph), reduced (but not below zero) by

6 “(B) the amount of the tax imposed by this
7 section for the taxable year, reduced by—

8 “(i) the amount of the credit allowable
9 under section 27(a),

10 “(ii) in the case of the limitation under
11 section 30(g), the amount of such tax taken
12 into account under this subparagraph with
13 respect to the limitation under section 25,
14 and

15 “(iii) in the case of the limitation under
16 section 38(c), the amount of such tax taken
17 into account under this subparagraph with
18 respect to limitations under sections 25 and
19 30(g).”.

20 (4) Paragraph (2) of section 55(f) is amended by
21 striking out “allowable under subpart A of part IV of
22 this subchapter (other than under sections 31, 39, and
23 43)” and inserting in lieu thereof “allowable under
24 subparts A, B, and D of part IV of this subchapter”.

1 (r) TECHNICAL AND CONFORMING AMENDMENTS TO
2 OTHER PROVISIONS.—

3 (1) SECTION 56.—

4 (A) Subsection (c) of section 56 (defining reg-
5 ular tax deduction) is amended—

6 (i) by striking out “subpart A of part IV
7 other than sections 39 and 44G” and insert-
8 ing in lieu thereof “subparts A, B, and D of
9 part IV”, and

10 (ii) by amending the last sentence to
11 read as follows: “For purposes of the preced-
12 ing sentence, the amount of the credit deter-
13 mined under section 38 for any taxable year
14 shall be determined without regard to the
15 employee stock ownership credit determined
16 under section 41.”.

17 (B) Subparagraph (A) of section 56(e)(1) is
18 amended by striking out clauses (i), (ii), (iii), and
19 (iv) and inserting in lieu thereof the following:

20 “(i) section 27 (relating to foreign tax
21 credit), and

22 “(ii) section 38 (relating to general busi-
23 ness credit), exceed”.

24 (2) SECTION 86.—Paragraph (1) of section 86(f)
25 (relating to treatment as pension or annuity for certain

1 purposes) is amended by striking out “section 43(c)(2)”
 2 and inserting in lieu thereof “section 32(c)(2)”.

3 (3) SECTION 87.—Section 87 (relating to alcohol
 4 fuel credit included in income) is amended to read as
 5 follows:

6 **“SEC. 87. ALCOHOL FUEL CREDIT.**

7 “Gross income includes the amount of the alcohol fuel
 8 credit determined with respect to the taxpayer for the taxable
 9 year under section 40(a).”.

10 (4) SECTION 103.—Clause (iv) of section
 11 103(b)(6)(F) (relating to certain capital expenditures
 12 not taken into account) is amended by striking out
 13 “section 44F(b)(2)(A)” and inserting in lieu thereof
 14 “section 30(b)(2)(A)”.

15 (5) SECTION 108.—Subparagraph (B) of section
 16 108(b)(2) (relating to reduction of tax attributes in title
 17 11 case or insolvency) is amended to read as follows:

18 **“(B) RESEARCH CREDIT AND GENERAL**
 19 **BUSINESS CREDIT.**—Any carryover to or from
 20 the taxable year of a discharge of an amount for
 21 purposes of determining the amount allowable as
 22 a credit under—

23 “(i) section 30 (relating to credit for in-
 24 creasing research activities), or

1 “(ii) section 38 (relating to general busi-
2 ness credit).

3 For purposes of this subparagraph, there shall not
4 be taken into account any portion of a carryover
5 which is attributable to the employee stock own-
6 ership credit determined under section 41.”.

7 (6) SECTION 129.—

8 (A) Paragraph (2) of section 129(b) (relating
9 to earned income limitation) is amended by strik-
10 ing out “section 44A(e)(2)” and inserting in lieu
11 thereof “section 21(d)(2)”.

12 (B) Paragraph (1) of section 129(e) (defining
13 dependent care assistance) is amended by striking
14 out “section 44A(c)(2)” and inserting in lieu
15 thereof “section 21(b)(2)”.

16 (C) Paragraph (2) of section 129(e) (defining
17 earned income) is amended by striking out “sec-
18 tion 43(c)(2)” and inserting in lieu thereof “sec-
19 tion 32(c)(2)”.

20 (7) SECTION 168.—

21 (A) Clause (i) of section 168(i)(1)(D), as
22 added by section 208(a) of the Tax Equity and
23 Fiscal Responsibility Act of 1982, is amended by
24 striking out “subpart A of part IV” and inserting

1 in lieu thereof “subparts A, B, and D of part
2 IV”.

3 (B) Clause (iii) of section 168(i)(1)(D), as
4 added by section 208(a) of the Tax Equity and
5 Fiscal Responsibility Act of 1982, is amended by
6 striking out “under the last sentence of section
7 53(a)” and inserting in lieu thereof “under section
8 25(b)(2)”.

9 (C) Subparagraph (A) of section 168(i)(4), as
10 added by section 208(a) of the Tax Equity and
11 Fiscal Responsibility Act of 1982, is amended by
12 striking out “subpart A of part IV of subchapter
13 A of this chapter” and inserting in lieu thereof
14 “section 38”.

15 (D) Clause (i) of section 168(i)(1)(D), as
16 added by section 209(b) of the Tax Equity and
17 Fiscal Responsibility Act of 1982, is amended by
18 striking out “subpart A of part IV” and inserting
19 in lieu thereof “subparts A, B, and D of part
20 IV”.

21 (E) Clause (iii) of section 168(i)(1)(D), as
22 added by section 209(b) of the Tax Equity and
23 Fiscal Responsibility Act of 1982, is amended by
24 striking out “under the last sentence of section

1 53(a)” and inserting in lieu thereof “under section
2 25(b)(2)”.

3 (8) SECTION 196.—

4 (A) Section 196 (relating to deduction for
5 certain unused investment credits) is amended to
6 read as follows:

7 **“SEC. 196. DEDUCTION FOR CERTAIN UNUSED BUSINESS**
8 **CREDITS.**

9 “(a) ALLOWANCE OF DEDUCTION.—If any portion of
10 the qualified business credits determined for any taxable year
11 has not, after the application of section 38(c), been allowed to
12 the taxpayer as a credit under section 38 for any taxable
13 year, an amount equal to the credit not so allowed shall be
14 allowed to the taxpayer as a deduction for the first taxable
15 year following the last taxable year for which such credit
16 could, under section 39, have been allowed as a credit.

17 “(b) TAXPAYER’S DYING OR CEASING TO EXIST.—If
18 a taxpayer dies or ceases to exist before the first taxable year
19 following the last taxable year for which the qualified busi-
20 ness credits could, under section 39, have been allowed as a
21 credit, the amount described ~~in~~ subsection (a) (or the proper
22 portion thereof) shall, under regulations prescribed by the
23 Secretary, be allowed to the taxpayer as a deduction for the
24 taxable year in which such death or cessation occurs.

1 “(c) **QUALIFIED BUSINESS CREDITS.**—For purposes of
2 this section, the term ‘qualified business credits’ means—

3 “(1) the investment credit determined under sec-
4 tion 46(a) (but only to the extent attributable to prop-
5 erty the basis of which is reduced by section 48(q)),

6 “(2) the targeted jobs credit determined under
7 section 51(a), and

8 “(3) the alcohol fuels credit determined under sec-
9 tion 40(a).

10 “(d) **SPECIAL RULE FOR INVESTMENT TAX CREDIT.**—
11 In the case of the investment credit determined under section
12 46(a) (other than a credit to which section 48(q)(3) applies),
13 subsection (a) shall be applied by substituting ‘an amount
14 equal to 50 percent of’ for ‘an amount equal to’.”. *

15 (B) The table of sections for part VI of sub-
16 chapter B of chapter 1 is amended by striking out
17 the item relating to section 196 and inserting in
18 lieu thereof:

“Sec. 196. Deduction for certain unused business credits.”.

19 (9) **SECTION 213.**—Subsection (e) of section 213
20 (relating to exclusion of amounts allowed for care of
21 certain dependents) is amended by striking out “section
22 44A” and inserting in lieu thereof “section 21”.

23 (10) **SECTION 280C.**—

24 (A) Section 280C (relating to certain ex-
25 penses for which credits are allowable) is amended

1 by striking out subsection (a) and by redesignating
2 subsections (b) and (c) as subsections (a) and (b),
3 respectively.

4 (B) Subsection (a) of section 280C (as so re-
5 designated) is amended—

6 (i) by striking out the first sentence and
7 inserting in lieu thereof the following: “No
8 deduction shall be allowed for that portion of
9 the wages or salaries paid or incurred for the
10 taxable year which is equal to the amount of
11 the credit determined for the taxable year
12 under section 51(a).”, and

13 (ii) by striking out “SECTION 44B
14 CREDIT” in the subsection heading and in-
15 serting in lieu thereof “TARGETED JOBS
16 CREDIT”.

17 (C) Subsection (b) of section 280C (as so re-
18 designated) is amended by striking out “44H”
19 each place it appears and inserting in lieu thereof
20 “29”.

21 (D) Paragraph (3) of section 280C(b) (as so
22 redesignated) is amended—

23 (i) by striking out “section 44F(f)(5)”
24 and inserting in lieu thereof “section
25 30(f)(5)”,

1 (ii) by striking out "section
2 44F(f)(1)(B)" and inserting in lieu thereof
3 "section 30(f)(1)(B)",

4 (iii) by striking out "section 44F(f)(1)"
5 and inserting in lieu thereof "section
6 30(f)(1)".

7 (11) SECTION 381.—Subsection (c) of section 381
8 is amended—

9 (A) by striking out paragraphs (23), (24),
10 (26), (27), and (30),

11 (B) by redesignating paragraphs (25), (28),
12 and (29) as paragraphs (23), (24), and (25), re-
13 spectively,

14 (C) by striking out "44F" each place it ap-
15 pears in paragraph (25) (as so redesignated) and
16 inserting in lieu thereof "30", and

17 (D) by adding at the end thereof the follow-
18 ing new paragraph:

19 "(26) CREDIT UNDER SECTION 38.—The acquir-
20 ing corporation shall take into account (to the extent
21 proper to carry out the purposes of this section and
22 section 38, and under such regulations as may be pre-
23 scribed by the Secretary) the items required to be
24 taken into account for purposes of section 38 in respect
25 of the distributor or transferor corporation."

1 (12) SECTION 383.—

2 (A) Section 383 (as in effect on the day
3 before the date of the enactment of the Tax
4 Reform Act of 1976) is amended—

5 (i) by striking out “with respect to any
6 unused investment credit” and all that fol-
7 lows and inserting in lieu thereof the follow-
8 ing: “with respect to any unused business
9 credit of the corporation which can otherwise
10 be carried forward under section 39, to any
11 unused credit of the corporation which could
12 otherwise be carried forward under section
13 30(g)(2), to any excess foreign taxes of the
14 corporation which could otherwise be carried
15 forward under section 904(c), and to any net
16 capital loss of the corporation which can oth-
17 erwise be carried forward under section
18 1212.”, and

19 (ii) by striking out the section heading
20 and inserting in lieu thereof the following:

21 **“SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS**
22 **CREDITS, RESEARCH CREDITS, FOREIGN**
23 **TAXES, AND CAPITAL LOSSES.”.**

24 (B) Section 383 (as amended by the Tax
25 Reform Act of 1976) is amended—

1 (i) by striking out “with respect to any
2 unused investment credit” and all that fol-
3 lows and inserting in lieu thereof the follow-
4 ing: “with respect to any unused business
5 credit of the corporation under section 39, to
6 any unused credit of the corporation under
7 section 30(g)(2), to any excess foreign taxes
8 of the corporation under section 904(c), and
9 to any net capital loss of the corporation
10 under section 1212.”, and

11 (ii) by striking out the section heading
12 and inserting in lieu thereof the following:

13 **“SEC. 383. SPECIAL LIMITATIONS ON UNUSED BUSINESS**
14 **CREDITS, RESEARCH CREDITS, FOREIGN**
15 **TAXES, AND CAPITAL LOSSES.”.**

16 (C) The table of sections for part V of sub-
17 chapter C of chapter 1 is amended by striking out
18 the item relating to section 383 and inserting in
19 lieu thereof the following:

“Sec. 383. Special limitations on unused business credits, research
credits, foreign taxes, and capital losses.”.

20 (13) Paragraph (21) of section 401(a) is amended
21 by striking out “allowable—” and all that follows and
22 inserting in lieu thereof “allowable under section 41 if
23 the employer made the transfer described in section
24 41(c)(1)(B).”

1 (14) SECTION 404.—Subsection (i) of section 404
2 (relating to deductibility of unused portions of employee
3 stock ownership credit) is amended to read as follows:

4 “(i) DEDUCTIBILITY OF UNUSED PORTIONS OF EM-
5 PLOYEE STOCK OWNERSHIP CREDIT.—

6 “(1) UNUSED CREDIT CARRYOVERS.—If any por-
7 tion of the employee stock ownership credit determined
8 under section 41 for any taxable year has not, after the
9 application of section 38(c), been allowed under section
10 38 for any taxable year, such portion shall be allowed
11 as a deduction (without regard to any limitations pro-
12 vided under this section) for the last taxable year to
13 which such portion could have been allowed as a credit
14 under section 39.

15 “(2) REDUCTIONS IN CREDIT.—There shall be al-
16 lowed as a deduction (subject to the limitations pro-
17 vided under this section) an amount equal to any re-
18 duction of the credit allowed under section 41 resulting
19 from a final determination of such credit to the extent
20 such reduction is not taken into account under section
21 41(c)(3).”.

22 (14) SECTION 409A.—

23 (A) Section 409A (relating to qualifications
24 for tax credit employee stock ownership plans), is
25 amended by striking out “44G” each place it ap-

1 pears in subsections (b), (g), (i), (m), and (n) and
2 inserting in lieu thereof "41".

3 (B) Paragraph (1) of section 409A(b) is
4 amended by striking out "48(n)(1)(A) or".

5 (C) Subsection (g) of section 409A is amend-
6 ed by adding at the end thereof the following new
7 sentence: "For purposes of the preceding sen-
8 tence, the references to section 48(n)(1) and the
9 employee plan credit shall refer to such section
10 and credit as in effect before the enactment of the
11 Tax Law Simplification and Improvement Act of
12 1984."

13 (D) Subparagraph (A) of section 409A(i)(1) is
14 amended by striking out "48(n)(1) or".

15 (E) Subsection (k) of section 409A is amend-
16 ed by adding at the end thereof the following new
17 sentence: "For purposes of this subsection, the
18 reference to the matching employee plan credit
19 shall refer to such credit as in effect before the
20 enactment of the Tax Law Simplification and Im-
21 provement Act of 1984."

22 (16) SECTION 527(g)(1).—Paragraph (1) of section
23 527(g) (relating to treatment of newsletter funds) is
24 amended by striking out "section 41(c)(2)" and insert-
25 ing in lieu thereof "section 24(c)(2)".

1 (17) SECTION 642(a)(2).—Paragraph (2) of section
2 642(a) (relating to credit for political contributions) is
3 amended by striking out “section 41” and inserting in
4 lieu thereof “section 24”.

5 (18) SECTION 691(b).—Subsection (b) of section
6 691 (relating to allowance of deductions and credit) is
7 amended by striking out “section 33” each place it ap-
8 pears and inserting in lieu thereof “section 27”.

9 (19) SECTIONS 874(a) AND 882(c)(2).—Sections
10 874(a) and 882(c)(2) are each amended—

11 (A) by striking out “32” and inserting in lieu
12 thereof “33”, and

13 (B) by striking out “section 39” and insert-
14 ing in lieu thereof “section 34”.

15 (20) SECTION 901(a).—Subsection (a) of section
16 901 (relating to allowance of foreign tax credit) is
17 amended by striking out the last sentence and inserting
18 in lieu thereof the following: “The credit shall not be
19 allowed against any tax treated as a tax not imposed
20 by this chapter under section 25(b).”

21 (21) SECTION 904(g).—Subsection (g) of section
22 904 (relating to limitation on foreign tax credit) is
23 amended to read as follows:

24 “(g) COORDINATION WITH NONREFUNDABLE PERSON-
25 AL CREDITS.—In the case of an individual, for purposes of

1 subsection (a), the tax against which the credit is taken is
2 such tax reduced by the sum of the credits allowable under
3 subpart A of part IV of subchapter A of this chapter.”.

4 (22) SECTION 936.—

5 (A) Clause (i)(I)(a) of section 936(h)(5)(C) is
6 amended by striking out “section 44F(b)” and in-
7 serting in lieu thereof “section 30(b)”.

8 (B) Clause (i)(IV)(c) of section 936(h)(5)(C) is
9 amended—

10 (i) by striking out “section 44F” and in-
11 serting in lieu thereof “section 30”, and

12 (ii) by striking out “section 44F(f)” and
13 inserting in lieu thereof “section 30(f)”.

14 (23) SECTION 1016(a)(21).—Paragraph (21) of
15 section 1016(a) (relating to adjustments to basis) is
16 amended—

17 (A) by striking out “section 44C(e)” and in-
18 serting in lieu thereof “section 23(e)”, and

19 (B) by striking out “section 44C” and insert-
20 ing in lieu thereof “section 23”.

21 (24) SECTION 1033(g)(3)(A).—Subparagraph (A) of
22 section 1033(g)(3) (relating to election to treat outdoor
23 advertising displays as real property) is amended by
24 striking out “the credit allowed by section 38 (relating
25 to investment in certain depreciable property)” and in-

1 serting in lieu thereof “the investment credit deter-
2 mined under section 46(a)”.

3 (25) SECTION 1351(i).—Subsection (i) of section
4 1351 (relating to adjustments for succeeding years) is
5 amended—

6 (A) by striking out “section 33” and insert-
7 ing in lieu thereof “section 27”, and

8 (B) by striking out “section 38 (relating to
9 investment credit)” and inserting in lieu thereof
10 “section 38 (relating to general business credit)”.

11 (26) SECTION 1366(f).—Paragraph (1) of section
12 1366(f) (relating to special rules) is amended by strik-
13 ing out “section 39” each place it appears and insert-
14 ing in lieu thereof “section 34”.

15 (27) SECTION 1374(b).—Subsection (b) of section
16 1374 (relating to amount of tax imposed on certain
17 capital gains) is amended by striking out “section 39”
18 and inserting in lieu thereof “section 34”.

19 (28) SECTION 1375(c).—Paragraph (1) of section
20 1375(c) (relating to disallowance of credit) is amended
21 by striking out “section 39” and inserting in lieu
22 thereof “section 34”.

23 (29) SECTION 1451.—

24 (A) Chapter 3 (relating to withholding of tax
25 on nonresident aliens and foreign corporations and

1 tax-free covenant bonds) is amended by striking
2 out subchapter B and by redesignating subchapter
3 C as subchapter B.

4 (B) The table of subchapters for chapter 3 is
5 amended by striking out the items relating to sub-
6 chapters B and C and inserting in lieu thereof the
7 following:

“SUBCHAPTER B. Application of withholding provisions.”.

8 (C) The heading of chapter 3 is amended by
9 striking out “**AND TAX-FREE COVENANT**
10 **BONDS**”.

11 (D) The table of chapters for subtitle A is
12 amended by striking out “and tax-free covenant
13 bonds” in the item relating to chapter 3.

14 (E) Section 12 is amended by striking out
15 paragraph (6) and by redesignating paragraphs (7)
16 and (8) as paragraphs (6) and (7), respectively.

17 (F) Subsection (f) of section 164 (as in effect
18 before its redesignation by the Social Security
19 Amendments of 1983) is amended by striking out
20 paragraph (1) and by redesignating paragraphs (2)
21 and (3) as paragraphs (1) and (2), respectively.

22 (G) Subsection (a) of section 1441 is amend-
23 ed by striking out “except in the cases provided
24 for in section 1451 and”.

1 (H) Paragraph (3) of section 1441(c) is
2 amended by striking out “section 1451” and in-
3 serting in lieu thereof “section 1451 (as in effect
4 before its repeal by the Tax Credit Simplification
5 Act of 1984)”.

6 (I) Subsection (a) of section 1442 is
7 amended—

8 (i) by striking out “or section 1451”,
9 and

10 (ii) by striking out “; except that, in the
11 case of interest described in section 1451 (re-
12 lating to tax-free covenant bonds), the deduc-
13 tion and withholding shall be at the rate
14 specified therein”.

15 (J) Paragraph (2) of section 6049(b) (relating
16 to amounts not treated as interest) is amended—

17 (i) by adding “and” at the end of sub-
18 paragraph (C),

19 (ii) by striking out “, and” at the end of
20 subparagraph (D) and inserting in lieu there-
21 of a period, and

22 (iii) by striking out subparagraph (E).

23 (K) Paragraph (16) of section 7701(a) is
24 amended by striking out “1451,”.

1 (30) SECTION 6096(b).—Subsection (b) of section
2 6096 (defining income tax liability) is amended by
3 striking out “allowable under sections 33, 37, 38, 40,
4 41, 42, 44, 44A, 44B, 44C, 44D, 44E, 44F, 44G,
5 and 44H” and inserting in lieu thereof “allowable
6 under part IV of subchapter A of chapter 1 (other than
7 subpart C thereof)”.

8 (31) SECTION 6201(a)(4).—Paragraph (4) of sec-
9 tion 6201(a) (relating to erroneous credit under section
10 39 or 43) is amended—

11 (A) by striking out “section 39” and insert-
12 ing in lieu thereof “section 34”,

13 (B) by striking out “section 43” and insert-
14 ing in lieu thereof “section 32”, and

15 (C) by striking out “SECTION 39 OR 43” in
16 the paragraph heading and inserting in lieu there-
17 of “SECTION 32 OR 34”.

18 (32) SECTION 6211(b).—

19 (A) Paragraph (1) of section 6211(b) is
20 amended by striking out “without regard to so
21 much of the credit under section 32 as exceeds 2
22 percent of the interest on obligations described in
23 section 1451” and inserting in lieu thereof “with-
24 out regard to the credit under section 33”.

1 (B) Paragraph (4) of section 6211(b) is
2 amended by striking out “section 39” and insert-
3 ing in lieu thereof “section 34”.

4 (33) SECTION 6213(h)(3).—Paragraph (3) of sec-
5 tion 6213(h) is amended by striking out “section 39”
6 and inserting in lieu thereof “section 32 or 34”.

7 (34) SECTION 6362(c)(1).—Paragraph (1) of sec-
8 tion 6362(c) (relating to qualified resident tax which is
9 a percentage of the Federal tax) is amended by striking
10 out “sections 31 and 39” and inserting in lieu thereof
11 “sections 31 and 34”.

12 (35) SECTION 6401(b).—Subsection (b) of section
13 6401 (relating to excessive credits treated as overpay-
14 ments) is amended to read as follows:

15 “(b) EXCESSIVE CREDITS.—

16 “(1) IN GENERAL.—If the amount allowable as
17 credits under subpart C of part IV of subchapter A of
18 chapter 1 (relating to refundable credits) exceeds the
19 tax imposed by subtitle A (reduced by the credits al-
20 lowable under subparts A, B, and D of such part IV),
21 the amount of such excess shall be considered an over-
22 payment.

23 “(2) SPECIAL RULE FOR CREDIT UNDER SECTION
24 33.—For purposes of paragraph (1), any credit allowed
25 under section 33 (relating to withholding of tax on

1 nonresident aliens and on foreign corporations) for any
2 taxable year shall be treated as a credit allowable
3 under subpart C of part IV of subchapter A of chapter
4 1 only if an election under subsection (g) or (h) of sec-
5 tion 6013 is in effect for such taxable year.”.

6 (36) SECTION 6411.—

7 (A) So much of subsection (a) of section
8 6411 as precedes paragraph (2) thereof (relating
9 to tentative carryback and refund adjustments) is
10 amended to read as follows:

11 “(a) APPLICATION FOR ADJUSTMENT.—A taxpayer
12 may file an application for a tentative carryback adjustment
13 of the tax for the prior taxable year affected by a net operat-
14 ing loss carryback provided in section 172(b), by a business
15 credit carryback provided in section 39, by a research credit
16 carryback provided in section 30(g)(2) or by a capital loss
17 carryback provided in section 1212(a)(1), from any taxable
18 year. The application shall be verified in the manner pre-
19 scribed by section 6065 in the case of a return of such tax-
20 payer and shall be filed, on or after the date of filing for the
21 return for the taxable year of the net operating loss, net capi-
22 tal loss, or unused business credit from which the carryback
23 results and within a period of 12 months after such taxable
24 year or, with respect to any portion of a research credit car-
25 ryback or a business credit carryback attributable to a net

1 operating loss carryback or a net capital loss carryback from
2 a subsequent taxable year, within a period of 12 months from
3 the end of such subsequent taxable year (or, with respect to
4 any portion of a business credit carryback attributable to a
5 research credit carryback from a subsequent taxable year
6 within a period of 12 months from the end of such subsequent
7 taxable year), in the manner and form required by regulations
8 prescribed by the Secretary. The applications shall set forth
9 in such detail and with such supporting data and explanation
10 as such regulations shall require—

11 “(1) The amount of the net operating loss, net
12 capital loss, unused research credit, or unused business
13 credit;”.

14 (B) Subsections (b) and (c) of section 6411
15 are each amended by striking out “unused invest-
16 ment credit, unused work incentive program
17 credit, unused new employee credit, unused re-
18 search credit, or unused employee stock owner-
19 ship credit” each place it appears and inserting in
20 lieu thereof “unused research credit, or unused
21 business credit”.

22 (37) SECTIONS 6420(g)(2), ETC.—Sections
23 6420(g)(2), 6421(i)(3), and 6427(i)(3) are each amended
24 by striking out “section 39” and inserting in lieu
25 thereof “section 34”.

1 (38) SECTION 6501(p).—Section 6501 is amended
2 by striking out subsection (p) and by redesignating sub-
3 section (q) as subsection (p).

4 (39) SECTION 6511(d)(4)(c).—Subparagraph (C) of
5 section 6511(d)(4) (defining credit carryback) is amend-
6 ed to read as follows:

7 “(C) CREDIT CARRYBACK DEFINED.—For
8 purposes of this paragraph, the term ‘credit carry-
9 back’ means any business carryback under section
10 39 and any research credit carryback under sec-
11 tion 30(g)(2).”.

12 (40) SECTION 7871.—Subparagraph (A) of sec-
13 tion 7871(a)(6) is amended by striking out “section
14 41(c)(4)” and inserting in lieu thereof “section
15 24(c)(4)”.

16 (41) SECTION 9502(d).—Paragraph (3) of section
17 9502(d) (relating to transfers from the Airport and
18 Airway Trust Fund on account of certain section 39
19 credits) is amended—

20 (A) by striking out “section 39” and insert-
21 ing in lieu thereof “section 34”, and

22 (B) by striking out “SECTION 39 CREDITS”
23 in the heading and inserting in lieu thereof “SEC-
24 TION 34 CREDITS”.

1 (42) SECTION 9503(c).—Clause (ii) of section
2 9503(c)(2)(A) (relating to transfers from the Highway
3 Trust Fund for certain repayments and credits) is
4 amended by striking out “section 39” and inserting in
5 lieu thereof “section 34”.

6 **SEC. 855. ENERGY CREDITS**

7 (a) **BUSINESS ENERGY TAX CREDITS.**—

8 (1) **EXTENSION OF RENEWABLE ENERGY, OCEAN**
9 **THERMAL, AND BIOMASS CREDITS THROUGH 1988.**—
10 Clauses (ii) (relating to solar, wind, or geothermal
11 property), (iii) (relating to ocean thermal property), and
12 (vi) (relating to biomass property) of section 46(b)(2)(A)
13 (relating to amount of investment tax credit) (as
14 amended by section 851 of this Act) are each further
15 amended by striking out “Dec. 31, 1985.” and insert-
16 ing in lieu thereof “Dec. 31, 1988.”.

17 (2) **GEO THERMAL PROPERTY.**—

18 (A) **WATER TEMPERATURE THRESHOLD RE-**
19 **DUCE D.**—Paragraph (3) of section 613(e) (defining
20 geothermal deposit) is amended by inserting im-
21 mediately before the period at the end of the first
22 sentence, a comma and the following: “having a
23 temperature which equals or exceeds 40 degrees
24 Celsius (104 degrees Fahrenheit) as measured at
25 the wellhead or, in the case of a natural hot

1 spring (where no well is drilled), at the intake to
2 the distribution system”.

3 (B) ALLOCATION RULES.—Paragraph (3) of
4 section 48(l) (relating to energy property) is
5 amended by adding at the end thereof the follow-
6 ing new subparagraph:

7 “(D) SPECIAL RULE FOR GEOTHERMAL
8 EQUIPMENT.—For purposes of subparagraph
9 (A)(viii), with respect to any equipment in which
10 the percentage of the geothermal energy to be
11 used by such equipment—

12 “(i) is at least 50 percent, such equip-
13 ment shall be treated as section 38 property
14 only to the extent of the portion of the quali-
15 fied investment equal to such percentage,
16 and

17 “(ii) is less than 50 percent, such equip-
18 ment shall not be treated as section 38 prop-
19 erty.”.

20 (3) BIOMASS PROPERTY USE OF QUALIFIED
21 FUEL.—

22 (A) ADDITIONAL QUALIFIED FUEL.—Sub-
23 paragraph (C) of section 48(l)(15) (defining bio-
24 mass property) is amended—

1 (i) by striking out “and” at the end of
2 clause (i),

3 (ii) by redesignating clause (ii) as clause
4 (iii), and

5 (iii) by inserting after clause (i) the fol-
6 lowing new clause:

7 “(ii) methane-containing gas for fuel or
8 electricity, produced by anaerobic digestion
9 from nonfossil waste materials at farms or
10 other agricultural facilities, and at facilities
11 for the first processing of agricultural prod-
12 ucts, and”.

13 (B) EXCLUSION OF CERTAIN PROPERTY.—
14 Section 48(l)(15) (defining biomass property) is
15 amended by adding a new subparagraph (D) to
16 read as follows:

17 “(D) EXCLUSION OF CERTAIN PROPERTY.—
18 After December 31, 1985, the term ‘biomass
19 property’ does not include the property of a tax-
20 payer in a trade or business which is included in
21 SIC24 (the forest products industry) or SIC26
22 (the paper products industry) as published and de-
23 fined pursuant to section 3504(d)(3) of the Paper-
24 work Reduction Act of 1980 (as in effect on the

1 date of the enactment of the Deficit Reduction
2 Tax Act of 1984).”.

3 (4) AFFIRMATIVE COMMITMENTS FOR SYNTHET-
4 IC FUELS PROJECTS EXTENDED.—Subparagraph (C)
5 of section 46(b)(2) (relating to energy percentage) (as
6 so amended) is further amended—

7 (A) by striking out “ ‘December 31, 1990’ ”
8 and inserting in lieu thereof “ ‘December 31,
9 1992’ ”,

10 (B) by striking out “January 1, 1983” in
11 clause (i) and inserting in lieu thereof “January 1,
12 1987”, and

13 (C) by striking out “January 1, 1986” in
14 clause (ii) and inserting in lieu thereof “January
15 1, 1990”.

16 (5) NEW AFFIRMATIVE COMMITMENTS FOR
17 SOLAR, WIND, GEOTHERMAL, AND OCEAN THERMAL
18 PROJECTS.—Paragraph (2) of section 46(b) (relating to
19 energy percentage) is further amended by redesignating
20 subparagraph (D) as subparagraph (E) and by inserting
21 after subparagraph (C) the following new subpara-
22 graph:

23 “(D) LONGER PERIOD FOR SOLAR, WIND,
24 GEOTHERMAL, AND OCEAN THERMAL PROJ-
25 ECTS.—For the purpose of applying the energy

1 percentage contained in clauses (ii) and (iii) of
2 subparagraph (A) with respect to property which
3 is part of a project with a normal construction
4 period of 2 years or more (within the meaning of
5 subsection (d)(2)(A)(i)), 'June 30, 1989' shall be
6 substituted for 'December 31, 1988' if—

7 “(i) before January 1, 1988, all engi-
8 neering studies in connection with the com-
9 mencement of the construction of the project
10 have been completed and all environmental
11 and construction permits required under Fed-
12 eral, State, or local law in connection with
13 the commencement of the construction of the
14 project have been applied for, and

15 “(ii) before July 1, 1989, the taxpayer
16 has entered into binding contracts for the ac-
17 quisition, construction, reconstruction, or
18 erection of equipment specially designed for
19 the project and the aggregate cost to the
20 taxpayer of that equipment is at least 50
21 percent of the reasonably estimated cost for
22 all such equipment which is to be placed in
23 service as part of the project upon its com-
24 pletion.”.

1 (6) DEFINITION OF SHALE OIL PROPERTY
2 WHICH IS TREATED AS ENERGY PROPERTY.—Subsec-
3 tion (b) of section 104 of the Miscellaneous Revenue
4 Act of 1982 (relating to treatment of certain shale oil
5 property as energy property) is amended by striking
6 out “and before January 1, 1983,”.

7 (7) TAR SANDS PROPERTY.—

8 (A) IN GENERAL.—Subparagraph (A) of sec-
9 tion 48(l)(2) (defining energy property) is amend-
10 ed—

11 (i) by striking out “or” at the end of
12 clause (viii),

13 (ii) by adding “or” at the end of clause
14 (ix), and

15 (iii) by adding at the end thereof the fol-
16 lowing new clause:

17 “(x) tar sands equipment,”

18 (B) TAR SANDS EQUIPMENT.—Subsection (l)
19 of section 48 (relating to energy property) is
20 amended by adding at the end thereof the follow-
21 ing new paragraph:

22 “(18) TAR SANDS EQUIPMENT.—The
23 term ‘tar sands equipment’ means that equip-
24 ment which is necessary and integral to the
25 mining, quarrying, or extraction of tar sands

1 or the production or extraction of oil from tar
2 sands including equipment used for cracking,
3 coking, hydrogenation, or for similar process-
4 es but not including equipment used for refin-
5 ing.”.

6 **(b) RESIDENTIAL ENERGY TAX CREDITS.—**

7 **(1) REPEAL OF ENERGY CONSERVATION CREDIT**
8 **AND EXTENSION OF RENEWABLE ENERGY CREDIT.—**
9 Subsection (f) of section 23 (relating to residential
10 energy credit) (as redesignated by section 851 of this
11 Act) is amended to read as follows:

12 “(f) **TERMINATION.—**

13 “(1) **ENERGY CONSERVATION.—**This section shall
14 not apply to qualified energy conservation expenditures
15 made after the date of the enactment of the Deficit Re-
16 duction Tax Act of 1984.

17 “(2) **RENEWABLE ENERGY SOURCE.—**This sec-
18 tion shall not apply to qualified renewable energy
19 source expenditures made after December 31, 1987.”.

20 **(2) CONFORMING AMENDMENT.—**Subparagraph
21 **(B)** of section 23(b)(6) (relating to carryover of unused
22 credit) is amended to read as follows:

23 “(B) **LIMITATION ON FUTURE CAR-**
24 **RYOVERS.—**No amount may be carried under sub-
25 paragraph (A) to any taxable year beginning after

1 December 31, 1987 (December 31, 1989 in the
2 case of qualified renewable energy source expendi-
3 tures).”.

4 (c) **EFFECTIVE DATE.**—Under rules similar to the rules
5 of section 48(m) of the Internal Revenue Code of 1954, the
6 amendments made by this section shall apply to periods be-
7 ginning after the date of the enactment of this Act.

8 **SEC. 856. THREE-YEAR EXTENSION OF TARGETED JOBS**
9 **CREDIT.**

10 (a) **IN GENERAL.**—Paragraph (3) of section 51(c) (de-
11 fining wages qualifying for targeted jobs credit) is amended
12 by striking out “December 31, 1984” and inserting in lieu
13 thereof “December 31, 1987”.

14 (b) **ADDITIONAL AUTHORIZATION OF APPROPRI-**
15 **ATIONS.**—Paragraph (2) of section 261(f) of the Economic
16 Recovery Tax Act of 1981 is amended by striking out “fiscal
17 years 1983 and 1984” and inserting in lieu thereof “fiscal
18 years 1983, 1984, 1985, 1986, and 1987”.

19 **SEC. 857. EFFECTIVE DATES.**

20 (a) **GENERAL RULE.**—Except as otherwise provided in
21 this subtitle, the amendments made by this subtitle shall
22 apply to taxable years beginning after December 31, 1983,
23 and to carrybacks from such years.

24 (b) **TAX-FREE COVENANT BONDS.**—The amendments
25 made by subsections (i) and (r)(29) of section 869 shall not

1 apply with respect to obligations issued before January 1,
2 1984.

3 (c) **SPECIAL RULE FOR EMPLOYEE PLAN CREDITS.**—
4 In the case of any employee plan credit (within the meaning
5 of section 48(c)(3) of the Internal Revenue Code of 1954,
6 without regard to the amendments made by this Act) allow-
7 able under section 38 of such Code, such amendments shall
8 not apply to any credit for a taxable year beginning after
9 December 31, 1982, arising out of a carryover of such credit
10 which is attributable to a period before January 1, 1983.

11 **Subtitle H—Capital Gains and Losses**

12 **SEC. 858. DECREASE IN HOLDING PERIOD REQUIRED FOR**
13 **LONG-TERM CAPITAL GAIN TREATMENT.**

14 (a) **IN GENERAL.**—

15 (1) **CAPITAL GAINS.**—Paragraphs (1) and (3) of
16 section 1222 (relating to other terms relating to capital
17 gains and losses) are each amended by striking out “1
18 year” and inserting in lieu thereof “6 months”.

19 (2) **CAPITAL LOSSES.**—Paragraphs (2) and (4) of
20 section 1222 are each amended by striking out “1
21 year” and inserting in lieu thereof “6 months”.

22 (b) **CONFORMING AMENDMENTS.**—The following provi-
23 sions are each amended by striking out “1 year” each place
24 it appears and inserting in lieu thereof “6 months”:

1 (1) Paragraph (1)(B) of section 166(d) (relating to
2 nonbusiness debts).

3 (2) Subsection (a) of section 341 (relating to treat-
4 ment of gain to shareholders in the case of collapsible
5 corporations).

6 (3) Paragraph (2) of subsection (a) and subpara-
7 graph (L) of subsection (e)(4) of section 402 (relating to
8 capital gains treatment for certain distributions in the
9 case of a beneficiary of an exempt employees' trust).

10 (4) Subparagraph (A) of section 403(a)(2) (relating
11 to capital gains treatment for certain distributions in
12 the case of a beneficiary under a qualified annuity
13 plan).


14 (5) Paragraph (1) of section 423(a) (relating to
15 employee stock purchase plans).

16 (6) Paragraph (2) of section 582(c) (relating to
17 capital gains of banks).

18 (7) Subparagraphs (A) and (B) of section 584(c)(1)
19 (relating to inclusions in taxable income of participants
20 in common trust funds).

21 (8) Paragraphs (3) and (4) of section 642(c) (relat-
22 ing to charitable deductions for certain trusts).

23 (9) Paragraphs (1) and (2) of section 702(a) (relat-
24 ing to income and credits of partner).



1 (10) Subparagraph (A) of section 817(a)(1) (relat-
2 ing to certain gains and losses in the case of life insur-
3 ance companies).

4 (11) Subparagraph (B) of section 852(b)(3) (relat-
5 ing to taxation of shareholders of regulated investment
6 companies).

7 (12) Subparagraph (A) of section 856(c)(4) (relat-
8 ing to definition of real estate investment trust).

9 (13) Paragraphs (3)(B) and (7) of section 857(b)
10 (relating to taxation of shareholders of real estate in-
11 vestment trust).

12 (14) Paragraphs (11) and (12) of section 1223 (re-
13 lating to holding period of property).

14 (15) Section 1231 (relating to property used in
15 the trade or business and involuntary conversions).

16 (16) Paragraph (2) of section 1232(a) (relating to
17 sale or exchange in the case of bonds and other evi-
18 dences of indebtedness).

19 (17) Subsections (b), (d), and subparagraph (A) of
20 subsection (e)(4) of section 1233 (relating to gains and
21 losses from short sales).

22 (18) Paragraph (1) of section 1234(b) (relating to
23 treatment of the grantor of an option in the case of
24 stock, securities, or commodities).

1 (19) Subsection (a) of section 1235 (relating to
2 sale or exchange of patents).

3 (20) Paragraph (4) of section 1246(a) (relating to
4 holding period in the case of gain on foreign invest-
5 ment company stock).

6 (21) Subsection (i) of section 1247 (relating to loss
7 on sale or exchange of certain stock in the case of for-
8 eign investment companies electing to distribute
9 income currently).

10 (22) Subsections (b) and (g)(3)(C) of section 1248
11 (relating to gain from certain sales or exchanges of
12 stock in certain foreign corporations).

13 (23) Subparagraph (A) of section 1251(e)(1) (defin-
14 ing farm recapture property).

15 (c) TECHNICAL AMENDMENT RELATING TO TIMBER,
16 COAL, AND DOMESTIC IRON ORE.—Section 631 (relating to
17 gain or loss in the case of timber, coal, or domestic iron ore)
18 is amended—

19 (1) by striking out “for a period of more than 1
20 year” in the first sentence of subsection (a) and insert-
21 ing in lieu thereof “on the first day of such year and
22 for a period of more than 6 months before such cut-
23 ting”, and

24 (2) by striking out “1 year” in subsections (b) and
25 (c) and inserting in lieu thereof “6 months”.

1 (d) TECHNICAL AMENDMENT RELATING TO CERTAIN
2 SHORT-TERM GOVERNMENT OBLIGATIONS.—Section
3 1232(a)(4)(A) (relating to certain short-term government ob-
4 ligations), as in effect before the amendments made by sec-
5 tion 231(c)(4) of the Tax Equity and Fiscal Responsibility
6 Act of 1982, and section 1232(a)(3)(A), as in effect after
7 such amendments, are each amended by striking out “held
8 less than 1 year”.

9 (e) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as otherwise provided
11 by this subsection, the amendments made by this sec-
12 tion shall apply to property acquired after February
13 29, 1984.

14 (2) CONFORMING AMENDMENTS.—The amend-
15 ments made by subsection (b) shall take effect on
16 March 1, 1984.

17 SEC. 859. DECREASE IN AMOUNT OF ORDINARY INCOME
18 AGAINST WHICH CAPITAL LOSS MAY BE
19 OFFSET.

20 (a) GENERAL RULE.—Subparagraph (B) of section
21 1211(b)(1) (relating to limitation on capital losses for taxpay-
22 ers other than corporations) is amended by striking out “the
23 applicable amount” and inserting in lieu thereof “\$1,000,
24 (\$500 in the case of a married individual filing a separate
25 return)”.

1 (b) CONFORMING AMENDMENT.—Subsection (b) of sec-
2 tion 1211 is amended by striking out paragraph (2) and
3 redesignating paragraph (3) as paragraph (2).

4 (c) REPEAL OF SPECIAL RULE FOR PRE-1970
5 LOSSES.—Paragraph (3) of section 1212(b) (relating to tran-
6 sitional rule for taxpayers other than corporations) is re-
7 pealed.

8 (d) EFFECTIVE DATE.—The amendments made by this
9 section shall apply to taxable years beginning after December
10 31, 1984.

11 Subtitle I—Miscellaneous

12 SEC. 860. ALTERNATIVE TEST FOR DEFINITION OF QUALIFIED 13 REHABILITATED BUILDING.

14 (a) IN GENERAL.—Paragraph (1) of section 48(g) (re-
15 lating to qualified rehabilitated buildings) is amended by
16 adding at the end thereof the following new subparagraph:

17 “(E) ALTERNATIVE TEST FOR DEFINITION OF
18 QUALIFIED REHABILITATED BUILDING.—The require-
19 ment in clause (iii) of subparagraph (A) shall be
20 deemed to be satisfied if in the rehabilitation process—

21 “(i) 50 percent or more of the existing exter-
22 nal walls of the building are retained in place as
23 external walls,

1 542), the tax shall be computed at the highest rate of
2 tax specified in section 11(b).”.

3 (3) REQUIREMENT THAT INVESTMENT COMPANY
4 HAVE NO EARNINGS AND PROFITS ACCUMULATED IN
5 YEAR FOR WHICH IT WAS NOT A REGULATED IN-
6 VESTMENT COMPANY.—Subsection (a) of section 852
7 (relating to requirements applicable to regulated invest-
8 ment companies) is amended by striking out “and” at
9 the end of paragraph (1), by striking out the period at
10 the end of paragraph (2) and inserting in lieu thereof “,
11 and”, and by adding at the end thereof the following
12 new paragraph:

13 “(3) either—

14 “(A) the provisions of this part applied to the
15 investment company for all taxable years ending
16 on or after November 8, 1983, or

17 “(B) as of the close of the taxable year, the
18 investment company has no earnings and profits
19 accumulated in any taxable year to which the pro-
20 visions of this part (or the corresponding provi-
21 sions of prior law) did not apply to it.”.

22 (4) PROCEDURES SIMILAR TO DEFICIENCY DIVI-
23 DEND PROCEDURES MADE APPLICABLE.—Section 852
24 is amended by adding at the end thereof the following
25 new subsection:

1 “(e) PROCEDURES SIMILAR TO DEFICIENCY DIVIDEND
2 PROCEDURES MADE APPLICABLE.—

3 “(1) IN GENERAL.—If—

4 “(A) there is a determination that the provi-
5 sions of this part do not apply to an investment
6 company for any taxable year (hereinafter in this
7 subsection referred to as the ‘non-RIC year’), and

8 “(B) such investment company meets the dis-
9 tribution requirements of paragraph (2) with re-
10 spect to the non-RIC year,

11 for purposes of applying subsection (a)(3) to subsequent
12 taxable years, the provisions of this part shall be treat-
13 ed as applying to such investment company for the
14 non-RIC year.

15 “(2) DISTRIBUTION REQUIREMENTS.—

16 “(A) IN GENERAL.—The distribution re-
17 quirements of this paragraph are met with respect
18 to any non-RIC year if, within the 90-day period
19 beginning on the date of the determination, the in-
20 vestment company makes 1 or more qualified des-
21 ignated distributions and the amount of such dis-
22 tributions is not less than the excess of—

23 “(i) the portion of the accumulated
24 earnings and profits of the investment com-
25 pany (as of the date of the determination)

1 which are attributable to the non-RIC year,
2 over

3 “(ii) any interest payable under para-
4 graph (3).

5 “(B) QUALIFIED DESIGNATED DISTRIBUTION.—For purposes of this paragraph, the term
6 ‘qualified designated distribution’ means any dis-
7 tribution made by the investment company if—

8 “(i) section 301 applies to such distribu-
9 tion, and

10 “(ii) such distribution is designated (at
11 such time and in such manner as the Secre-
12 tary shall by regulations prescribe) as being
13 taken into account under this paragraph with
14 respect to the non-RIC year.

15 “(C) EFFECT ON DIVIDENDS PAID DEDUC-
16 TION.—Any qualified designated distribution shall
17 not be included in the amount of dividends paid
18 for purposes of computing the dividends paid de-
19 duction for any taxable year.

20 “(3) INTEREST CHARGE.—

21 “(A) IN GENERAL.—If paragraph (1) applies
22 to any non-RIC year of an investment company,
23 such investment company shall pay interest at the
24 annual rate established under section 6621—
25

1 “(i) on an amount equal to 50 percent
2 of the amount referred to in paragraph
3 (2)(A)(i),

4 “(ii) for the period—

5 “(I) which begins on the last day
6 prescribed for payment of the tax im-
7 posed for the non-RIC year (determined
8 without regard to extensions), and

9 “(II) which ends on the date the
10 determination is made.

11 “(B) COORDINATION WITH SUBTITLE F.—

12 Any interest payable under subparagraph (A) may
13 be assessed and collected at any time during the
14 period during which any tax imposed for the tax-
15 able year in which the determination is made may
16 be assessed and collected.

17 “(4) PROVISION NOT TO APPLY IN THE CASE OF
18 FRAUD.—The provisions of this subsection shall not
19 apply if the determination contains a finding that the
20 failure to meet any requirement of this part was due to
21 fraud with intent to evade tax.

22 “(5) DETERMINATION.—For purposes of this sub-
23 section, the term ‘determination’ has the meaning
24 given to such term by section 860(e). Such term also
25 includes a determination by the investment company

1 filed with the Secretary that the provisions of this part
2 do not apply to the investment company for a taxable
3 year.”.

4 (5) EFFECTIVE DATES.—

5 (A) IN GENERAL.—Except as otherwise pro-
6 vided in this paragraph, the amendments made by
7 this subsection shall apply to taxable years begin-
8 ning after December 31, 1982.

9 (B) INVESTMENT COMPANIES WHICH WERE
10 REGULATED INVESTMENT COMPANIES FOR
11 YEARS ENDING BEFORE NOVEMBER 8, 1983.—In
12 the case of any investment company to which the
13 provisions of part I of subchapter M of chapter 1
14 of the Internal Revenue Code of 1954 applied for
15 any taxable year ending before November 8,
16 1983, for purposes of section 852(a)(3)(B) of the
17 Internal Revenue Code of 1954 (as amended by
18 this subsection), no earnings and profits accumu-
19 lated in any taxable year ending before January
20 1, 1984, shall be taken into account.

21 (C) INVESTMENT COMPANIES BEGINNING
22 BUSINESS IN 1983.—In the case of an investment
23 company which began business in 1983 (and was
24 not a successor corporation), earnings and profits
25 accumulated during its first taxable year shall not

1 be taken into account for purposes of section
2 852(a)(3)(B) of such Code (as so amended).

3 (b) **SHORT-TERM OBLIGATIONS ISSUED ON A DIS-**
4 **COUNT BASIS.—**

5 (1) **IN GENERAL.—**Paragraph (2) of section
6 852(b) (defining investment company taxable income) is
7 amended by adding at the end thereof the following
8 new subparagraph:

9 “(F) The taxable income shall be computed
10 without regard to section 454(b) (relating to
11 short-term obligations issued on a discount basis)
12 if the company so elects in a manner prescribed
13 by the Secretary.”.

14 (2) **EFFECTIVE DATE.—**The amendment made by
15 paragraph (1) shall apply to taxable years beginning
16 after December 31, 1978.

17 **SEC. 862. TAX TREATMENT OF COOPERATIVE HOUSING COR-**
18 **PORATIONS.**

19 Section 216 is amended—

20 (1) by striking out “an individual” in subsection
21 (b)(2) and inserting in lieu thereof “a person”,

22 (2) by striking out “such individual” in subsection
23 (b)(2) and inserting in lieu thereof “such person”,

24 (3) by amending paragraph (5) of subsection (b) to
25 read as follows:

1 “(5) ENTITLEMENT OF OCCUPANCY.—If a person
2 acquires stock of a cooperative housing corporation by
3 operation of law, there shall not be taken into account
4 for purposes of this section the fact that by agreement
5 with the cooperative housing corporation, the person or
6 his nominee may not occupy the house or apartment
7 without the prior approval of such corporation. If a
8 person other than an individual acquires stock of a co-
9 operative housing corporation, there shall not be taken
10 into account for purposes of this section the fact that
11 by agreement with the cooperative housing corpora-
12 tion, the person’s nominee may not occupy the house
13 or apartment without the prior approval of such corpo-
14 ration.”,

15 (4) by amending paragraph (6) of subsection (b) to
16 read as follows:

17 “(6) ORIGINAL SELLER.—If the original seller ac-
18 quires any stock of the cooperative housing corporation
19 from the corporation not later than one year after the
20 date on which the apartments or houses (or leaseholds
21 therein) are transferred by the original seller to the
22 corporation, there shall not be taken into account for
23 purposes of this section the fact that by agreement
24 with the corporation the original seller or its nominee
25 may not occupy the house or apartment without the

1 prior approval of the corporation. For purposes of this
2 paragraph, the term "original seller" means the person
3 from whom the corporation has acquired the apart-
4 ments or houses (or leaseholds therein).",

5 (5) by amending subsection (c) to read as follows:

6 "(c) TREATMENT AS PROPERTY SUBJECT TO DEPRE-
7 CIATION.—

8 "(1) IN GENERAL.—So much of the stock of a
9 tenant-stockholder in a cooperative housing corporation
10 as is allocable, under regulations prescribed by the
11 Secretary, to a proprietary lease or right of tenancy in
12 property subject to the allowance for depreciation
13 under section 167(a) shall, to the extent such propri-
14 etary lease or right of tenancy is used by such tenant-
15 stockholder in a trade or business or for the production
16 of income, be treated as property subject to the allow-
17 ance for depreciation under section 167(a). The preced-
18 ing sentence shall not be construed to limit or deny a
19 deduction for depreciation under 167(a) by a coopera-
20 tive housing corporation with respect to property
21 owned by such a corporation and leased to tenant-
22 stockholders.

23 "(2) SUSPENSION OF DEPRECIATION DEDUC-
24 TIONS.—A tenant-stockholder shall be allowed a de-
25 preciation deduction in a taxable year for the portion of

1 his stock allocable to a proprietary lease or right of
2 tenancy in property subject to the allowance for depre-
3 ciation under section 167(a) only to the extent of the
4 portion of the adjusted basis for his stock allocable to
5 such depreciable property at the end of the tenant-
6 stockholder's taxable year in which such deduction was
7 incurred. A tenant-stockholder's depreciation deduction
8 in excess of the basis for his stock allocable to such
9 depreciable property at the end of the tenant-stock-
10 holder's taxable year will not be allowed for that year.
11 However, any depreciation deduction so disallowed
12 shall be allowed as a depreciation deduction at the end
13 of the first succeeding taxable year of the tenant-stock-
14 holder, and subsequent taxable years of the tenant-
15 stockholder, to the extent that the tenant-stockholder's
16 adjusted basis for his stock allocable to such deprecia-
17 ble property at the end of any such year exceeds zero
18 (before reduction for such depreciation deduction for
19 such year).", and

20 (6) by adding at the end thereof a new subsection
21 (d) to read as follows:

22 "(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN
23 PAYMENTS TO THE CORPORATION.—No deduction shall be
24 allowed to a stockholder in a cooperative housing corporation
25 for any amount paid or accrued to such corporation within

1 the taxable year (in excess of the stockholder's proportionate
 2 share of the items described in subsections (a)(1) and (a)(2))
 3 to the extent that, under regulations prescribed by the Secre-
 4 tary, such amount is properly allocable to amounts paid or
 5 incurred at any time by the corporation that are chargeable
 6 to the corporation's capital account. The stockholder's adjust-
 7 ed basis for his stock in the corporation shall be increased by
 8 the amount of such disallowance."

9 **SEC. 863. EXCLUSION OF CERTAIN SERVICES FROM THE FED-**
 10 **ERAL UNEMPLOYMENT TAX ACT.**

11 Subsection (b) of section 822 of the Economic Recovery
 12 Tax Act of 1981 (26 U.S.C. 3306 note) is amended by strik-
 13 ing out "and before January 1, 1983" and inserting in lieu
 14 thereof "and before January 1, 1985".

15 **SEC. 864. EXTENSION OF PAYMENT-IN-KIND TAX TREATMENT**
 16 **ACT OF 1983 TO WHEAT FOR 1984 CROP YEAR.**

17 (a) **EXTENSION.**—

18 (1) **IN GENERAL.**—Section 5 of the Payment-in-
 19 Kind Tax Treatment Act of 1983 (relating to defini-
 20 tions and special rules) is amended by redesignating
 21 subsection (b) as subsection (c) and by inserting after
 22 subsection (a) the following new subsection:

23 "(b) **EXTENSION TO WHEAT PLANTED AND HARVEST-**
 24 **ED IN 1984.**—In the case of wheat—

1 “(1) any reference in this Act to the 1983 crop
2 year shall include a reference to the 1984 crop year,
3 and

4 “(2) any reference to the 1983 payment-in-kind
5 program shall include a reference to any program for
6 the 1984 year for wheat which meets the requirements
7 of subparagraphs (A) and (B) of subsection (a)(1).”.

8 (2) DEFINITION OF CROP YEAR.—Paragraph (2)
9 of section 5(a) of such Act is amended to read as fol-
10 lows:

11 “(2) CROP YEAR.—The term ‘1983 crop year’
12 means the crop year for any crop the planting or har-
13 vesting period for which occurs during 1983. The term
14 ‘1984 crop year’ means the crop year for wheat the
15 planting and harvesting period for which occurs during
16 1984.”.

17 (b) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by this
19 section shall apply with respect to commodities re-
20 ceived for the 1984 crop year (as defined in section
21 5(a)(2) of the Payment-in-Kind Tax Treatment Act of
22 1983 as amended by subsection (a)).

23 (2) INCOME TAX TREATMENT NOT TO APPLY
24 FOR 1984 CROP YEAR TO THE EXTENT PAYMENTS
25 DETERMINED TO BE ILLEGAL.—

1 (A) IN GENERAL.—If it is determined in a
2 judicial proceeding brought under subparagraph
3 (B) that the \$50,000 limitation of section 1101(1)
4 of the Agriculture and Food Act of 1981 applies
5 to payments-in-kind under the Payment-in-Kind
6 (PIK) programs, section 2(a) of the Payment-in-
7 Kind Tax Treatment Act of 1983 shall apply to
8 commodities received for the 1984 crop year only
9 to the extent that the receipt of such commodities
10 is legal under such determination.

11 (B) COMPTROLLER GENERAL TO BRING
12 ACTION FOR DECLARATORY JUDGMENT.—

13 (i) IN GENERAL.—Not later than 60
14 days after the date of the enactment of this
15 Act, the Comptroller General of the United
16 States shall (and notwithstanding any other
17 provision of law is hereby authorized to)
18 bring an action in the name of the United
19 States against the Secretary of Agriculture
20 in the United States District Court for the
21 District of Columbia for a declaration with
22 respect to the issue of whether the \$50,000
23 limitation of section 1101(1) of the Agricul-
24 ture and Food Act of 1981 applies to pay-

1 ments-in-kind under the Payment-in-Kind
2 (PIK) programs.

3 (ii) PRIORITY.—To the maximum
4 extent possible, the United States District
5 Court for the District of Columbia shall give
6 priority to the action brought under this sub-
7 paragraph.

8 (C) DECLARATION ONLY TO APPLY FOR
9 INCOME TAX TREATMENT FOR 1984 CROP
10 YEAR.—Nothing in any declaration in a proceed-
11 ing brought under subparagraph (B) shall affect—

12 (i) the tax treatment under the Pay-
13 ment-in-Kind Tax Treatment Act of 1983
14 for the 1983 crop year,

15 (ii) the tax treatment under such Act for
16 the 1984 crop year other than the tax treat-
17 ment under section 2(a) of such Act, or

18 (iii) the tax treatment of a cooperative
19 with respect to commodities received on
20 behalf of another person.

1 SEC. 865. ACQUISITION INDEBTEDNESS OF CERTAIN EDUCA-
2 TIONAL INSTITUTIONS AND CERTAIN CORPORA-
3 TIONS MANAGING PROPERTY FOR TAX-EXEMPT
4 ORGANIZATIONS; TAX-EXEMPTION FOR SUCH
5 CORPORATIONS.

6 (a) ACQUISITION INDEBTEDNESS.—Paragraph (9) of
7 section 514 (c) (relating to unrelated debt-financed income) is
8 amended to read as follows:

9 “(9) REAL PROPERTY ACQUIRED BY A QUALI-
10 FIED ORGANIZATION.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), the term ‘acquisition indebted-
13 ness’ does not, for purposes of this section, in-
14 clude indebtedness incurred by a qualified organi-
15 zation in acquiring or improving any real proper-
16 ty.

17 “(B) EXCEPTIONS.—The provisions of sub-
18 paragraph (A) shall not apply in any case in
19 which—

20 “(i) the acquisition price is not a fixed
21 amount determined as of the date of acquisi-
22 tion;

23 “(ii) the amount of any indebtedness or
24 any other amount payable with respect to
25 such indebtedness, or the time for making
26 any payment of any such amount, is depend-

1 ent, in whole or in part, upon any revenue,
2 income, or profits derived from such real
3 property;

4 “(iii) the real property is at any time
5 after the acquisition leased by the qualified
6 organization to the person selling such prop-
7 erty to such organization or to any person
8 who bears a relationship described in section
9 267(b) to such person;

10 “(iv) the real property is acquired by a
11 qualified trust from, or is at any time after
12 the acquisition leased by such trust to, any
13 person who—

14 “(I) bears a relationship which is
15 described in subparagraph (C), (E), or
16 (G) of section 4975(e)(2) to any plan
17 with respect to which such trust was
18 formed, or

19 “(II) bears a relationship which is
20 described in subparagraph (F) or (H) of
21 section 4975(e)(2) to any person de-
22 scribed in subclause (I);

23 “(v) the real property is acquired by a
24 title holding company from, or is at any time
25 after the acquisition leased by such founda-

1 tion to, any person described in section 4946

2 (a);

3 “(vi) any person described in clause (iii),
4 (iv), or (v) provides the qualified organization
5 with financing in connection with the acqui-
6 sition; or

7 “(vii) the real property acquired by the
8 qualified organization is, at any time after
9 the acquisition, property owned by a partner-
10 ship and at least one of the partners of such
11 partnership is not a qualified organization.

12 “(C) QUALIFIED ORGANIZATION.—For pur-
13 poses of this paragraph, the term ‘qualified orga-
14 nization’ means—

15 “(i) an organization described in section
16 170(b)(1)(A) (ii) and its affiliated support or-
17 ganizations described in section 509(a);

18 “(ii) an organization described in section
19 501(c)(24); or

20 “(iii) any trust which constitutes a
21 qualified trust under section 401.”

22 (b) TAX-EXEMPT STATUS OF CORPORATIONS AC-
23 QUIRING AND MANAGING PROPERTY FOR OTHER TAX-
24 EXEMPT ORGANIZATIONS.—Section 501(c) (relating to the

1 list of exempt organizations) is amended by adding at the end
2 thereof the following new paragraph:

3 “(24)(A) Any corporation or trust—

4 “(i) which is organized for the exclusive pur-
5 poses of—

6 “(I) acquiring and holding title to prop-
7 erty,

8 “(II) collecting income from such prop-
9 erty, and

10 “(III) remitting the entire amount of
11 income from such property (less expenses) to
12 one or more organizations described in sub-
13 paragraph (C), and

14 “(ii) none of the officers, directors, or trust-
15 ees of which—

16 “(I) provides investment advice or simi-
17 lar services to such corporation or trust, or

18 “(II) is a partner, director, officer, or
19 trustee of (or person holding any similar po-
20 sition in) any organization (including a bro-
21 kerage house) that provides such services to
22 such corporation or trust.

23 “(B) A corporation or trust shall be described in
24 subparagraph (A) without regard to whether the corpo-

1 ration or trust is organized by one or more organiza-
2 tions described in subparagraph (C).

3 “(C) An organization is described in this subpara-
4 graph if—

5 “(i) such organization is—

6 “(I) a qualified pension, profit sharing,
7 or stock bonus plan which meets the require-
8 ments of section 401(a),

9 “(II) a governmental plan (within the
10 meaning of section 414(d)),

11 “(III) the United States, any State or
12 political subdivision thereof, or any agency or
13 instrumentality of any such governmental
14 unit, or

15 “(IV) any organization described in
16 paragraph (3).”.

17 (c) EFFECTIVE DATES.—

18 (1) ACQUISITION INDEBTEDNESS.—The amend-
19 ment made by subsection (a) shall apply with respect
20 to indebtedness incurred after the date of enactment of
21 this Act.

22 (2) TAX-EXEMPTION.—The amendments made by
23 subsection (b) shall apply to taxable years beginning
24 after December 31, 1984.

1 SEC. 866. PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION
2 AND INDEMNITY ASSOCIATIONS.

3 (a) IN GENERAL.—Section 821 (relating to mutual in-
4 surance companies) is amended by redesignating subsection
5 (f) as subsection (g) and by inserting after subsection (e) the
6 following new subsection:

7 “(f) CERTAIN PHYSICIANS' AND SURGEONS' MUTUAL
8 PROTECTION AND INDEMNITY ASSOCIATIONS.—

9 “(1) TREATMENT OF ASSOCIATIONS.—

10 “(A) CAPITAL CONTRIBUTIONS.—There
11 shall not be included in the gross income of any
12 eligible physicians' and surgeons' mutual protec-
13 tion and indemnity association any initial payment
14 made during any taxable year to such association
15 by a member joining such association which—

16 “(i) does not release such member from
17 obligations to pay current or future dues, as-
18 sessments, or premiums; and

19 “(ii) is a condition precedent to receiv-
20 ing benefits of membership.

21 Such initial payment shall be included in gross
22 income for such taxable year with respect to any
23 member of such association who elects to deduct
24 such payment pursuant to paragraph (2).

25 “(B) RETURN OF CONTRIBUTIONS.—

1 “(i) IN GENERAL.—The repayment to
2 any member of any amount of any payment
3 excluded under subparagraph (A) shall not be
4 treated as a policyholder dividend, and is not
5 deductible by the association.

6 “(ii) SOURCE OF RETURNS.—Except in
7 the case of the termination of a member’s in-
8 terest in the association, any amount distrib-
9 uted to any member shall be treated as paid
10 out of surplus in excess of amounts excluded
11 under subparagraph (A).

12 “(2) DEDUCTION ELECTION FOR MEMBERS OF
13 ELIGIBLE ASSOCIATIONS.—

14 “(A) ELECTION TO TREAT PAYMENT AS
15 TRADE OR BUSINESS EXPENSES.—To the extent
16 not otherwise allowable under this title, any
17 member of any eligible association may elect, with
18 notice to and with the consent of such association
19 with respect to such election, to treat any initial
20 payment made during a taxable year to such asso-
21 ciation as an ordinary and necessary expense in-
22 curred in connection with a trade or business for
23 purposes of the deduction allowable under section
24 162, to the extent such payment does not exceed
25 the amount which would be payable to an inde-

1 pendent insurance company for similar insurance
2 coverage (as determined by the Secretary), and
3 further reduced by any annual dues, assessments,
4 or premiums paid during such taxable year. Any
5 excess amount not allowed as a deduction for the
6 taxable year in which such payment was made
7 pursuant to the limitation contained in the preced-
8 ing sentence shall, subject to such limitation, be
9 allowable as a deduction in any of the 5 succeed-
10 ing taxable years, in order of time, to the extent
11 not previously allowed as a deduction under this
12 sentence.

13 “(B) TIME OF ELECTION.—The election
14 under subparagraph (A) shall be made upon join-
15 ing the association, in a manner prescribed by the
16 Secretary.

17 “(C) REFUNDS OF INITIAL PAYMENTS.—
18 Any amount attributable to any initial payment to
19 such association described in paragraph (1) which
20 is later refunded for any reason shall be included
21 in the gross income of the recipient in the taxable
22 year received, to the extent a deduction for such
23 payment was allowed. Any amount refunded in
24 excess of such payment shall be included in gross

1 income except to the extent otherwise excluded
2 from income by this title.

3 “(3) ELIGIBLE ASSOCIATIONS.—The terms ‘eligi-
4 ble physicians’ and surgeons’ mutual protection and in-
5 demnity association’ and ‘eligible association’ mean any
6 mutual protection and indemnity association that pro-
7 vides only medical malpractice liability protection for
8 its members and which was operative and was provid-
9 ing such protection under the laws of any State prior
10 to January 1, 1984.”

11 (b) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by this
13 section shall apply to payments made to and receipts of
14 physicians’ and surgeons’ mutual protection and indem-
15 nity associations, and refunds of payments by such as-
16 sociations, after the date of the enactment of this Act,
17 in taxable years ending after such date.

18 (2) RETROACTIVE EFFECT OF THIS SECTION.—A
19 member of any association who in any taxable year
20 ending before the date of the enactment of this Act
21 made payments to such association for which deduc-
22 tions were not initially allowed may, to the extent and
23 in the manner provided by the Internal Revenue Code
24 of 1954, amend applicable earlier tax returns to reflect
25 the deductions authorized by this section, if the associ-

1 ation to which such payment was made consents to
2 such treatment and is able to and does so amend its
3 return for the appropriate earlier year to include such
4 amount in its gross income.

5 **SEC. 867. SALE-LEASEBACKS OF PRINCIPAL RESIDENCES.**

6 (a) **DEPRECIATION IN SALE-LEASEBACK TRANSAC-**
7 **TIONS.**— Section 167 (relating to depreciation) is amended
8 by inserting after subsection (h) the following new subsection:

9 “(i) **SALE-LEASEBACK TRANSACTIONS.**—

10 “(1) **IN GENERAL.**—In the case of property in-
11 volved in a sale-leaseback transaction, the purchaser-
12 lessor shall be recognized as the absolute owner of the
13 property, and the deduction shall be allowed to the
14 purchaser-lessor and computed under the straight-line
15 method using a useful life of 40 years.

16 “(2) **DEFINITIONS.**—For purposes of this subsec-
17 tion—

18 “(A) **SALE-LEASEBACK.**—The term ‘sale-
19 leaseback’ shall include a transaction in which—

20 “(i) the seller-lessee—

21 “(I) has attained the age of 55
22 before the date of such transaction,

23 “(II) sells property which during
24 the 5-year period ending on the date of
25 the transaction has been owned and

1 used as a principal residence by such
2 seller-lessee for periods aggregating 3
3 years or more,

4 “(III) obtains occupancy rights in
5 such property pursuant to a written
6 lease requiring a fair rental, and

7 “(IV) receives no option to repur-
8 chase the property at a price less than
9 the fair market price of the property un-
10 encumbered by any leaseback at the
11 time such option is exercised, and

12 “(ii) the purchaser-lessor—

13 “(I) is a person,

14 “(II) is not a related party (as de-
15 fined in section 267 (b)) or a tax shel-
16 ter,

17 “(III) is contractually responsible
18 for the risks and burdens of ownership
19 and receives the benefits of ownership
20 (other than the seller-lessee’s occupancy
21 rights) after the date of such transac-
22 tion, and

23 “(IV) pays a purchase price for the
24 property that is the fair market price of
25 such property encumbered by a lease-

1 back, and taking into account the terms
2 of the lease.

3 “(B) OCCUPANCY RIGHTS.—The term ‘occu-
4 pancy rights’ means the right to occupy the prop-
5 erty for any period of time, including a period of
6 time measured by the life of the seller-lessee on
7 the date of the sale-leaseback transaction (or the
8 life of the surviving seller-lessee, in the case of
9 jointly-held occupancy rights), or a periodic term
10 subject to a continuing right of renewal by the
11 seller-lessee (or by the surviving seller-lessee, in
12 the case of jointly-held occupancy rights).

13 “(C) FAIR RENTAL.—The term ‘fair rental’
14 shall include a rental for any subsequent year
15 which equals or exceeds the fair market rental for
16 the first year of a sale-leaseback transaction, but
17 which does not exceed a fair rental for such sub-
18 sequent year.

19 “(D) TAX SHELTER.—The term ‘tax shel-
20 ter’ means—

21 “(i) a partnership or other enterprise
22 (other than a corporation which is not an S
23 corporation) in which interests have been of-
24 fered for sale, at any time, in any offering

1 required to be registered with a Federal or
2 State agency;

3 “(ii) a partnership or other enterprise if
4 more than 35 percent of the losses are allo-
5 cable to limited partners or limited entrepre-
6 neurs; or

7 “(iii) any partnership, entity, plan, or
8 arrangement which is a tax shelter within
9 the meaning of section 6661(b).”.

10 (b) CAPITAL GAINS EXCLUSION IN SALE-LEASEBACK
11 TRANSACTIONS.—Subsection (d) of section 121 (relating to
12 one-time exclusion of gain from sale of principal residence by
13 individual who has attained age 55) is amended by adding at
14 the end thereof the following new paragraph:

15 “(9) SALE OR EXCHANGE DEFINED.—For pur-
16 poses of this section, the term ‘sale or exchange’ shall
17 include a sale-leaseback transaction (as defined in sec-
18 tion 167(i)).”.

19 (c) INCOME IN SALE-LEASEBACK TRANSACTION.—

20 (1) GROSS INCOME.—Part III of subchapter B of
21 chapter 1 (relating to items specifically excluded from
22 gross income) is amended by inserting after section 121
23 the following new section:

1 "SEC. 121A. INCOME IN SALE-LEASEBACK TRANSACTIONS.

2 "Gross income to the seller-lessee or the purchaser-
3 lessor in a sale-leaseback transaction (as defined in section
4 167(i)) does not include any value of occupancy rights or dis-
5 count from the fair market price of the property unencum-
6 bered by any leaseback, which is attributable to any lease-
7 back."

8 (2) GAIN OR LOSS.—Subsection (b) of section
9 1001 is amended—

10 (A) by striking out "and" at the end of para-
11 graph (1),

12 (B) by striking out the period at the end of
13 paragraph (2) and inserting in lieu thereof "
14 and", and

15 (C) by inserting after paragraph (2) the fol-
16 lowing new paragraph:

17 "(3) in the case of a sale-leaseback transaction (as
18 defined in section 167(i))—

19 "(A) there shall not be taken into account
20 any value of occupancy rights or discount from
21 the fair market price of the property unencum-
22 bered by any leaseback, which is attributable to
23 any leaseback, and

24 "(B) there shall be taken into account the
25 cost of any annuity purchased for a seller-lessee
26 by a purchaser-lessor."

1 (3) CLERICAL AMENDMENT.—The table of sec-
2 tions for part III of subchapter B of chapter 1 is
3 amended by inserting after the item relating to section
4 121 the following new item:

“Sec. 121A. Income in sale-leaseback transactions.”.

5 (d) INSTALLMENT SALES IN SALE-LEASEBACK
6 TRANSACTIONS.—Section 453 (relating to installment
7 method) is amended—

8 (1) by redesignating subsection (j) as subsection
9 (k), and

10 (2) by inserting after subsection (i) the following
11 new subsection:

12 “(j) APPLICATION WITH SECTION 167(I).—

13 “(1) IN GENERAL.—In the case of an installment
14 sale in a sale-leaseback transaction (as defined in sec-
15 tion 167(i)), subsection (a) shall apply.

16 “(2) SPECIAL RULE FOR ANNUITIES.—In the
17 case of an annuity purchased for the seller-lessee by
18 the purchaser-lessor in a sale-leaseback transaction,
19 the purchase cost of such annuity shall constitute the
20 amount of consideration received by such seller-lessee
21 attributable to such annuity and shall be deemed re-
22 ceived in the year of disposition of the property.”.

23 (e) BASIS OF ANNUITY RECEIVED IN SALE-LEASE-
24 BACK TRANSACTION.—Subparagraph (A) of section 72(c)(1)
25 (relating to annuities) is amended by inserting before the

1 comma “(including such amount paid by a purchaser-lessor in
2 a sale-leaseback transaction as defined in section 167(i))”.

3 (f) **SALE-LEASEBACK TRANSACTION ENGAGED IN FOR**
4 **PROFIT.**—Section 183 (relating to activities not engaged in
5 for profit) is amended—

6 (1) by striking out “If” in subsection (d) and in-
7 serting in lieu thereof “(1) **IN GENERAL.**—If”,

8 (2) by inserting after paragraph (1) of subsection
9 (d) (as designated by paragraph (1)) the following new
10 paragraph:

11 “(2) **SALE-LEASEBACK TRANSACTION.**—Any
12 sale-leaseback transaction (as defined in section 167(i)),
13 unless the Secretary establishes to the contrary, shall
14 be presumed for purposes of this chapter to be an ac-
15 tivity engaged in for profit.”, and

16 “(3) by inserting ‘(1)’ after ‘subsection (d)’ each
17 place it appears in subsection (e).”.

18 (g) **EFFECTIVE DATE.**—The amendments made by this
19 section shall apply to sales after the date of the enactment of
20 this Act and before December 31, 1988.

21 **SEC. 868. INCREASE IN EARNED INCOME CREDIT.**

22 (a) **IN GENERAL.**—Section 32 (relating to earned
23 income credit) (as redesignated by section 851 of this Act) is
24 amended—

1 (1) by striking out "10 percent" in subsection (a)
2 and inserting in lieu thereof "10.5 percent",

3 (2) by striking out "\$500" in subsection (b)(1) and
4 inseting in lieu thereof "\$525",

5 (3) by striking out "12.5 percent" in in subsection
6 (b)(2) and inserting in lieu thereof "10.5 percent", and

7 (4) by striking out "\$10,000" in subsection
8 (f)(2)(B) and inserting in lieu thereof "\$11,000".

9 (b) **ADVANCE PAYMENT OF EARNED INCOME**
10 **CREDIT.**—Paragraph (2) of section 3507 (c) (defining earned
11 income advance amount) is amended—

12 (1) by striking out "10 percent" in subparagraphs
13 (B)(i) and (C)(i) and inserting in lieu thereof "10.5 per-
14 cent",

15 (2) by striking out "\$10,000" in subparagraph
16 (B)(ii) and inserting in lieu thereof "\$11,000", and

17 (3) by striking out "\$5,000" in subparagraph
18 (C)(ii) and inserting in lieu thereof "\$5,500".

19 (c) **CONFORMING AMENDMENT.**—Section 3507 (relat-
20 ing to advance payment of earned income credit) is amended
21 by striking out "section 43" each place it appears and insert-
22 ing in lieu thereof "section 32".

23 (d) **EFFECTIVE DATE.**—The amendments made by this
24 section shall apply to taxable years beginning after December
25 31, 1984.

1 SEC. 869. INCLUSION OF CAPITAL CONSTRUCTION FUNDS FOR
2 SHORE-BASED FISHERY PROCESSING FACILI-
3 TIES.

4 (a) IN GENERAL.—Subsection (a) of section 607 of the
5 Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to
6 read as follows:

7 “(a) AGREEMENT RULES.—(1) Any citizen of the
8 United States owning or leasing one or more eligible vessels
9 (as defined in subsection (k)(1)), or one or more eligible fish-
10 ery facilities (as defined in subsection (k)(10)), may enter into
11 an agreement with the Secretary of Commerce under, and as
12 provided in, this section to establish a capital construction
13 fund (hereinafter in this section referred to as the ‘fund’) with
14 respect to any or all of such vessels or facilities. Any agree-
15 ment entered into under this section—

16 “(A) shall be for the purpose of providing—

17 “(i) replacement vessels, additional vessels,
18 or reconstructed vessels, built in the United
19 States and documented under the laws of the
20 United States for operation in the United States,
21 foreign, Great Lakes, or noncontiguous domestic
22 trade,

23 “(ii) replacement fishing vessels, additional
24 fishing vessels, or reconstructed fishing vessels,
25 built in the United States, American Samoa, the
26 Virgin Islands of the United States, Guam, the

1 Northern Mariana Islands, or any other common-
2 wealth, territory, or possession of the United
3 States and documented under the laws of the
4 United States for operation in the fisheries of the
5 United States, or

6 “(iii) replacement fishery facilities, additional
7 fishery facilities, or reconstructed fishery facilities,
8 located in the United States, American Samoa,
9 the Virgin Islands of the United States, Guam,
10 the Northern Mariana Islands, or any other com-
11 monwealth, territory, or possession of the United
12 States, or

13 “(B) shall provide for the deposit in the fund of
14 the amounts agreed upon as necessary or appropriate
15 to provide for qualified withdrawals under subsection
16 (f).

17 “(2) In applying paragraph (1)(A) (ii) or (iii)—

18 “(A) withdrawals may be made from a capital
19 construction fund for the purchase of a used fishery
20 vessel or a used fishery facility for any reconstruction
21 purpose, if such reconstruction will contribute to the
22 development of the United States fishing industry;

23 “(B) nothing in this section shall be construed as
24 prohibiting the establishment and use of a capital con-
25 struction fund—

1 “(i) with respect to fishing vessels for pur-
2 poses of acquiring replacement, additional, or re-
3 constructed fishery facilities,

4 “(ii) with respect to fishery facilities for pur-
5 poses of acquiring replacement, additional, or re-
6 constructed fishing vessels, or

7 “(iii) for fishing vessels and fishery facilities;
8 and

9 “(C) nationals of the United States and citizens of
10 the Northern Mariana Islands shall be treated as citi-
11 zens of the United States.

12 “(3) The deposits in the fund, and all withdrawals from
13 the fund, whether qualified or nonqualified, shall be subject to
14 such conditions and requirements as the Secretary of Com-
15 merce may by regulation prescribe or are set forth in such
16 agreement; except that the Secretary of Commerce may not
17 require any person to deposit in the fund for any taxable year
18 more than 50 percent of the sum of (A) that portion of such
19 person’s taxable income for such year which is attributable to
20 the operation of the agreement vessels, or (B) that portion of
21 such person’s taxable income for such year which is attribut-
22 able to the operation of the agreement fishery facilities. For
23 purposes of the preceding sentence, taxable income shall be
24 computed in the manner provided in subsection (b)(1)(A).

1 “(4) Notwithstanding any other provision of law, any
2 agreement for any of the purposes set forth in paragraph
3 (1)(A) (ii) or (iii) may be amended in order to—

4 “(A) allow for the withdrawal of moneys from the
5 fund established by that agreement and the subsequent
6 deposit of those moneys in a fund established, whether
7 by the same or different persons, including partnerships
8 under another existing agreement, or a new agree-
9 ment, entered into for any such purpose or purposes;
10 or

11 “(B) provide that one or more other persons may
12 be permitted to become parties thereto and deposit
13 moneys into the fund established by such agreement;
14 whether or not any of the moneys for deposit are with-
15 drawn pursuant to an agreement amended under sub-
16 paragraph (A).

17 “(5) The Secretary may not require, in the case of any
18 agreement entered into for the purpose of reconstructing a
19 fishing vessel or fishery facility, that a minimum withdrawal
20 be made from the fund. For purposes of this section, the re-
21 construction or reconditioning of a fishing vessel or fishery
22 facility does not include the routine minor repair or mainte-
23 nance of the vessel or facility.”.

1 (b) DEFINITIONS.—Subsection (k) of section 607 of
2 such Act is amended by adding at the end thereof the follow-
3 ing new paragraphs:

4 “(10) The term ‘eligible fishery facility’ means any fish-
5 ery facility which is located in the United States.

6 “(11) The term ‘qualified fishery facility’ means any
7 fishery facility—

8 “(A) which is located in the United States, and

9 “(B) which the person maintaining the fund
10 agrees with the Secretary of Commerce will be used
11 for one or more of the functions described in paragraph
12 (13).

13 For purposes of this paragraph, paragraphs (1), (2), and (3),
14 insofar as they relate to a fishing vessel, and paragraph (10)
15 the term ‘United States’ includes American Samoa, the
16 Virgin Islands of the United States, the Northern Mariana
17 Islands, Guam, and any other commonwealth, territory, or
18 possession of the United States; and, when applied with re-
19 spect to a fishery facility described in paragraph (13)(B), in-
20 cludes the fishery conservation zone established by section
21 101 of the Fishery Conservation and Management Act of
22 1976 (16 U.S.C. 1811).

23 “(12) The term ‘agreement fishery facility’ means any
24 eligible fishery facility or qualified fishery facility which is
25 subject to an agreement entered into under this section.

1 “(13) The term ‘fishery facility’ means—

2 “(A) for operations on land—

3 “(i) any structure or appurtenance thereto
4 designed for the unloading and receiving from ves-
5 sels, the processing, the holding pending process-
6 ing, the distribution after processing, or the hold-
7 ing pending distribution, of fish from one or more
8 fisheries,

9 “(ii) the land necessary for any such struc-
10 ture or appurtenance described in clause (i), and

11 “(iii) equipment which is for use in connec-
12 tion with any such structure or appurtenance and
13 which is necessary for the performance of any
14 function referred to in clause (i); or

15 “(B) for operations other than on land, any vessel
16 built in the United States and used for, equipped to be
17 used for, or of a type which is normally used for, the
18 processing of fish;

19 but only if such structure, appurtenance, land, and equipment
20 or vessel is owned by an individual who is a citizen or nation-
21 al of the United States or a citizen of the Northern Mariana
22 Islands or by a corporation, partnership, association, or other
23 entity that is a citizen of the United States within the mean-
24 ing of section 2 of the Shipping Act, 1916 (46 U.S.C. 802),

1 and for purposes of applying such section 2 with respect to
2 this section—

3 “(i) the term ‘State’ as used therein includes any
4 State, or District of Columbia, the Commonwealth of
5 Puerto Rico, American Samoa, the Virgin Islands of
6 the United States, Guam, the Northern Mariana Is-
7 lands, or any other commonwealth, territory, or posses-
8 sion of the United States; and

9 “(ii) nationals of the United States or citizens of
10 the Northern Mariana Islands shall be treated as citi-
11 zens of the United States in meeting any applicable
12 ownership requirement.

13 “(14) The terms ‘fishing’ and ‘fishing vessel’ have the
14 meanings given such terms by paragraphs (10) and (11) of
15 section 3 of the Fishery Conservation and Management Act
16 of 1976 (16 U.S.C. 1802).

17 “(15) The term ‘fish’ means finfish, mollusks, crusta-
18 ceans, and all other forms of marine animal and plantlife
19 other than marine mammals and birds.

20 “(16) The term ‘citizen of the Northern Mariana Is-
21 lands’ means—

22 “(A) an individual who qualifies under section 8 of
23 the Schedule on Transitional Matters attached to the
24 Constitution of the Northern Mariana Islands; or

1 “(B) a corporation, partnership, association, or
2 other entity organized or existing under the laws of the
3 Northern Mariana Islands, if such entity is owned (in
4 the sense such term is used in section 2 of the Ship-
5 ping Act, 1916) by individuals referred to in subpara-
6 graph (A) or citizens or nationals of the United
7 States.”.

8 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

9 (1)(A) Subparagraph (A) of section 607(b)(1) of
10 such Act is amended by inserting “(i)” after “(A)”, and
11 by inserting “or, (ii) that portion of the taxable income
12 of the owner or lessee for such year (as so computed)
13 which is attributable to the operation of the agreement
14 fishery facilities,” after “the fisheries of the United
15 States”.

16 (B) Subparagraph (B) of section 607(b)(1) of such
17 Act is amended by inserting “or the agreement fishery
18 facilities” after “the agreement vessels”.

19 (C) Subparagraph (C) of section 607(b)(1) of such
20 Act is amended by inserting “or agreement fishery fa-
21 cility” after “any agreement vessel” each place it ap-
22 pears.

23 (D) Paragraph (2) of section 607(b) of such Act is
24 amended by inserting “or an agreement fishery facili-

1 ty" after "an agreement vessel" and by inserting "or
2 such facility (as the case may be)" after "such vessel".

3 (2)(A) Subparagraph (A) of section 607(f)(1) of
4 such Act is amended by inserting "or a qualified fish-
5 ery facility" after "a qualified vessel".

6 (B) Subparagraph (C) of section 607(f)(1) of such
7 Act is amended to read as follows:

8 "(C) the payment of the principal on indebtedness
9 incurred in connection with the acquisition, construc-
10 tion, or reconstruction of—

11 "(i) a qualified vessel,

12 "(ii) a qualified fishery facility, or

13 "(iii) a barge or container which is part of
14 the complement of the qualified vessel."

15 (3)(A) Paragraphs (2) and (3) of section 607(g) of
16 such Act is amended by inserting "fishery facility,"
17 after "vessel," each place it appears.

18 (B) Paragraph (4) of section 607(g) of such Act is
19 amended by inserting "fishery facilities," after "ves-
20 sels".

21 (4) The terms "fishery facility" and "citizen of
22 the Northern Marianas" as used in this section shall
23 have the meanings given in title XI of the Merchant
24 Marine Act, 1936 (46 U.S.C. 1271-1280).

1 (d) INVESTMENT TAX CREDIT.—Subsection (g) of sec-
2 tion 46 (relating to amount of investment tax credit) is
3 amended—

4 (1) by inserting “or a qualified fishery facility”
5 after “qualified vessel” in paragraph (1)(A), and

6 (2) by inserting “AND FISHERY FACILITIES” after
7 “VESSELS” in the heading of such subsection.

8 (e) EFFECTIVE DATE.—The amendments made by this
9 section shall be effective upon the date of the enactment of
10 this Act.

11 **SEC. 870. ALLOCATION OF EXPENSES TO PARSONAGE ALLOW-**
12 **ANCES.**

13 With respect to any mortgage interest or real property
14 tax costs paid or incurred before January 1, 1986, by any
15 minister of the gospel who owned and occupied a home
16 before January 3, 1983 (or had a contract to purchase a
17 home before such date and subsequently owned and occupied
18 such home), the application of section 265(1) of the Internal
19 Revenue Code of 1954 to such costs shall be determined
20 without regard to Revenue Ruling 83-3 (and without regard
21 to any other regulation, ruling, or decision reaching the same
22 result, or a result similar to, the result set forth in such Reve-
23 nue Ruling).

1 **SEC. 871. TREATMENT OF HOME WON IN LOCAL RADIO CON-**
2 **TEST AND SPECIALLY DESIGNED FOR HANDI-**
3 **CAPPED FOSTER CHILD.**

4 (a) If the Federal income tax attributable to the receipt
5 of the prize described in subsection (b) is paid within one year
6 after the date of the enactment of this Act, such payment
7 shall be treated for purposes of the Internal Revenue Code of
8 1954 as being in full satisfaction of such tax and all interest,
9 additions to the tax, additional amounts, and penalties in re-
10 spect of liability for such Federal income tax.

11 (b) For purposes of subsection (a), the prize described in
12 this subsection is a residence which—

13 (1) was won by the taxpayer in a local radio
14 contest,

15 (2) was specially designed to meet the needs of a
16 handicapped foster child of the taxpayer,

17 (3) is the principal residence (within the meaning
18 of section 1034 of such Code) of the taxpayer, and

19 (4) had a lien placed on it by the Internal Reve-
20 nue Service on May 24, 1983, after an Internal Reve-
21 nue Service supervisor had overruled two payment
22 schedules negotiated with the taxpayer for the payment
23 of taxes, interest, and penalties on income attributable
24 to such residence for the taxpayer's 1980 taxable year.

25 (c) For purposes of subsection (a), the Federal income
26 tax attributable to the prize described in subsection (b) shall

1 be determined without regard to interest, additions to the
2 tax, additional amounts, and penalties.

3 **SEC. 872. RESTRICTIONS ON INVESTIGATIONS AND EXAMINA-**
4 **TIONS OF CHURCHES.**

5 (a) **IN GENERAL.**—Part I of subchapter F of chapter 1
6 (relating to exempt organizations) is amended by adding at
7 the end thereof the following new section:

8 **“SEC. 505. SPECIAL PROVISIONS RELATING TO CHURCHES.**

9 **“(a) RESTRICTIONS ON INVESTIGATIONS OF**
10 **CHURCHES.—**

11 **“(1) IN GENERAL.**—The Secretary may com-
12 mence an investigation or a proceeding to determine
13 whether a church—

14 **“(A)** is carrying on an unrelated trade or
15 business (within the meaning of section 513) or
16 otherwise engaged in activities that may be sub-
17 ject to taxation under this title, or

18 **“(B)** is exempted under section 501(a) from
19 taxation by reason of its status as a church,
20 only if the Secretary provides notice of such investiga-
21 tion or proceeding to the church under paragraph (3)
22 and the requirements of paragraph (2) are met with re-
23 spect to such investigation or proceeding.

24 **“(2) REASONABLE BELIEF.**—The requirements of
25 this paragraph are met with respect to an investigation

1 or proceeding described in paragraph (1) if the Secre-
2 tary of the Treasury or an appropriate high-level dele-
3 gate of the Secretary reasonably believes (on the basis
4 of facts and circumstances recorded in writing) that the
5 church—

6 “(A) may not be exempted under section
7 501(a) from taxation by reason of its status as a
8 church, or

9 “(B) may be carrying on an unrelated trade
10 or business (within the meaning of section 513) or
11 otherwise engaged in activities subject to taxation
12 under this title.

13 “(3) NOTICE OF INVESTIGATION.—Before com-
14 mencing an investigation or proceeding described in
15 paragraph (1), the Secretary shall provide written
16 notice to the church of the commencement of such in-
17 vestigation or proceeding. Such notice shall include—

18 “(A) citation of the sections of the Internal
19 Revenue Code of 1954 which authorize such in-
20 vestigation or proceeding,

21 “(B) a general explanation of the applicable
22 administrative and constitutional rights of the
23 church with respect to such investigation or pro-
24 ceeding (including the right to a conference before
25 any examination of church records and the right

1 to make a request under the Freedom of Informa-
2 tion Act), and

3 “(C) an explanation of—

4 “(i) the concerns which give rise to such
5 investigation or proceeding, and

6 “(ii) the general subject matter of such
7 investigation or proceeding.

8 “(b) RESTRICTIONS ON EXAMINATION OF
9 CHURCHES.—

10 “(1) IN GENERAL.—No examination of the reli-
11 gious activities of any organization claiming to be a
12 church shall be made except to the extent necessary to
13 determine whether such organization is a church, and
14 no examination of any church records of such an orga-
15 nization shall be made except to the extent necessary
16 to determine the amount of tax imposed by this title.

17 “(2) REQUIREMENTS FOR PERMISSIBLE EXAMI-
18 NATIONS.—Any examination of religious activities or
19 church records which the Secretary is authorized to
20 conduct under paragraph (1) shall not commence—

21 “(A) before the day which is 15 days after
22 the date the notice described in paragraph (3) is
23 received by the church, or if later, by the regional
24 counsel for the Internal Revenue Service,

1 “(B) before any conference requested by the
2 church during such 15-day period has been held,

3 “(C) before the Secretary has responded to
4 each request under the Freedom of Information
5 Act which—

6 “(i) is a request for documents relevant
7 to the investigation of the church being con-
8 ducted by the Secretary, and

9 “(ii) is properly filed by the church
10 before the close of such 15-day period, or

11 “(D) before any administrative appeal of the
12 Secretary’s response to a request described in
13 subparagraph (C) has been completed.

14 “(3) NOTICE OF EXAMINATION.—

15 “(A) IN GENERAL.—At least 15 days before
16 any examination of church records or religious ac-
17 tivities of a church, the Secretary shall provide
18 written notice to the church of the church records
19 and religious activities that the Secretary seeks to
20 examine. Such notice shall include—

21 “(i) an offer to have a conference be-
22 tween the church and a delegate of the Sec-
23 retary of the Treasury in order to discuss,
24 and attempt to resolve, concerns relating to
25 such examination,

1 “(ii) an explanation of the right of the
2 church to file a request with the Secretary
3 under the Freedom of Information Act for
4 documents held by the Secretary that are
5 relevant to the investigation of the church
6 being conducted by the Secretary, and

7 “(iii) a copy of the notice previously
8 provided to the church under subsection
9 (a)(3).

10 “(B) COPY OF NOTICE PROVIDED TO RE-
11 GIONAL COUNSEL.—At the same time notice is
12 provided to the church under subparagraph (A), a
13 copy of such notice shall be submitted by the Sec-
14 retary for review to the regional counsel for the
15 appropriate internal revenue service region.

16 “(C) EARLIEST DAY NOTICE MAY BE
17 SENT.—The notice described in subparagraph (A)
18 shall not be provided to the church before the day
19 that is 15 days after the day on which notice of
20 the investigation is provided to the church under
21 subsection (a)(3).

22 “(4) EXAMINATION OF RECORDS AND ACTIVI-
23 TIES NOT SPECIFIED IN NOTICE.—Within the course
24 of an examination which (at the time of commencement
25 of the examination) meets the requirements of para-

1 graphs (1) and (2), the Secretary may examine any
2 church records or religious activities which were not
3 specified in the notice provided to the church under
4 paragraph (3) if the examination of such church records
5 or religious activities meets the requirements of para-
6 graph (1).

7 “(c) LIMITATION ON PERIOD OF INVESTIGATION OR
8 PENDING PROCEEDINGS.—

9 “(1) IN GENERAL.—The Secretary shall—

10 “(A) complete any investigation or examina-
11 tion described in subsection (a)(1) or (b) (1), and

12 “(B) make a final determination in any pro-
13 ceeding described in subsection (a)(1),

14 by no later than the date which is 2 years after the
15 date on which notice of the commencement of such in-
16 vestigation or proceeding was provided to the church
17 under subsection (a)(3).

18 “(2) SUSPENSION OF 2-YEAR PERIOD.—The run-
19 ning of the 2-year period described in paragraph (1)
20 shall be suspended—

21 “(A) for any period of time during which—

22 “(i) a judicial proceeding brought by the
23 church against the Secretary with respect to
24 the investigation or administrative proceed-
25 ing is pending or being appealed,

1 “(ii) a judicial proceeding brought by
2 the Secretary against the church or any offi-
3 cial of the church to compel compliance with
4 any reasonable request of the Secretary for
5 examination of church records or religious
6 activities is pending or being appealed,

7 “(iii) the Secretary is unable to take
8 action with respect to the investigation, ex-
9 amination, or proceeding by reason of an
10 order issued in any judicial proceeding
11 brought under section 7609, or

12 “(iv) a judicial appeal of the refusal of
13 the Secretary, in whole or in part, to comply
14 with a request under the Freedom of Infor-
15 mation Act that—

16 “(I) relates to such investigation,
17 examination, or proceeding, and

18 “(II) was properly filed with the
19 Secretary by the church at any time
20 before the close of the 15-day period
21 described in subsection (b)(3)(A),

22 is pending,

23 “(B) for the period of time necessary for
24 timely processing by the Secretary of a request
25 under the Freedom of Information Act that is de-

1 scribed in subclauses (I) and (II) of subparagraph
2 (A)(iv), or

3 “(C) for any period of time mutually agreed
4 upon by the Secretary and the church.

5 “(d) **LIMITATION ON ASSESSMENT OF TAX AND REVO-**
6 **CATION OF TAX-EXEMPT STATUS.—**

7 “(1) The Secretary may—

8 “(A) revoke the classification of an organiza-
9 tion as a church that—

10 “(i) is exempt from taxation by reason
11 of section 501(a), or

12 “(ii) is described in section 170(c), or

13 “(B) assess any tax imposed by this title
14 against a church,

15 only if the requirements of subsections (a) and (b)
16 which are applicable with respect to such revocation or
17 assessment have been met and the regional counsel for
18 the applicable internal revenue service region has ap-
19 proved of such revocation or assessment in writing.

20 “(2) **LIMITATION ON PERIOD FOR ASSESSMENT**
21 **OF TAX.—**

22 “(A) **IN GENERAL.—**Notwithstanding any
23 other provision of this title, if—

24 “(i) a tax is imposed by this title with
25 respect to a church, and

1 “(ii) no return is filed with respect to
2 such tax,
3 no assessment of such tax shall be made by the
4 Secretary after the close of the 3-year period
5 which begins on the date such return was re-
6 quired to be filed by the church and no proceeding
7 in court without assessment for the collection of
8 such tax shall be begun after the close of such 3-
9 year period.

10 “(B) EXCEPTIONS.—Subparagraph (A) shall
11 not apply—

12 “(i) in the case of a willful attempt to
13 defeat or evade any tax imposed by this title,
14 or

15 “(ii) in the case of a knowing failure to
16 file the return of the tax by this title.

17 “(C) SUSPENSION OF PERIOD OF LIMITA-
18 TIONS.—The running of the 3-year period de-
19 scribed in subparagraph (A) shall be suspended for
20 any period of time described in subsection (c)(2).

21 “(e) VIOLATION OF THESE PROVISIONS TREATED AS
22 A DEFENSE IN SUBSEQUENT ACTION.—If—

23 “(1) any judicial action is brought by the United
24 States against a church as a result of any investiga-

1 tion, examination, or proceeding described in subsec-
2 tion (a) or (b), and

3 “(2) the requirements of this section with respect
4 to such investigation, examination, or proceeding have
5 not been met,

6 the failure to meet such requirements shall constitute a de-
7 fense to such action, but shall not be an absolute defense.

8 “(f) SPECIAL APPROVAL REQUIRED FOR ADDITIONAL
9 INVESTIGATIONS IN CERTAIN CASES.—If any investigation,
10 examination, or proceeding described in subsection (a)(1) or
11 (b)(1) with respect to a church has been completed and did
12 not result in—

13 “(1) a revocation or assessment described in sub-
14 section (d)(1), or

15 “(2) a request by the Secretary for any significant
16 change in the operational practices of the church (in-
17 cluding the method of accounting),

18 no other investigation, examination, or proceeding described
19 in subsection (a)(1) or (b)(1) shall be commenced against such
20 church by any delegate of the Secretary without the written
21 approval of the appropriate Assistant Commissioner of the
22 Internal Revenue Service.

23 “(g) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—
24 For purposes of sections 7428 and 7430, a church shall be
25 treated as having exhausted the administrative remedies

1 available to it when the church receives a final report of the
2 investigating internal revenue agent.

3 “(h) DEFINITIONS.—For purposes of this section—

4 “(1) CHURCH.—The term ‘church’ includes any
5 convention or association of churches.

6 “(2) HIGH-LEVEL DELEGATE.—The term ‘high-
7 level delegate’ means any delegate of the Secretary of
8 the Treasury who is no lower in rank than a principal
9 internal revenue officer for an internal revenue region.

10 “(3) CHURCH RECORDS.—The term ‘church
11 records’ means all corporate and financial records regu-
12 larly kept by a church, including corporate minute
13 books and lists of members and contributors. Such term
14 shall not include any materials held by any person
15 other than the church.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Subsection (c) of section 7605 (relating to time
18 and place of examination) is amended to read as fol-
19 lows:

20 “(c) CROSS REFERENCE.—

“For provisions which restrict the examination of
churches and church records, see section 505.”.

21 (2) The table of sections for part I of subchapter
22 F of chapter 1 is amended by adding at the end thereof
23 the following new item:

“Sec. 505. Special provisions relating to churches.”.

1 (c) **EFFECTIVE DATE.**—The amendments made by this
2 section shall apply with respect to investigations, examina-
3 tions, and proceedings commenced after the date of enact-
4 ment of this Act.

5 **SEC. 873. ALLOCATION UNDER SECTION 861 OF RESEARCH**
6 **AND EXPERIMENTAL EXPENDITURES.**

7 (a) **IN GENERAL.**—For purposes of subsection (b), sec-
8 tion 862(b), and section 863(b) of the Internal Revenue Code
9 of 1954, all amounts allowable as a deduction for qualified
10 research and experimental expenditures shall be allocated to
11 income from sources within the United States and deducted
12 from such income in determining the amount of taxable
13 income from sources within the United States.

14 (b) **QUALIFIED RESEARCH AND EXPERIMENTAL EX-**
15 **PENDITURES.**—For purposes of this section—

16 (1) **IN GENERAL.**—The term “qualified research
17 and experimental expenditures” means amounts—

18 (A) which are research and experimental ex-
19 penditures within the meaning of section 174, and

20 (B) which are attributable to activities con-
21 ducted in the United States.

22 (2) **TREATMENT OF DEPRECIATION, ETC.**—Rules
23 similar to the rules of subsection (c) of section 174
24 shall apply.

1 (c) **TERMINATION.**—This section shall not apply to tax-
2 able years beginning after August 13, 1985.

3 **SEC. 874. EXCLUSION FROM GROSS INCOME OF CANCELLA-**
4 **TIONS OF CERTAIN STUDENT LOANS.**

5 (a) **APPLICABLE LOANS.**—Section 2117 of the Tax
6 Reform Act of 1976 (relating to cancellation of certain stu-
7 dent loans) is amended to read as follows:

8 “(a) **IN GENERAL.**—In the case of an individual, no
9 amount shall be included in gross income for purposes of sec-
10 tion 61 of the Internal Revenue Code of 1954 by reason of
11 the discharge of all or part of the indebtedness of the individ-
12 ual under a student loan if such discharge was pursuant to a
13 provision of such loan under which all or part of the indebted-
14 ness of the individual would be discharged if the individual
15 worked for a certain period of time in certain professions for
16 any of a broad class of employers.

17 “(b) **STUDENT LOAN.**—For purposes of this section, the
18 term ‘student loan’ means any loan to an individual to assist
19 the individual in attending an educational organization de-
20 scribed in section 170(b)(1)(A)(ii) of such Code made by—

21 “(1) the United States, or an instrumentality or
22 agency thereof,

23 “(2) a State, territory, or possession of the United
24 States, or the District of Columbia, or any political
25 subdivision thereof, or

1 “(I) is used directly in connection
2 with the manufacture or production of
3 low sulfur gaseous fuel from coal, and

4 “(II) would be described in subpara-
5 graph (A) if ‘July 1, 1984’ were sub-
6 stituted for ‘January 1, 1983’.

7 “(ii) SPECIAL RULE.—For purposes of
8 determining whether property described in
9 this subparagraph is described in subpara-
10 graph (A), such property shall be treated as
11 having been acquired during the period re-
12 ferred to in subparagraph (A)(ii) if at least 20
13 percent of the cost of such property is paid
14 during such period.

15 “(iii) LIMITATION ON AMOUNT.—
16 Clause (i) shall only apply to the lease of an
17 undivided interest in the property in an
18 amount which does not exceed the lesser
19 of—

20 “(I) 50 percent of the cost basis of
21 such property, or

22 “(II) \$67,500,000.

23 “(iv) PLACED IN SERVICE.—In the case
24 of property to which this subparagraph ap-
25 plies—

1 “(I) such property shall be treated
2 as placed in service when the taxpayer
3 receives an operating permit with re-
4 spect to such property from a State en-
5 vironmental protection agency, and

6 “(II) the term of the lease with re-
7 spect to such property shall be treated
8 as being 5 years.”.

9 **(b) SPECIAL RULE FOR SUBSECTION (a).**—The amount
10 of any recapture under section 47 of the Internal Revenue
11 Code of 1954 with respect to the credit allowed under section
12 38 of such Code with respect to progress expenditures
13 (within the meaning of section 46(d) of such Code) shall apply
14 only to the percentage of the cost basis of the coal gasifica-
15 tion facility to which the amendment made by subsection (a)
16 applies.

17 **(c) EFFECTIVE DATE.**—The amendment made by sub-
18 section (a) shall take effect as if included in the provision of
19 section 208(d)(3) of the Tax Equity and Fiscal Responsibility
20 Act of 1982.

21 **SEC. 876. TECHNICAL MODIFICATION TO TIP REPORTING RE-**
22 **QUIREMENTS.**

23 **(a) LOWER ALLOCATION OF GROSS RECEIPTS.**—Sub-
24 paragraph (C) of section 6053(c)(3) (relating to employee al-
25 location of 8 percent of gross receipts) is amended—

1 (1) by striking out "The Secretary" and inserting
2 in lieu thereof "Upon the petition of the employer or
3 the majority of employees of such employer, the Secre-
4 tary", and

5 (2) by striking out "5 percent" and inserting in
6 lieu thereof "2 percent".

7 (b) RECORDKEEPING BY TIPPED EMPLOYEES.—The
8 Secretary of the Treasury shall prescribe by regulations
9 within 1 year after the date of the enactment of this Act the
10 applicable recordkeeping requirements for tipped employees.

11 **SEC. 877. PROVISIONS OF INDIAN TRIBAL GOVERNMENTAL**
12 **TAX STATUS ACT OF 1982 MADE PERMANENT.**

13 Section 204 of the Indian Tribal Governmental Tax
14 Status Act of 1982 is amended—

15 (1) by striking out "and before January 1, 1985"
16 each place it appears, and

17 (2) by striking out "1983, and shall cease to
18 apply at the close of December 31, 1984" in para-
19 graph (5) and inserting in lieu thereof "1983".

20 **SEC. 878. AMORTIZATION OF REHABILITATION EXPENDI-**
21 **TURES.**

22 Subsection (k) of section 167 (relating to depreciation of
23 expenditures to rehabilitate low-income rental housing) is
24 amended by striking out "January 1, 1984" each place it
25 appears and inserting in lieu thereof "January 1, 1987".

1 **SEC. 879. PERMANENT DISALLOWANCE OF DEDUCTION FOR**
2 **EXPENSES OF DEMOLITION OF CERTAIN HIS-**
3 **TORIC STRUCTURES.**

4 Subsection (c) of section 280B (relating to denial of de-
5 duction for expenses of demolition of certain historic struc-
6 tures) is amended by striking out “, and before January 1,
7 1984”.

8 **SEC. 880. EXTENSION OF INCREASED DEDUCTION FOR ELIMI-**
9 **NATING ARCHITECTURAL AND TRANSPORTA-**
10 **TION BARRIERS TO THE HANDICAPPED.**

11 (a) **EXTENSION.**—Subsection (c) of section 2122 of the
12 Tax Reform Act of 1976 (26 U.S.C. 190 note) (relating to
13 effective date for allowance of deduction for eliminating ar-
14 chitectural and transportation barriers for the handicapped) is
15 amended by striking out “beginning after December 31,
16 1976, and before January 1, 1983.” and inserting in lieu
17 thereof the following:

18 “beginning—

19 “(1) after December 31, 1976 and before January
20 1, 1983, and

21 “(2) after December 31, 1983 and before January
22 1, 1986.”.

23 (b) **INCREASE IN DEDUCTION.**—Subsection (c) of sec-
24 tion 190 (relating to limitation of deduction) is amended by
25 striking out “\$25,000” and inserting in lieu thereof
26 “\$35,000”.

1 SEC. 881. EXEMPT STATUS FOR CERTAIN ORGANIZATIONS
2 PROVIDING CHILD CARE.

3 (a) IN GENERAL.—Section 501 (relating to exemption
4 from tax on corporations, certain trusts, etc.) is amended by
5 redesignating subsection (k) as subsection (l) and inserting
6 after subsection (j) the following new subsection:

7 “(k) TREATMENT OF CERTAIN ORGANIZATIONS PRO-
8 VIDING CHILD CARE.—For purposes of subsection (c)(3) of
9 this section and sections 170(c)(2), 2055(a)(2), and
10 2522(a)(2), the term ‘educational purposes’ includes the pro-
11 viding of care of children away from their homes if—

12 “(1) substantially all of the care provided by the
13 organization is for purposes of enabling individuals to
14 be gainfully employed, and

15 “(2) the services provided by the organization are
16 available to the general public.”

17 (b) CROSS REFERENCES.—

18 (1) Subsection (n) of section 170 (as redesignated
19 by section 808 of this Act) is amended by redesi-
20 gnating paragraphs (1) through (8) as paragraphs (2)
21 through (9), respectively, and by inserting before para-
22 graph (2) (as so redesignated) the following new para-
23 graph:

“(1) For treatment of certain organizations providing child care, see section 501(k).”

1 (2) Subsection (f) of section 2055 is amended by
2 redesignating paragraphs (2) through (11) as para-
3 graphs (3) through (12), respectively, and by inserting
4 after paragraph (1) the following new paragraph:

“(2) For treatment of certain organizations providing child care, see section 501(k).”

5 (3) Subsection (d) of section 2522 is amended by
6 redesignating paragraphs (1) and (2) as paragraphs (2)
7 and (3), respectively, and by inserting before paragraph
8 (2) (as so redesignated) the following new paragraph:

“(1) For treatment of certain organizations providing child care, see section 501(k).”

9 (c) **EFFECTIVE DATES.**—The amendments made by
10 subsections (a) and (b) shall apply to taxable years beginning
11 after the date of the enactment of this Act.

12 **SEC. 882. CREDIT FOR RESEARCH ACTIVITIES.**

13 (a) **EXTENSION OF THE RESEARCH CREDIT.**—Subsec-
14 tion (d) of section 221 of the Economic Recovery Tax Act of
15 1981 is amended—

16 (1) by striking out “, and before January 1,
17 1986”, and

18 (2) by striking out the last sentence in paragraph
19 (2)(A).

20 (b) **MODIFICATION OF THE DEFINITION OF QUALIFIED**
21 **RESEARCH FOR CREDIT PURPOSES.**—Subsection (d) of sec-
22 tion 44F is amended to read as follows:

1 “(d) QUALIFIED RESEARCH.—For purposes of this
2 section—

3 “(1) IN GENERAL.—The term ‘qualified research’
4 means—

5 “(A) planned search or systematic investiga-
6 tion (including basic research) undertaken for the
7 purpose of discovering information which may be
8 useful in the development of a technologically new
9 or improved business component of the taxpayer,
10 or

11 “(B) applying the results obtained from an
12 activity described in subparagraph (A) or other
13 knowledge to develop a technologically new or
14 improved business component of the taxpayer, in-
15 cluding the conceptual formulation, design, and
16 testing of possible business component alternatives
17 and the design, construction, and testing of proto-
18 types, models, and pilot plants.

19 “(2) EXCLUSIONS.—The term ‘qualified research’
20 does not include—

21 “(A) any activity with respect to a techno-
22 logically new or improved business component
23 after the beginning of commercial production (as
24 defined in paragraph (6));

1 “(B) any development of plant processes,
2 machinery, or techniques for commercial produc-
3 tion of a technologically new or improved business
4 component, except where such process, machin-
5 ery, or technique itself constitutes a technological-
6 ly new or improved business component (within
7 the meaning of paragraphs (3) and (4) of this sub-
8 section);

9 “(C) any adaptation of an existing business
10 component to a particular requirement or custom-
11 er’s need as part of a continuing commercial ac-
12 tivity;

13 “(D) any efficiency surveys, management
14 studies, management techniques, market research,
15 market testing and development (such as advertis-
16 ing or promotions), routine data collections, or
17 routine or ordinary testing or inspection of materi-
18 als or business components for quality control;

19 “(E) any development or improvement of a
20 business component where the predominant por-
21 tion of any related activity which would constitute
22 qualified research but for this subparagraph con-
23 stitutes duplication;

24 “(F) except to the extent provided for by
25 regulations to be prescribed by the Secretary, any

1 activity with respect to computer software that is
2 separately developed by or for the benefit of the
3 taxpayer specifically for the internal use of tax-
4 payer other than for use in—

5 “(i) qualified research, or

6 “(ii) a production process that involves
7 a business component with respect to which
8 a credit is allowable under this section;

9 “(G) any activity conducted outside of the
10 United States;

11 “(H) any activity in the social sciences, arts
12 or humanities;

13 “(I) any activity to the extent funded by any
14 grant, contract, or otherwise by any person (or
15 any governmental entity); and

16 “(J) any activity undertaken for the purpose
17 of ascertaining the existence, location, extent, or
18 quality of any deposit of ore or other mineral (in-
19 cluding oil and gas).

20 “(3) TECHNOLOGICALLY NEW OR IMPROVED.—A
21 business component of the taxpayer shall be treated as
22 ‘technologically new or improved’ if—

23 “(A) the new or improved characteristics of
24 such component are technological (as defined in
25 paragraph (7)) in nature, and

1 “(B) substantially all of the activities under-
2 taken in developing or improving such component
3 constitute elements of a process of experimenta-
4 tion (within the meaning of paragraph (4)) relating
5 to such factors as new or improved function, per-
6 formance, reliability, or quality, or reduced cost,
7 rather than to—

8 “(i) style, taste, cosmetic, or seasonal
9 design factors, or

10 “(ii) activities undertaken to assure
11 achievement of the intended function, per-
12 formance, quality, reliability, or cost of the
13 business component after the beginning of
14 commercial production (as defined in para-
15 graph (6)) of such component.

16 For purposes of subparagraph (B), any activities relat-
17 ing to the duplication (as defined in paragraph (6)) by
18 the taxpayer of a business component of the taxpayer
19 or of another taxpayer shall not be treated as an activ-
20 ity undertaken in developing or improving a business
21 component of the taxpayer.

22 “(4) EXPERIMENTATION.—For purposes of this
23 section, the term ‘process of experimentation’ shall
24 mean a process in a field of science or technology of
25 design and testing involving the steps of—

1 “(A) formulating detailed technological objec-
2 tives and specifications for a technologically new
3 or improved business component and designing al-
4 ternatives to achieve these objectives because of
5 uncertainty as to whether a particular alternative
6 will achieve the desired result,

7 “(B) testing and analyzing (including model-
8 ing and simulation) these alternatives to determine
9 their respective abilities to fulfill the desired ob-
10 jectives, and

11 “(C) refining and choosing among the alter-
12 natives based upon the knowledge derived from
13 the tests and analyses and documenting such tech-
14 nological knowledge as to function and specifica-
15 tions.

16 “(5) BUSINESS COMPONENT.—

17 “(A) IN GENERAL.—The term ‘business
18 component’ means a product, process, computer
19 software, technique, formula, or invention to be
20 offered for sale, lease, or license, or used by the
21 taxpayer in a trade or business.

22 “(B) ELEMENTS OF A PRODUCT.—If the re-
23 quirements of paragraph (3) are not met with re-
24 spect to a product, process, or software but are
25 met with respect to one or more elements thereof,

1 the most significant set of elements of such prod-
2 uct, process, or software with respect to which
3 the requirements of paragraph (3) are met shall be
4 treated as a business component.

5 “(6) BEGINNING OF COMMERCIAL PRODUC-
6 TION.—The term ‘beginning of commercial production’
7 means any activity after the business component has
8 been developed to the point where it constitutes a fin-
9 ished business component which meets the functional
10 and economic requirements of the taxpayer for such
11 component or is ready for commercial sale or use.

12 “(7) TECHNOLOGICAL.—The term ‘technological’
13 means pertaining to or predicated upon principles of
14 the physical sciences, biological sciences, engineering,
15 or computer science.

16 “(8) DUPLICATION.—The term ‘duplication’
17 means any activity related to the reproduction of an
18 existing business component from a physical examina-
19 tion of the component itself or from plans, blueprints,
20 detailed specifications, or publicly available information
21 with respect to such component.”.

22 (c) AVAILABILITY OF THE CREDIT TO CERTAIN COR-
23 PORATIONS AND PARTNERSHIPS.—

1 (1) IN GENERAL.—Subsection (b) of section 44F
2 is amended by adding at the end thereof the following
3 new paragraphs:

4 “(4) AVAILABILITY TO CORPORATIONS.—All in-
5 house research expenses and contract research ex-
6 penses paid or incurred by a regular corporation shall
7 constitute qualified research expenses if, at the time
8 such research expenses are paid or incurred, the princi-
9 pal purpose of such corporation is to use the results of
10 the research in the active conduct of a present or
11 future trade or business and not to license or otherwise
12 transfer such research results to any person other than
13 a member of the same controlled group of corporations
14 (within the meaning of section 1563(a)).

15 “(5) TRADE OR BUSINESS REQUIREMENT AND
16 ALLOCATION IN THE CASE OF PARTNERSHIPS.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), an in-house research expense or
19 contract research expense paid or incurred by a
20 partnership is a qualified research expense of the
21 partnership if the expense is paid or incurred by
22 the partnership in carrying on a trade or business
23 of the partnership as determined at the partner-
24 ship level without regard to the trade or business
25 of any partner. In the case of a partnership to

1 which this subparagraph applies, the credit under
2 this section shall be apportioned among the part-
3 ners in accordance with section 704.

4 “(B) EXCEPTION FOR CERTAIN JOINT VEN-
5 TURES.—In the case of an in-house research ex-
6 pense or a contract research expense that is paid
7 or incurred by a partnership other than in carry-
8 ing on a trade or business of the partnership, if—

9 “(i) each partner is a regular corpora-
10 tion, or

11 “(ii) each partner had conducted directly
12 the research conducted by or on behalf of the
13 partnership and all such research expenses
14 paid or incurred by the partnership would
15 have been paid or incurred by that partner-
16 ship in carrying on a trade or business of
17 that partner;

18 such expenses shall be treated as paid or incurred
19 by a partnership in carrying on the trade or busi-
20 ness of the partnership.”.

21 (2) PASS-THRU.—Paragraph (2) of section 44F(f)
22 is amended to read as follows:

23 “(2) PASS-THRU IN THE CASE OF ESTATES AND
24 TRUSTS.—Under regulations prescribed by the Secre-

1 tary, rules similar to the rules of subsection (d) of sec-
 2 tion 52 shall apply.”.

3 (3) **REGULAR CORPORATION.**—Subsection (f) of
 4 section 44F is amended by adding at the end thereof
 5 the following:

6 “(7) **REGULAR CORPORATION.**—For purposes of
 7 this section, the term ‘regular corporation’ means any
 8 corporation other than—

9 “(A) an S corporation,

10 “(B) a service organization (as defined in
 11 section 414(m)(3)), and

12 “(C) except to the extent provided in regula-
 13 tions, a personal holding company (as defined in
 14 section 542).”.

15 (d) **EXPANSION OF THE CREDIT TO INCLUDE UNIVER-**
 16 **SITY BASIC RESEARCH.**—

17 (1) **CREDIT FOR UNIVERSITY BASIC RESEARCH**
 18 **PAYMENTS IN EXCESS OF CERTAIN AMOUNT.**—Sub-
 19 section (a) of section 44F is amended to read as fol-
 20 lows:

21 “(a) **GENERAL RULE.**—There shall be allowed as a
 22 credit against the tax imposed by this chapter for the taxable
 23 year an amount equal to 25 percent of the sum of—

24 “(1) the excess (if any) of—

1 “(A) the qualified research expenses for the
2 taxable year over

3 “(B) the base period research expenses; and
4 “(2) the incremental university basic research
5 amount.”.

6 (2) DEFINITIONS AND SPECIAL RULES RELATING
7 TO PAYMENTS FOR UNIVERSITY BASIC RESEARCH.—
8 Subsection (e) of section 44F is amended to read as
9 follows:

10 “(e) CREDIT AVAILABLE WITH RESPECT TO PAY-
11 MENTS TO COLLEGES, UNIVERSITIES, AND CERTAIN
12 QUALIFIED ORGANIZATIONS FOR BASIC RESEARCH.—

13 “(1) IN GENERAL.—Sixty-five percent of any
14 amount of money paid or incurred in any taxable year
15 by a corporation to any qualified organization for basic
16 research which (except in the case of an organization
17 which is described in subparagraph (C) or (D) of sub-
18 section (e)(3)) is to be performed by such organization
19 shall be treated as contract research expenses paid or
20 incurred in carrying on a trade or business of the tax-
21 payer in that taxable year (without regard to the provi-
22 sions of subsection (b)(3)(B)). The preceding sentence
23 shall apply only if the amount is paid or incurred pur-
24 suant to a written agreement between the corporation
25 and the qualified organization.

1 “(2) INCREMENTAL UNIVERSITY BASIC RE-
2 SEARCH AMOUNT.—

3 “(A) IN GENERAL.—For purposes of this
4 section, the term ‘incremental university basic re-
5 search amount’ means that portion of the amount
6 treated as contract research expenses for the tax-
7 able year under paragraph (1) which exceeds the
8 sum of—

9 “(i) the minimum university basic re-
10 search amount, and

11 “(ii) the maintenance-of-effort amount.

12 “(B) MINIMUM UNIVERSITY BASIC RE-
13 SEARCH AMOUNT.—For purposes of this section,
14 the term ‘minimum university basic research
15 amount’ means an amount equal to the greater
16 of—

17 “(i) the average of all amounts treated
18 as contract research expenses under subsec-
19 tion (e)(1) for each of the three taxable years
20 immediately preceding the taxable year be-
21 ginning after December 31, 1983; or

22 “(ii) 1 percent of the average of the
23 sum of—

24 “(I) all in-house research expenses,

1 “(II) contract research expenses,
2 and

3 “(III) amounts treated as contract
4 research expenses under subsection
5 (e)(1),

6 for each of the three taxable years immedi-
7 ately preceding the taxable year beginning
8 after December 31, 1983.

9 “(C) MAINTENANCE-OF-EFFORT AMOUNT.—

10 For purposes of this section, the term ‘mainte-
11 nance-of-effort amount’ shall mean the excess
12 of—

13 “(i) the average of the undesignated do-
14 nations paid or incurred by the taxpayer
15 during the base period, over

16 “(ii) the amount of undesignated dona-
17 tions paid or incurred by the taxpayer in the
18 taxable year.

19 “(D) UNDESIGNATED DONATIONS.—For
20 purposes of this section, the term ‘undesignated
21 donations’ means the amount paid or incurred by
22 the taxpayer to all institutions of higher education
23 (within the meaning of section 170(m)(6)(C)) de-
24 scribed in section 170(b)(1)(A)(ii)—

1 “(i) for which a deduction was allowable
2 under section 170, and

3 “(ii) which were not designated by the
4 taxpayer for use for the purposes described
5 in paragraph (1).

6 “(E) ADJUSTMENT OF UNDESIGNATED DO-
7 NATIONS FOR BASIC RESEARCH.—If—

8 “(i) the amount of undesignated dona-
9 tions of the taxpayer for any taxable year
10 within the base period is less than the
11 amount of undesignated donations of the tax-
12 payer for the taxable year preceding such
13 taxable year, and

14 “(ii) the amount that is treated by
15 reason of paragraph (1) as contract research
16 expenses paid by the taxpayer in such tax-
17 able year is greater than the amount of such
18 contract research expenses for the taxable
19 year preceding such taxable year,

20 the amount of undesignated donations of the tax-
21 payer for such taxable year shall, for purposes of
22 determining the average under subparagraph
23 (C)(i), be increased by the amount determined
24 under subparagraph (F) with respect to such tax-
25 able year.

1 “(F) AMOUNT OF ADJUSTMENT UNDER SUB-
2 PARAGRAPH (E).—The amount determined under
3 this subparagraph with respect to any taxable
4 year is an amount equal to the lesser of—

5 “(i) the excess of—

6 “(I) the amount that is treated by
7 reason of paragraph (1) as contract re-
8 search expenses paid or incurred by the
9 taxpayer in such taxable year, over

10 “(II) the amount that is treated by
11 reason of paragraph (1) as contract re-
12 search expenses paid or incurred by the
13 taxpayer in the taxable year preceding
14 such taxable year, or

15 “(ii) the excess of—

16 “(I) the amount of undesignated
17 donations of the taxpayer for the tax-
18 able year preceding such taxable year,
19 over

20 “(II) the amount of undesignated
21 donations of the taxpayer for such tax-
22 able year.

23 “(G) IN GENERAL.—For purposes of deter-
24 mining the amount of credit allowable under sub-
25 section (a)(1) of this section for any taxable year,

1 the incremental university basic research amount
2 shall not be treated as a qualified research ex-
3 pense under subsection (a)(1)(A) and shall not be
4 included in the computation of base period re-
5 search expenses under subsection (a)(1)(B).

6 “(3) QUALIFIED ORGANIZATION.—For purposes
7 of this subsection, the term ‘qualified organization’
8 means—

9 “(A) any educational organization which is
10 described in section 170(b)(1)(A)(ii) and which is
11 an institution of higher education (within the
12 meaning of section 170(m)(6)(C)),

13 “(B) any other organization which—

14 “(i) is described in section 501(c)(3) and
15 is exempt from tax under section 501(a),

16 “(ii) is organized and operated primarily
17 to conduct scientific research, and

18 “(iii) is not a private foundation, or

19 “(C) any organization which—

20 “(i) either is described in section 501(c)
21 (3) and is not a private foundation or is de-
22 scribed in section 501(c)(6),

23 “(ii) is exempt from tax under section
24 501(a),

1 “(iii) is organized and operated primar-
2 ily to promote scientific research by qualified
3 organizations (within the meaning of subsec-
4 tion (e)(3)(A)) pursuant to written research
5 agreements, and

6 “(iv) expends on a current basis sub-
7 stantially all of its funds through grants or
8 contracts for basic research by an organiza-
9 tion (described in subsection (e)(3)(A)).

10 “(D) any organization not described in sub-
11 paragraph (B) or (C) which—

12 “(i) is described in section 501(c)(3) and
13 is exempt from tax under section 501(a) and
14 is not a private foundation,

15 “(ii) is established and maintained by an
16 organization established before July 10,
17 1981, which meets the requirements of
18 clause (i),

19 “(iii) is organized and operated exclu-
20 sively for purposes of making grants pursu-
21 ant to written research agreements to orga-
22 nizations described in paragraph (3)(A) for
23 purposes of basic research, and

24 “(iv) makes an election, revocable only
25 with the consent of the Secretary, to be

1 treated as a private foundation for purposes
2 of this title (other than section 4940, relating
3 to excise tax based on investment income).

4 “(4) BASIC RESEARCH.—The term ‘basic re-
5 search’ means any original investigation for the ad-
6 vancement of scientific knowledge not having a specific
7 commercial objective, except that such term shall not
8 include—

9 “(A) basic research conducted outside of the
10 United States, and

11 “(B) basic research in the social sciences or
12 humanities.

13 “(5) CERTAIN CORPORATIONS NOT ELIGIBLE.—
14 For purposes of this subsection, the term ‘corporation’
15 (as defined in section 7701(a)(3)) shall not include—

16 “(A) an S corporation (as defined in section
17 1361(a)),

18 “(B) a personal holding company (as defined
19 in section 542), and

20 “(C) a service organization (as defined in
21 section 414(m)(3)).”.

22 (e) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendments made by this
24 section shall apply to taxable years beginning after De-
25 cember 31, 1984.

1 “(ii) is an institution of higher educa-
2 tion, or

3 “(B) an association—

4 “(i) substantially all of the members of
5 which are educational organizations de-
6 scribed in section 170(b)(1)(A)(ii) that are in-
7 stitutions of higher education,

8 “(ii) which is described in section 501
9 (c) (3) and exempt from tax under 501 (a),
10 and

11 “(iii) which is not a private foundation.

12 “(3) QUALIFIED SCIENTIFIC PROPERTY.—For
13 purposes of this subsection, the term ‘qualified scientific
14 property’ means a charitable contribution by a corpora-
15 tion of property to an organization described in para-
16 graph (2), but only if—

17 “(A) such property is—

18 “(i) tangible personal property described
19 in section 1221(1),

20 “(ii) computer software, or

21 “(iii) tangible personal property used in
22 carrying on the trade or business of the tax-
23 payer (within the meaning of section
24 1231(b)),

1 “(B) such contribution is made through the
2 governing body of the donee,

3 “(C) such property is scientific or technologi-
4 cal equipment or apparatus, replacement parts
5 therefor, or computer software, substantially all of
6 the use of which by the donee is in the United
7 States directly for—

8 “(i) research and experimentation
9 (within the meaning of section 174),

10 “(ii) research training,

11 “(iii) educational use in a scientific or
12 engineering laboratory, or

13 “(iv) educational use if the activity in-
14 volving such property is a direct substitute
15 for a scientific or engineering laboratory ac-
16 tivity,

17 but only if used in mathematics, the physical or
18 biological sciences, or engineering,

19 “(D) such contribution is made—

20 “(i) in the case of personal property de-
21 scribed in section 1221(1) or computer soft-
22 ware, not later than 6 months after the date
23 upon which the manufacture, construction, or
24 assembly of the property is substantially
25 completed, or

1 “(ii) in the case of tangible personal
2 property used in a taxpayer’s trade or busi-
3 ness (as defined in section 1231(b)), not more
4 than 3 years after the property is first placed
5 in service,

6 “(E) in case of a contribution of tangible per-
7 sonal property that is described in section
8 1221(1), such property is manufactured, produced
9 or assembled by the taxpayer and the taxpayer is
10 regularly engaged in the business of manufactur-
11 ing, producing, or assembling of such property
12 and selling or leasing of such property,

13 “(F) in the case of a contribution of tangible
14 personal property that is described in paragraph
15 (1) of section 1221 or of computer software, the
16 original use of such property is by the donee,

17 “(G) the property is not transferred by the
18 donee in exchange for money, other property, or
19 services within 5 years of the date of the original
20 transfer to donee,

21 “(H) the taxpayer receives from the govern-
22 ing body of the donee a written statement, ex-
23 ecuted under penalties of perjury, representing
24 that—

1 “(i) the property meets the requirements
2 of subparagraph (K), and

3 “(ii) the use and disposition of the prop-
4 erty by the donee will be in accordance with
5 the provisions of subparagraphs (C) and (G),

6 “(I) except in the case of property that is
7 computer software or replacement parts, the fair
8 market value of the property transferred exceeds
9 \$250,

10 “(J) such property is accompanied by the
11 same warranty or warranties normally provided
12 by the manufacturer in connection with a sale of
13 the equipment or apparatus transferred, and

14 “(K) such property is functional and usable
15 in the condition in which it is transferred for the
16 purposes described in subsection (c)(1)(C), without
17 the necessity of any repair, reconditioning, or
18 other similar investment by the donee.

19 “(4) AMOUNT OF ALLOWABLE DEDUCTION.—The
20 amount of the deduction allowable under paragraph (1)
21 shall be—

22 “(A) in the case of tangible personal property
23 that is described in paragraph (1) of section 1221
24 or of computer software, the fair market value of
25 the property, limited to the lesser of (A) the sum

1 of the taxpayer's basis in the property and one-
2 half of the amount of gain which would not have
3 been long-term capital gain if the property had
4 been sold by the taxpayer at its fair market value
5 (determined at the time of such transfer), or (B)
6 twice the taxpayer's basis in the property; and

7 “(B) in the case of tangible personal property
8 that is used in the taxpayer's trade or business (as
9 defined in section 1231(b)), the lesser of—

10 “(i) the fair market value of the proper-
11 ty, or

12 “(ii) 150 percent of the taxpayer's basis
13 in the property (without regard to adjust-
14 ments under section 1016) less any adjust-
15 ments under section 1016(a).

16 “(5) PROPORTION OF PRODUCTS SOLD LIMITA-
17 TION.—The deduction otherwise allowable under sub-
18 section (a) of section 170 shall not be allowed in the
19 case of a contribution of otherwise qualified scientific
20 property (excluding property used in the taxpayer's
21 trade or business), where the taxpayer's total qualified
22 research contributions of such property under this sec-
23 tion in the taxable year, as determined on a product-
24 by-product basis, exceed 20 percent of the number of

1 units of each such product sold by the taxpayer in the
2 ordinary course of its business in that taxable year.

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

5 “(A) SUBSTANTIALLY ALL.—The term ‘sub-
6 stantially all’ shall mean at least 80 percent.

7 “(B) CORPORATION.—The term ‘corpora-
8 tion’ shall not include—

9 “(i) an S corporation (as defined in sec-
10 tion 1361(a)),

11 “(ii) a personal holding company (as de-
12 fined in section 542), or

13 “(iii) a service organization (as defined
14 in section 414(m)(3)).

15 “(C) INSTITUTION OF HIGHER EDUCA-
16 TION.—The term ‘institution of higher education’
17 means an educational institution in any State
18 which—

19 “(i) admits as regular students only in-
20 dividuals having a certificate of graduation
21 from a high school, or the recognized equiva-
22 lent of such a certificate,

23 “(ii) is legally authorized within such
24 State to provide a program of education
25 beyond high school,

1 “(iii) provides an educational program
 2 for which it awards a bachelor’s or higher
 3 degree, or provides a program which is ac-
 4 ceptable for full credit toward such a degree,
 5 or offers a program of training to prepare
 6 students for gainful employment in a recog-
 7 nized occupation, and

8 “(iv) is a public or other nonprofit insti-
 9 tution.”.

10 (b) **EFFECTIVE DATE.**—The amendment made by sec-
 11 tion shall apply to taxable years beginning after December
 12 31, 1984.

13 **SEC. 884. EXCLUSION FROM GROSS INCOME OF CERTAIN**
 14 **SCHOLARSHIPS, GRANTS, AND STUDENT LOAN**
 15 **FORGIVENESS.**

16 (a) **IN GENERAL.**—Part III of subchapter B of chapter
 17 I is amended by inserting after section 117 the following new
 18 section:

19 **“SEC. 117A. SCHOLARSHIPS, FELLOWSHIP GRANTS, AND STU-**
 20 **DENT LOAN FORGIVENESS RECEIVED BY CER-**
 21 **TAIN GRADUATE SCIENCE STUDENTS.**

22 “(a) **GENERAL RULE.**—In the case of a qualified indi-
 23 vidual, gross income does not include—

24 “(1) any amount received—

25 “(A) as a scholarship,

1 “(B) as a fellowship grant, or

2 “(C) as qualified student loan forgiveness,

3 including the value of contributed services and accom-
4 modations; and

5 “(2) any amount received to cover expenses for—

6 “(A) travel,

7 “(B) research,

8 “(C) clerical help, or

9 “(D) equipment,

10 which are incidental to such a scholarship or to a fel-
11 lowship grant, but only to the extent that the amount
12 is so expended by the recipient.

13 “(b) QUALIFIED INDIVIDUAL.—For the purposes of this
14 section, the term ‘qualified individual’ shall mean a student
15 who is attending a qualified educational organization, who
16 possesses a bachelor’s degree or its equivalent, and who is
17 engaged in postgraduate study as a degree candidate in
18 mathematics, engineering, computer science, or the physical
19 or biological sciences.

20 “(c) QUALIFIED EDUCATIONAL ORGANIZATION.—For
21 purposes of this section, the term ‘qualified educational orga-
22 nization’ shall mean an educational institution which—

23 “(1) is described in section 170(b)(1)(A)(ii),

1 “(2) admits as regular students only individuals
2 having a certificate of graduation from a high school,
3 or the recognized equivalent of such a certificate,

4 “(3) is legally authorized within such State to
5 provide a program of education beyond high school,

6 “(4) provides an educational program for which it
7 awards a bachelor’s or higher degree.

8 “(d) QUALIFIED STUDENT LOAN FORGIVENESS.—For
9 purposes of this section, the term ‘qualified student loan for-
10 giveness’ shall mean the forgiveness of a loan received by a
11 qualified individual (as defined in subsection (b)) for the pur-
12 pose of financing his postgraduate course of study in math-
13 ematics, engineering, computer science, or the physical or
14 biological sciences, but only to the extent that—

15 “(1) the amount represented by the loan was ex-
16 pended for qualified tuition and related expenses (as
17 defined in subsection (f)(2)),

18 “(2) such student is required in a written loan
19 agreement, as a condition of receiving such forgiveness
20 of the loan, to perform teaching services for any of a
21 broad class of qualified educational organizations (as
22 defined in subsection (c)) upon completion of his post-
23 graduate course of study.

24 “(e) LIMITATION.—In the case of a qualified individual,
25 subsection (a) shall not apply to that portion of any amount

1 received which represents payment for teaching, research, or
2 other services in the nature of part-time employment required
3 during his postgraduate course of study as a condition of re-
4 ceiving the scholarship, the fellowship grant, or qualified stu-
5 dent loan. If teaching, research, or other services are re-
6 quired of all candidates (whether or not recipients of scholar-
7 ships, fellowship grants, or qualified student loans) for a par-
8 ticular degree at a qualified educational organization as a
9 condition to receiving such degree, such teaching, research,
10 or other services shall not be regarded as part-time employ-
11 ment within the meaning of this paragraph.

12 “(f) SCHOLARSHIPS AND FELLOWSHIP GRANTS NOT
13 INCLUDABLE MERELY BECAUSE THERE IS A REQUIRE-
14 MENT OF FUTURE SERVICE IN TEACHING.—

15 “(1) IN GENERAL.—If—

16 “(A) an amount received by a qualified indi-
17 vidual would be excludable under subsections (a)
18 and (e) as a scholarship or fellowship grant, but
19 for the fact that such individual is required to per-
20 form teaching services for any of a broad class of
21 qualified educational organizations upon comple-
22 tion of his postgraduate course of study, and

23 “(B) the individual establishes that, in ac-
24 cordance with the terms of the scholarship or
25 grant, such amount was used for qualified tuition

1 and related expenses, gross income shall not in-
2 clude such amount.

3 “(2) QUALIFIED TUITION AND RELATED EX-
4 PENSES DEFINED.—For purposes of this subsection,
5 the term ‘qualified tuition and related expenses’ shall
6 mean—

7 “(A) tuition and fees required for the enroll-
8 ment or attendance of a qualified individual as a
9 student at a qualified educational organization,
10 and

11 “(B) fees, books, supplies, and equipment re-
12 quired for courses of instruction at a qualified edu-
13 cational organization.”.

14 (b) CLERICAL AMENDMENT.—The table of sections for
15 part III of subchapter B of chapter 1 is amended by inserting
16 after the item relating to section 117 the following new item:

“Sec. 117A. Scholarships, fellowship grants, and student loan for-
giveness received by certain graduate science stu-
dents.”.

17 (b) EFFECTIVE DATE.—The amendment made by this
18 section shall apply to taxable years beginning after December
19 31, 1984.

1 **SEC. 885. TECHNICAL CORRECTION RELATING TO PERCENT-**
2 **AGE DEPLETION FOR SECONDARY AND TERTI-**
3 **ARY PRODUCTION.**

4 (a) **IN GENERAL.**—Subsection (c) of section 613A (re-
5 lating to exemption for independent producers and royalty
6 owners) is amended—

7 (1) by striking out the last sentence of paragraph

8 (2),

9 (2) by inserting at the end of subparagraph (A) of
10 paragraph (3) the following new sentence:

11 “Clause (ii) shall not apply after December 31,
12 1983.”,

13 (3) by inserting at the end of subparagraph (E) of
14 paragraph (7) the following new sentence: “This sub-
15 paragraph shall not apply after December 31, 1983.”,
16 and

17 (4) by striking out “paragraph (1)” in subpara-
18 graph (A) of paragraph (9) and inserting in lieu thereof
19 “this subsection”.

20 (b) **EFFECTIVE DATE.**—The amendments made by this
21 section shall take effect on January 1, 1984.

22 **SEC. 886. STUDY OF ALTERNATIVE INCOME TAX SYSTEMS.**

23 (a) **IN GENERAL.**—The Secretary of the Treasury or his
24 delegate shall conduct a study covering the advisability of—

25 (1) replacing only the Federal individual income
26 tax, or

1 (2) replacing both the Federal individual income
2 tax and the Federal corporate income tax,
3 with an alternative tax system.

4 (b) CONTENTS OF STUDY.—Such study shall take into
5 account the administrative complexity of the existing Federal
6 income tax system and address the ramifications of replacing
7 that system with an alternative tax system. Such study shall
8 focus on (but not be limited to) the following factors:

9 (1) protecting the economically disadvantaged,

10 (2) increasing economic efficiency in both the pri-
11 vate and public sectors of the economy,

12 (3) reducing paperwork and auditing requirements,
13 reducing taxpayer fraud and evasion, and expediting
14 resolution of tax disputes between taxpayers and the
15 Federal Government,

16 (4) increasing economic incentives for capital for-
17 mation and productivity,

18 (5) removing economic disincentives to employ-
19 ment,

20 (6) excluding certain items, such as social security
21 benefits, from gross income,

22 (7) equalizing the tax burden on taxpayers with
23 equal ability to pay taxes, and

24 (8) achieving the appropriate burden of taxes for
25 each income class of taxpayers.

1 Such study shall also identify the strengths and potential
2 weaknesses of an alternative tax system and propose possible
3 solutions for any such potential weakness.

4 (c) **ALTERNATIVE TAX SYSTEM.**—For purposes of this
5 section, the term “alternative tax system” means a system
6 based on—

- 7 (1) a simplified income tax based on gross income;
- 8 (2) a consumption tax;
- 9 (3) a consumption-based tax; or
- 10 (4) the broadening of the base and lowering of the
11 rates of the current income tax.

12 (d) **REPORTING DATE.**—The report of the study re-
13 quired by subsection (a) shall be submitted to the Committee
14 on Ways and Means of the House of Representatives and the
15 Committee on Finance of the Senate not later than six
16 months after the date of the enactment of this Act.

17 **SEC. 887. MIGRATORY BIRD HUNTING STAMPS.**

18 (a) **IN GENERAL.**—Section 5 of the Act of March 16,
19 1934 (48 Stat. 451, Chapter 71; 16 U.S.C. 718e) is amended
20 by adding at the end thereof the following new subsection:

21 (c) “Notwithstanding the provisions of subsection (b), or
22 the prohibition in section 474 of title 18, United States Code,
23 or other provisions of law, the Secretary of the Interior may
24 authorize, with the concurrence of the Secretary of the
25 Treasury, the color or black and white reproduction of migra-

1 tory bird hunting stamps authorized by sections 1 through 4
2 and 6 through 9 of this Act, which otherwise satisfies the
3 requirements of clauses (ii) and (iii) of section 504(1)(D) of
4 title 18, United States Code. Any such reproduction shall be
5 subject to those terms and conditions deemed necessary by
6 the Secretary of the Interior by regulation or otherwise and
7 any proceeds received by the Federal Government as a result
8 of such reproduction shall be expended as provided for in
9 section 72 of this Act.”.

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

13 **SEC. 888. EXCLUSION FROM GROSS INCOME OF PAYMENTS**
14 **FROM THE UNITED STATES FOREST SERVICE**
15 **AS A RESULT OF RESTRICTING MOTORIZED**
16 **TRAFFIC IN THE BOUNDARY WATERS CANOE**
17 **AREA.**

18 (a) **IN GENERAL.**—Part III of subchapter B of chapter
19 1 (relating to items specifically excluded from gross income),
20 is amended by redesignating section 132 as section 133 and
21 by inserting after section 131 the following new section:

1 **"SEC. 132. PAYMENTS BY THE UNITED STATES FOREST SERV-**
2 **ICE AS A RESULT OF RESTRICTING MOTORIZED**
3 **TRAFFIC IN THE BOUNDARY WATERS CANOE**
4 **AREA.**

5 “(a) **GENERAL RULE.**—At the election of the taxpayer,
6 gross income does not include the excludable portion of pay-
7 ments received from the United States Forest Service as a
8 result of restricting motorized traffic in the Boundary Waters
9 Canoe Area, pursuant to section 19(a) of ‘An Act to desig-
10 nate the Boundary Waters Canoe Area Wilderness, to estab-
11 lish the Boundary Waters Canoe Area Mining Protection
12 Area, and for other purposes’, approved October 21, 1978
13 (Public Law 95-495; 92 Stat. 1649).

14 “(b) **EXCLUDABLE PORTION.**—For purposes of this
15 section the term ‘excludable portion’ means that portion (or
16 all) of a payment made to any taxpayer during the period
17 after December 31, 1979, and before the later of the date
18 which is 2 years after—

19 “(1) the date of the enactment of the Deficit Re-
20 duction Tax Act of 1984, or

21 “(2) the date of such payment,

22 which payment is reinvested within such period in deprecia-
23 ble property used in a trade or business of such taxpayer as
24 authorized by such Act. In determining whether reinvest-
25 ment has occurred, no direct tracing is required.

1 “(c) ELECTION.—An election under subsection (a) shall
2 identify such property for which such payment has been allo-
3 cated. An election may be made at any time before the expi-
4 ration of the period for making a claim for credit or refund of
5 the tax imposed by this chapter for the taxable year in which
6 the reinvestment occurred, and shall be made in such manner
7 as the Secretary shall by regulations prescribe.

8 “(d) BASIS OF PROPERTY.—

9 “(1) IN GENERAL.—The basis of any property,
10 with respect to which an allocation of any payment has
11 been elected, shall be reduced by the amount of such
12 payment.

13 “(2) INCREASE DUE TO REPAYMENT.—The basis
14 of any property described in paragraph (1) shall be in-
15 creased by the amount of any repayments made to the
16 United States Forest Service upon the sale of such
17 property.

18 “(e) DENIAL OF DOUBLE BENEFIT.—No deduction or
19 credit shall be allowed with respect to any expenditure which
20 is properly associated with any amount excluded from gross
21 income under subsection (a).”.

22 (b) The table of sections for part III of subchapter B of
23 chapter 1 is amended by striking out the item relating to
24 section 132 and by inserting in lieu thereof the following
25 items:

Waters Canoe Area.

“Sec. 133. Cross references to other Acts.”.

"Sec. 132. Payments by the United States Forest Service as a result of restricting motorized traffic in the Boundary

1 (c) **EFFECTIVE DATE; SPECIAL RULE.**—

2 (1) **EFFECTIVE DATE.**—The amendments made
3 by this section shall apply to payments made in taxable
4 years beginning after December 31, 1979.

5 (2) **ELECTIONS FOR PRIOR YEARS.**—Notwith-
6 standing section 132 of the Internal Revenue Code of
7 1954 (as designated by this section), section 6511(a) of
8 such Code, or any other period of limitation or lapse of
9 time, a claim for credit or refund of overpayment of the
10 tax imposed under chapter 1 of such Code with respect
11 to payments described in section 132 of such Code
12 which were made after December 31, 1979, may be
13 filed by any person with the election required by sec-
14 tion 132(c) of such Code within the 1-year period be-
15 ginning on the date of enactment of this Act. Sections
16 6511(b) and 6514 of such Code shall not apply to any
17 claim for credit or refund filed under this paragraph
18 within such 1-year period.

19 **SEC. 889. STUDY OF TAXATION BY FOREIGN COUNTRIES ON**
20 **SERVICES PERFORMED IN THE UNITED STATES.**

21 (a) **STUDY.**—The Secretary of the Treasury or his dele-
22 gate shall conduct a study of the practices of foreign coun-
23 tries of taxing income on services performed within the
24 United States, including, but not limited to—

1 (1) the status of treaty negotiations with such for-
2 eign countries with respect to such practices, and

3 (2) any options to alleviate the taxation of such
4 income by more than 1 country without appropriate
5 credit for taxes paid.

6 (b) REPORT.—The Secretary of the Treasury or his del-
7 egate shall report to the Committee on Finance of the Senate
8 and the Committee on Ways and Means of the House of Rep-
9 resentatives the results of the study conducted under subsec-
10 tion (a) no later than August 31, 1984.

11 **SEC. 890. EDUCATIONAL ASSISTANCE PROGRAMS.**

12 (a) EXTENSION OF EXCLUSION FROM GROSS INCOME
13 FOR 2 YEARS.—Section 127(d) (relating to termination) is
14 amended by striking out “December 31, 1983” and inserting
15 in lieu thereof “December 31, 1985”.

16 (b) CERTAIN DEFERRED EDUCATIONAL BENEFITS
17 TREATED AS DEFERRED COMPENSATION.—Subsection (b)
18 of section 404 (relating to method of contributions, etc.,
19 having the effect of a plan) is amended to read as follows:

20 “(b) METHOD OF CONTRIBUTIONS, ETC., HAVING THE
21 EFFECT OF A PLAN; DEFERRED EDUCATIONAL BENE-
22 FITS.—

23 “(1) METHOD OF CONTRIBUTIONS, ETC., HAVING
24 THE EFFECT OF A PLAN.—If there is no plan but a
25 method of employer contributions or compensation has

1 the effect of a stock bonus, pension, profit-sharing, or
 2 annuity plan, or other plan deferring the receipt of
 3 compensation (including a plan described in paragraph
 4 (2)), subsection (a) shall apply as if there were such a
 5 plan.

6 “(2) PLANS PROVIDING DEFERRED EDUCATIONAL
 7 BENEFITS.—For purposes of this section, any plan
 8 providing for deferred educational benefits for employ-
 9 ees, their spouses, or their dependents shall be treated
 10 as a plan deferring the receipt of compensation. In the
 11 case of such a plan, for purposes of this section, the
 12 determination of when an amount is includible in gross
 13 income shall be made without regard to section 117 or
 14 127.”.

15 (c) EFFECTIVE DATE.—The amendments made by this
 16 section shall apply to taxable years beginning after December
 17 31, 1983.

18 TITLE IX—SPENDING REDUCTION

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1 SUBTITLE A—MEDICARE, MEDICAID, AND OTHER

2 HEALTH PROVISIONS

3 PART I—MEDICARE BUDGET PROVISIONS

4 PART B PREMIUM

5 SEC. 901. (a) Section 1839(a) of the Social Security Act
6 is amended by striking out paragraphs (2) and (3) and insert-
7 ing in lieu thereof the following:

8 “(2) The monthly premium for each individual enrolled
9 under this part for each month after December 1984 shall,
10 except as provided in subsections (b) and (e), be an amount
11 equal to 50 percent of the monthly actuarial rate for enrollees
12 age 65 and over, as determined under paragraph (1) and ap-
13 plicable to such month.

14 “(3) The Secretary shall, during September of 1984 and
15 of each year thereafter, determine and promulgate the
16 monthly premium applicable for individuals enrolled under
17 this part for the succeeding calendar year. Whenever the
18 Secretary promulgates the dollar amount which shall be ap-
19 plicable as the monthly premium for any period, he shall, at
20 the time such promulgation is announced, issue a public
21 statement setting forth the actuarial assumptions and bases
22 employed by him in arriving at the amount of an adequate
23 actuarial rate for enrollees age 65 and older as provided in
24 paragraph (1) and the derivation of the dollar amounts speci-
25 fied in this paragraph.”.

1 (b) Section 1839(e) of such Act is amended to read as
2 follows:

3 “(e)(1) If no cost-of-living increase becomes effective
4 under section 215(i) in December of any year, the monthly
5 premium of each individual enrolled under this part for the
6 succeeding year shall (except as otherwise provided in sub-
7 section (b)) be the same as the monthly premium (disregard-
8 ing subsection (b)) of the individual for such December,

9 “(2) If paragraph (1) does not apply to the monthly pre-
10 miums for a year, if an individual is entitled to monthly bene-
11 fits under section 202 or 223 for November and for Decem-
12 ber in that preceding year, and if the monthly premium for
13 that December and for the following January is deducted
14 from those benefits under section 1840(a)(1), the monthly
15 premium for that individual for that January and for each of
16 the succeeding 11 months for which he is entitled to benefits
17 under section 202 or 223 shall (except as otherwise provided
18 in subsection (b)) be the greater of—

19 “(1) the monthly premium amount determined
20 under subsection (a)(2) for that January reduced by the
21 amount (if any) necessary to make the monthly benefits
22 under section 202 or 223 for that January after the
23 deduction of the monthly premium (disregarding sub-
24 section (b)) for that January at least equal to the
25 monthly benefits under section 202 or 223 for the pre-

1 ceding November after the deduction of the premium
2 (disregarding subsection (b)) for that individual for that
3 November, or

4 “(2) the monthly premium (disregarding subsec-
5 tion (b)) for that individual for that December.

6 For purposes of this subsection, retroactive adjustments or
7 payments and deductions on account of work shall not be
8 taken into account in determining the monthly benefits to
9 which an individual is entitled under section 202 or 223.”.

10 (a)(1) Section 1839(b) of such Act is amended by strik-
11 ing out “or (e)”.

12 (2) Subparagraphs (A)(i) and (B)(i) of section 1844(a)(1)
13 of such Act are each amended by striking out “1839(c)(3) or
14 1839(e), as the case may be” and inserting in lieu thereof in
15 each instance “1839(c)(2)”.

16 (d) The amendments made by this section shall apply to
17 premiums for months beginning with January 1985.

18 ONE-MONTH DELAY IN MEDICARE

19 ENTITLEMENT

20 SEC. 902. (a) Section 226 of the Social Security Act is
21 amended by redesignating subsection (h) as subsection (i), and
22 by inserting after subsection (g) the following:

23 “(h)(1) Except as provided in paragraph (2), for pur-
24 poses of subsection (a)(1) and any other provision of this sec-
25 tion, any provision of title XVIII of this Act, or any other

1 provision of law, which establishes entitlement to or eligibil-
2 ity for benefits under such title XVIII or establishes any
3 period of time in relation to such entitlement or eligibility, on
4 the basis of the attainment of age 65, an individual shall be
5 deemed to have attained age 65 on the first day of the month
6 following the month in which he actually attains such age;
7 except that, if such individual was entitled to hospital insur-
8 ance benefits for the month preceding the month in which he
9 actually attains age 65, he shall be deemed to have attained
10 age 65 on the first day of the month in which he actually
11 attains such age.

12 “(2) For purposes of subsection (b)(1), an individual
13 shall be deemed to have attained age 65 on the first day of
14 the month in which he actually attains such age.”.

15 (b) Section 1836 of such Act is amended—

16 (1) by inserting “(a)” after the section designation;
17 and

18 (2) by adding at the end thereof the following new
19 subsection:

20 “(b) For purposes of subsection (a)(2), an individual shall
21 be deemed to have attained age 65 on the first day of the
22 month following the month in which he actually attains such
23 age.”.

24 (c) The amendments made by this section shall apply to
25 individuals actually attaining age 65 after 1984.

1 **MODIFICATION OF WORKING AGED PROVISION**

2 **SEC. 903.** (a) Section 1862(b)(3)(A)(i) of the Social Se-
3 curity Act is amended by striking out “is over 64 but” each
4 place it appears.

5 (b) Section 4(g)(1) of the Age Discrimination in Employ-
6 ment Act of 1967 is amended—

7 (1) by inserting “, and any employee’s spouse
8 aged 65 through 69,” after “aged 65 through 69”; and

9 (2) by inserting “, and the spouse of such employ-
10 ee,” after “same conditions as any employee”.

11 (c)(1) The amendment made by subsection (a) shall be
12 effective with respect to items and services furnished on or
13 after January 1, 1985.

14 (2) The amendment made by subsection (b) shall become
15 effective on January 1, 1985.

16 **LIMITATION ON PHYSICIAN FEE PREVAILING**
17 **AND CUSTOMARY CHARGE LEVELS; PAR-**
18 **TICIPATING PHYSICIAN INCENTIVES**

19 **SEC. 904.** (a) Section 1842(b) of the Social Security Act
20 is amended—

21 (1) by redesignating paragraphs (4) through (6) as
22 paragraphs (5) through (7), respectively, and by insert-
23 ing after paragraph (3) the following new paragraph:
24 “(4)(A)(i) In determining the prevailing charge levels
25 under the third and fourth sentences of paragraph (3) for phy-

1 sicians' services for the 12-month period beginning July 1,
2 1984, the Secretary shall not set any level higher than the
3 same level as was set for the 12-month period beginning July
4 1, 1983.

5 “(ii) In determining the prevailing charge levels under
6 the third and fourth sentences of paragraph (3) for physicians'
7 services performed by a physician who is not a participating
8 physician (as defined in paragraph (12)) for the 12-month
9 period beginning July 1, 1985, the Secretary shall not set
10 any level for such period that is higher than the level set
11 under clause (i).

12 “(B) In determining the reasonable charge under para-
13 graph (3) for physicians' services for the 12-month period
14 beginning July 1, 1984, the customary charges shall be
15 deemed to be the same customary charges as were recog-
16 nized under this section for the 12-month period beginning
17 July 1, 1983.

18 “(C) In determining the prevailing charge levels under
19 the third and fourth sentences of paragraph (3) for physicians'
20 services for periods beginning after June 30, 1985 (in the
21 case of a physician to whom subparagraph (A)(ii) does not
22 apply) and for periods beginning after June 30, 1986 (in the
23 case of a physician to whom subparagraph (A)(ii) applies) the
24 Secretary shall treat the level as set under clause (i) of sub-
25 paragraph (A) as having fully provided for the economic

1 changes which would have been taken into account but for
2 the limitations contained in subparagraph (A)."; and

3 (2) by adding at the end thereof the following new
4 paragraphs:

5 "(8)(A) Each year, the Secretary shall prepare and
6 cause to be published a list containing the name, address,
7 specialty, volume of services, and percent of bills submitted
8 with respect to each physician and supplier during the pre-
9 ceding year that were paid on the basis of an assignment
10 described in paragraph (3)(B)(ii). The Secretary may limit
11 such list to those physicians and suppliers who accepted such
12 an assignment in a certain percentage of such physician's or
13 supplier's billings, as the Secretary may determine to be ap-
14 propriate. Such list shall be organized by region or by such
15 other geographical unit as the Secretary determines, after
16 consultation with carriers with which there is an agreement
17 under subsection (a), would facilitate the use of such list by
18 individuals enrolled under this part.

19 "(B) Each year, the Secretary shall prepare a directory
20 containing the name, address, and specialty of all participat-
21 ing physicians and suppliers (as defined in paragraph (12)) for
22 the most current fee screen year. The directory shall be orga-
23 nized to make the most useful presentation of the information
24 (as determined by the Secretary) for individuals enrolled
25 under this part.

1 “(C) Each year, the Secretary shall promptly notify in-
2 dividuals enrolled under this part of the publication of such
3 directory and shall make such directory available in each dis-
4 trict and branch office of the Social Security Administration,
5 in the offices of carriers, and to senior citizen organizations.

6 “(D) The Secretary shall provide that the directory shall
7 be available for purchase by the public.

8 “(9) Each carrier having an agreement with the Secre-
9 tary under subsection (a) shall maintain a toll-free telephone
10 number or numbers at which individuals enrolled under this
11 part may obtain the names, addresses, specialty, and tele-
12 phone numbers of participating physicians and suppliers.

13 “(10) In any case in which a carrier having an agree-
14 ment with the Secretary under subsection (a) is able to devel-
15 op a system for the electronic transmission to such carrier of
16 bills for services, such carrier shall establish direct lines for
17 the electronic receipt of claims from participating physicians
18 and suppliers.

19 “(11)(A) Each carrier having an agreement with the
20 Secretary under subsection (a) shall, to the extent possible,
21 enter into an agreement with any entity offering a medicare
22 supplemental policy to an individual enrolled under this part
23 under which a participating physician or supplier who pro-
24 vides physicians' services to an individual insured by such a
25 policy may—

1 “(i) submit a bill for such services to the carrier,
2 which will pay such participating physician or supplier
3 the amount payable with respect to such services under
4 this part and notify such entity of the amount so paid
5 and the unpaid balance of such bill; or

6 “(ii) submit a bill for such services to such entity,
7 which will pay such participating physician or supplier
8 an amount equal to the amount payable under such
9 policy and the amount payable under this part with re-
10 spect to such services, and bill the carrier for the
11 amount payable under this part with respect to such
12 services.

13 The carrier shall limit the applicability of the agreement to
14 only participating physicians and suppliers.

15 “(B) In the case of an individual who is insured under a
16 medicare supplemental policy described in paragraph (6)(C)
17 (relating to indirect payment of part B benefits), payment to a
18 participating physician or supplier shall be made in accord-
19 ance with the terms of that paragraph.

20 “(12) For purposes of this subsection—

21 “(A) the term ‘participating physician or supplier’
22 means a physician or supplier who, on or before March
23 31, 1985, and each year thereafter (or at such other
24 time as the Secretary determines will give physicians
25 and suppliers adequate time to sign a participation

1 agreement), enters into an agreement with the Secre-
2 tary which provides that, for the 12-month period be-
3 ginning July 1 of each year, such physician or supplier
4 will accept payment under this part on the basis of an
5 assignment described in paragraph (3)(B)(ii) or under
6 the procedures described in section 1870(f)(1) for serv-
7 ices furnished during such 12-month period to individ-
8 uals enrolled under this part; and

9 “(B) the term ‘medicare supplemental policy’
10 means a health insurance policy or other health benefit
11 plan—

12 “(i) certified by a State or by the Secretary
13 in accordance with section 1882; or

14 “(ii) which is provided by one or more em-
15 ployers or labor organizations, or the trustees of a
16 fund established by one or more employers or
17 labor organizations (or combination thereof), for
18 employees or former employees (or combination
19 thereof) or for members or former members (or
20 combination thereof) of the labor organizations,
21 and which is offered to individuals who are enti-
22 tled to have payment made under this title, which
23 provides reimbursement for expenses incurred for
24 services and items for which payment may be
25 made under this title but which are not reimburs-

1 able by reason of the applicability of deductibles,
2 coinsurance amounts, or other limitations imposed
3 pursuant to this title.”.

4 **LIMITATION ON INCREASE IN HOSPITAL COSTS**
5 **PER CASE**

6 **SEC. 905. (a) Section 1886(b)(3)(B) of the Social Secu-**
7 **rity Act is amended—**

8 (1) by inserting “(i)” after “(B)”;

9 (2) by striking out “1 percentage point plus”, and
10 by inserting before the period at the end thereof the
11 following: “, increased or decreased in accordance with
12 clause (ii) or (iii)”;

13 (3) by adding at the end thereof the following:

14 “(ii) In the case of a hospital which is not a subsection
15 (d) hospital—

16 “(I) for any cost reporting period or fiscal year
17 beginning on or after October 1, 1984, and before Oc-
18 tober 1, 1985, the applicable percentage increase shall
19 be the percentage determined under clause (i);

20 “(II) for any cost reporting period or fiscal year
21 beginning on or after October 1, 1985, and before Oc-
22 tober 1, 1986, the applicable percentage increase shall
23 be the percentage determined under clause (i), plus
24 one-quarter of one percentage point; and

1 “(III) for any cost reporting period or fiscal year
2 beginning on or after October 1, 1986, the applicable
3 percentage increase shall be the percentage determined
4 under clause (i), plus one percentage point.

5 “(iii) In the case of a subsection (d) hospital, for any cost
6 reporting period or fiscal year beginning on or after October
7 1, 1984, and before October 1, 1986, the applicable percent-
8 age increase—

9 “(I) except for purposes of subsection (d)(3)(A),
10 shall be the percentage determined under clause (i),
11 minus one-half of one percentage point; and

12 “(II) for purposes of subsection (d)(3)(A), shall be
13 the percentage determined under clause (i), plus one-
14 half of one percentage point.”.

15 (b)(1) Section 1886(d)(3)(A) of such Act is amended by
16 striking out “fiscal year 1985” and inserting in lieu thereof
17 “fiscal years 1985 and 1986”.

18 (2) Paragraphs (2), (3), (4), and (5) of section 1886(e) of
19 such Act are each amended by striking out “fiscal year
20 1986” and inserting in lieu thereof “fiscal year 1987”.

21 (c) Subparagraphs (A)(ii) and (B)(ii) of section
22 1886(e)(1) of the Social Security Act are amended by insert-
23 ing after “Amendments of 1983” the following: “but as
24 amended (in subsection (b)(3)(B)) by section 905(a) of the
25 Omnibus Reconciliation Act of 1983”.

1 (d) The amendments made by this section shall apply to
2 cost reporting periods beginning in, and discharges occurring
3 in, fiscal year 1985 and thereafter.

4 FEE SCHEDULE FOR CLINICAL LABORATORY
5 SERVICES

6 SEC. 906. (a) Section 1833(a)(1)(D) of the Social Secu-
7 rity Act is amended to read as follows: "(D) with respect to
8 diagnostic laboratory tests for which payment is made under
9 this part, the amount paid shall be equal to 80 percent (or
10 100 percent, in the case of such tests for which payment is
11 made on the basis of an assignment described in section
12 1842(b)(3)(B)(ii)) of the lesser of the amount determined
13 under subsection (h) or the amount of the charges billed for
14 the tests;"

15 (b) Section 1833(a)(2) of such Act is amended—

16 (1) in subparagraph (B), by inserting "or (D)"
17 after "subparagraph (C)";

18 (2) by striking out "and" at the end of subpara-
19 graph (B);

20 (3) by adding "and" at the end of subparagraph
21 (C); and

22 (4) by adding at the end thereof the following new
23 subparagraph:

24 "(D) with respect to diagnostic laboratory
25 tests for which payment is made under this part,

1 other than such tests performed by a provider of
2 services for an inpatient of such provider, the
3 amount paid shall be equal to 80 percent (or 100
4 percent, in the case of such tests for which pay-
5 ment is made on the basis of an assignment de-
6 scribed in section 1842(b)(3)(B)(ii) or a provider
7 agreement under section 1866) of the lesser of the
8 amount determined under subsection (h) or the
9 amount of the charges billed for the tests;”.

10 (c) Section 1833(b) of the Social Security Act is amend-
11 ed by striking out “and” at the end of clause (2) and by
12 inserting before the period at the end of clause (3) the follow-
13 ing: “, and (4) such deductible shall not apply with respect to
14 diagnostic tests for which payment is made on the basis of an
15 assignment described in section 1842(b)(3)(B)(ii) or a provid-
16 er agreement under section 1866 and to which subsection (h)
17 of this section applies”.

18 (d) Section 1833(h) of such Act is amended to read as
19 follows:

20 “(h)(1) The Secretary shall establish fee schedules for
21 diagnostic laboratory tests for which payment is made under
22 this part, other than such tests performed by a provider of
23 services for an inpatient of such provider. Such schedules
24 shall be established on areawide bases as established by the
25 Secretary.

1 “(2) The Secretary shall set the fee schedule at 60 per-
2 cent (or, in the case of a test performed in a hospital labora-
3 tory, 62 percent) of the prevailing charges paid under this
4 part for the area for similar diagnostic laboratory tests during
5 the fee screen year beginning July 1, 1983, adjusted annually
6 by a percentage increase or decrease equal to the percentage
7 increase or decrease in the Consumer Price Index for All
8 Urban Consumers (United States city average). The Secre-
9 tary may make adjustments or exceptions to the fee schedule
10 to assure adequate reimbursement of: (A) emergency labora-
11 tory tests needed for the provision of bona fide emergency
12 services in a hospital emergency room; and (B) certain low
13 volume high-cost tests where highly sophisticated equipment
14 and extremely skilled personnel are necessary to assure qual-
15 ity.

16 “(3) In the case of a bill or request for payment for a
17 diagnostic laboratory test for which payment may otherwise
18 be made under this part, payment may be made only to the
19 person or entity which performed or supervised the perform-
20 ance of such test. In the case of such a bill or request for
21 payment which is not based upon an assignment described in
22 section 1842(b)(3)(B) or a provider agreement under section
23 1866, payment may be made to the beneficiary only on the
24 basis of the itemized bill of the person or entity which per-
25 formed or supervised the performance of the test.”.

1 (e) Section 1842 of such Act is amended by striking out
2 subsection (h) thereof.

3 (f)(1) Except as provided in paragraph (3), the amend-
4 ments made by this section shall apply only with respect to
5 diagnostic laboratory tests furnished on or after May 1, 1984,
6 and before October 1, 1987.

7 (2) With respect to diagnostic laboratory tests furnished
8 on or after October 1, 1987, payment under part B of title
9 XVIII of the Social Security Act shall be made in accord-
10 ance with the provisions of such part as they would be in
11 effect if the amendments made by this section had not been
12 enacted.

13 (3) The provisions of section 1833(h)(3) as added by this
14 section shall remain in effect on and after October 1, 1987.

15 (g) The Secretary of Health and Human Services shall
16 simplify the procedures under section 1842 of the Social Se-
17 curity Act with respect to claims and payments for diagnostic
18 laboratory tests so as to reduce unnecessary paperwork while
19 assuring that sufficient information is supplied to prevent
20 fraud and abuse.

21 (h) The Secretary of Health and Human Services shall
22 report to the Congress prior to June 30, 1985, with respect
23 to—

1 (1) recommendations with respect to direct pay-
2 ment of all fees for diagnostic laboratory tests to the
3 physician under title XVIII of the Social Security Act;

4 (2) any possible basis for the formulation of a na-
5 tionwide fee schedule for diagnostic laboratory tests
6 under such title; and

7 (3) any appropriate indexing mechanism for ad-
8 justing such a fee schedule.

9 REVALUATION OF ASSETS ACQUIRED BY
10 HOSPITALS

11 SEC. 907. (a) Section 1886(g) of the Social Security Act
12 is amended by adding at the end thereof the following new
13 paragraph:

14 “(3) The Secretary shall provide that in any case in
15 which a hospital (including subsection (d) hospitals and other
16 hospitals) acquires any asset which had been depreciated in
17 whole or in part by the prior owner for purposes of payment
18 under this title, the payments to the purchasing hospital
19 under this title (with respect to inpatient and outpatient serv-
20 ices) for capital-related costs of that asset (depreciation,
21 equity capital, and interest) shall be based upon book value
22 (that is the acquisition cost of the asset as carried on the
23 books of the prior owner less any depreciation taken on the
24 asset by such prior owner) and shall be determined using the

1 same useful life and method of depreciation as used by such
2 prior owner for purposes of payment under this title.”.

3 (b) Section 1886(g)(2) of such Act is amended by insert-
4 ing “except as otherwise provided in paragraph (3), and”
5 after “March 1, 1983,”.

6 (c) The amendments made by this section shall apply to
7 capital-related costs of capital expenditures obligated on or
8 after October 1, 1984.

9 REPEAL OF PREADMISSION DIAGNOSTIC
10 TESTING PROVISION

11 SEC. 908. (a) Section 1833(a)(1) of the Social Security
12 Act is amended by striking out “(F) with respect to” and all
13 that follows through “(G)” and inserting in lieu thereof “and
14 (F)”.

15 (b) Section 1833(a) of such Act is amended—

16 (1) by adding “and” at the end of paragraph (3);

17 (2) by striking out “; and” at the end of para-
18 graph (4) and inserting in lieu thereof a period; and

19 (3) by striking out paragraph (5).

20 (c) Section 1833(a)(2) of such Act is amended by strik-
21 ing out “and in paragraph (5) of this subsection”.

22 (d) Section 1833(b) and section 1833(i)(3) of such Act
23 are each amended by striking out “subsection (a)(1)(G)” and
24 inserting in lieu thereof “subsection (a)(1)(F)”.

1 (e) The amendments made by this section shall apply to
2 services performed after the date of the enactment of this
3 Act.

4 (f) The amendments made by this section shall not be
5 construed as prohibiting payment, subject to the applicable
6 copayments, under part B of title XVIII of the Social Secu-
7 rity Act for preadmission diagnostic testing performed in a
8 physician's office to the extent such testing is otherwise reim-
9 bursable under regulations of the Secretary.

10 SKILLED NURSING FACILITY REIMBURSEMENT

11 SEC. 909. (a)(1) Section 1861(v)(1)(E) of the Social Se-
12 curity Act is amended by striking out clause (i) thereof, and
13 by striking out "(ii)".

14 (2) Section 1861(v)(7) of such Act is amended by adding
15 at the end thereof the following new subparagraph:

16 "(D) For further limitations on reasonable cost and de-
17 termination of payment amounts for routine service costs of
18 skilled nursing facilities, see section 1888."

19 (b) Title XVIII of the Social Security Act is amended
20 by adding at the end thereof the following new section:

21 "PAYMENT TO SKILLED NURSING FACILITIES 22 FOR ROUTINE SERVICE COSTS

23 "SEC. 1888. (a) The Secretary, in determining the
24 amount of the payments which may be made under this title
25 with respect to routine service costs of extended care services

1 shall not recognize as reasonable (in the efficient delivery of
2 health services) per diem costs of such services to the extent
3 that such per diem costs exceed the following per diem limits,
4 except as otherwise provided in this section:

5 “(1) With respect to free standing skilled nursing
6 facilities located in urban areas, the limit shall be equal
7 to 112 percent of the mean per diem routine service
8 costs for free standing skilled nursing facilities located
9 in urban areas.

10 “(2) With respect to free standing skilled nursing
11 facilities located in rural areas, the limit shall be equal
12 to 112 percent of the mean per diem routine service
13 costs for free standing skilled nursing facilities located
14 in rural areas.

15 “(3) With respect to hospital-based skilled nursing
16 facilities located in urban areas, the limit shall be equal
17 to the sum of the limit for free standing skilled nursing
18 facilities located in urban areas, plus 50 percent of the
19 amount by which 112 percent of the mean per diem
20 routine service costs for hospital-based skilled nursing
21 facilities located in urban areas exceeds the limit for
22 free standing skilled nursing facilities located in urban
23 areas.

24 “(4) With respect to hospital-based skilled nursing
25 facilities located in rural areas, the limit shall be equal

1 to the sum of the limit for free standing skilled nursing
2 facilities located in rural areas, plus 50 percent of the
3 amount by which 112 percent of the mean per diem
4 routine service costs for hospital-based skilled nursing
5 facilities located in rural areas exceeds the limit for
6 free standing skilled nursing facilities located in rural
7 areas.

8 In applying this subsection the Secretary shall make appro-
9 priate adjustments to the labor related portion of the costs
10 based upon an appropriate wage index.

11 “(b) With respect to a hospital-based skilled nursing fa-
12 cility, the Secretary shall recognize as reasonable the portion
13 of the cost differences between hospital-based and freestand-
14 ing skilled nursing facilities attributable to excess overhead
15 allocations (as determined by the Secretary) resulting from
16 the reimbursement principles under this title, notwithstanding
17 the limits set forth in paragraph (3) or (4) of subsection (a).

18 “(c) The Secretary may make adjustments in the limits
19 set forth in subsection (a) with respect to any skilled nursing
20 facility to the extent the Secretary deems appropriate, based
21 upon case mix or circumstances beyond the control of the
22 facility.”.

23 (c) The amendments made by subsections (a) and (b)
24 shall apply to cost reporting periods beginning on or after
25 July 1, 1984.

1 (d) Notwithstanding limits on the cost of skilled nursing
2 facilities which may have been issued under section 1861(v)
3 of the Social Security Act prior to the date of the enactment
4 of this Act, in the case of cost reporting periods beginning on
5 or after October 1, 1982, and prior to July 1, 1984, the cost
6 limits for routine services for urban and rural hospital-based
7 skilled nursing facilities shall be 112 percent of the mean of
8 the respective routine costs for urban and rural hospital-
9 based skilled nursing facilities.

10 (e) The Secretary of Health and Human Services shall
11 submit to the Congress, prior to April 15, 1984, the report
12 required under section 605(b) of the Social Security Amend-
13 ments of 1983.

14 (f) The Secretary of Health and Human Services shall
15 submit to the Congress, prior to December 1, 1984, a pro-
16 posal for the implementation of a prospective payment plan
17 for extended care services under title XVIII of the Social
18 Security Act. The plan shall take into account case mix dif-
19 ferences among skilled nursing facilities. The plan shall be
20 designed so as to permit inclusion of payments to hospital-
21 based facilities within the DRG payment system under sec-
22 tion 1886(d) of such Act. The plan shall be designed for im-
23 plementation effective October 1, 1985.

1 **ROUNDING OF PART B PAYMENTS**

2 **SEC. 910. (a)** Section 1833 of the Social Security Act is
3 amended by adding at the end thereof the following new sub-
4 section:

5 “(k) Whenever payment under this part is made on the
6 basis of the reasonable charge for the service, the amount of
7 the payment, as determined after application of the provisions
8 of section 1842 relating to the calculation of the reasonable
9 charge and after the application of any deductibles and co-
10 payments, shall, if not a whole dollar amount, be rounded
11 down to the next lower whole dollar amount. Where a pay-
12 ment is for more than one related service provided to the
13 same patient, this subsection shall be applied to the total pay-
14 ment, rather than to each service separately. Any person or
15 provider receiving such payment on the basis of an assign-
16 ment described in section 1842(b)(3)(B)(ii) or under a provid-
17 er agreement under section 1866, may not charge to the ben-
18 eficiary the amount by which the payment is reduced under
19 this subsection.”.

20 (b) The amendment made by this section shall apply to
21 payments for services performed on or after July 1, 1984.

22 **AGREEMENTS FOR MEDICARE CLAIMS**23 **PROCESSING**

24 **SEC. 911. (a)(1)** Section 1816(a) of the Social Security
25 Act is amended by striking out the first sentence and insert-

1 ing in lieu thereof the following: "The Secretary may enter
2 into an agreement with any organization or agency under
3 which such organization or agency shall make determinations
4 of the amounts of the payments to be made under this part to
5 the providers it serves, and shall make such payments to such
6 providers. Determinations of the amounts of payment shall be
7 subject to section 1878 and to such review by the Secretary
8 as may be provided for in the agreement."

9 (2) Section 1816(d) of such Act is repealed.

10 (3) Paragraphs (1) and (2) of section 1816(e) of such Act
11 are each amended by striking out "Notwithstanding subsec-
12 tions (a) and (d), the Secretary" and inserting in lieu thereof
13 "The Secretary".

14 (4) Section 1816(e)(4) of such Act is amended by strik-
15 ing out "subsections (a) and (d) and".

16 (b)(1) Section 1816(c) of such Act is amended by strik-
17 ing out "of so much of the cost of administration of the
18 agency or organization as is determined by the Secretary to
19 be necessary and proper for carrying out the functions cov-
20 ered by the agreement" and inserting in lieu thereof "to the
21 organization for carrying out the functions covered by the
22 agreement in accordance with such terms as the Secretary
23 and the organization or agency shall agree upon".

24 (2) Section 1816(f) of such Act is amended—

25 (A) by inserting "(1)" after "(f)";

1 (B) by redesignating clauses (1) and (2) as clauses
2 (A) and (B), respectively;

3 (C) by striking out “, by regulation,”; and

4 (D) by adding at the end thereof the following
5 new paragraph:

6 “(2) Subject to the standards, criteria, and procedures
7 developed pursuant to paragraph (1), the Secretary may uti-
8 lize competitive and noncompetitive procedures for determin-
9 ing with whom he shall enter into an agreement under this
10 section, and may experiment with innovative techniques for
11 carrying out agreements under this section.”.

12 (c)(1) Section 1842(c) of such Act is amended by strik-
13 ing out “of the cost of administration of the carrier, as deter-
14 mined by the Secretary to be necessary and proper for carry-
15 ing out the functions covered by the contract” and inserting
16 in lieu thereof “to the carrier for carrying out the functions
17 covered by the contract in accordance with such terms as the
18 Secretary and the carrier shall agree upon”.

19 (2) Section 1842 of such Act is amended by adding at
20 the end thereof the following new subsection:

21 “(i) The Secretary may utilize competitive and noncom-
22 petitive procedures for determining with whom he shall enter
23 into a contract under this section, and may experiment with
24 innovative techniques for carrying out such contracts.”.

1 (d) The amendments made by this section shall become
2 effective on October 1, 1984.

3 LESSER OF COST OR CHARGES

4 SEC. 912. The Secretary of Health and Human Serv-
5 ices shall issue regulations which require, for purposes of title
6 XVIII of the Social Security Act, that hospitals calculate
7 and report the lesser-of-cost-or-charges determinations sepa-
8 rately on the basis of inpatient and outpatient services, and
9 that payment under such title be based upon such separate
10 determinations. Such regulations shall apply to cost account-
11 ing periods beginning on or after October 1, 1984.

12 HEPATITIS B VACCINE

13 SEC. 913. (a) The first sentence of section 1881(b)(1) of
14 the Social Security Act is amended by striking out "and"
15 before "(B)" and by inserting before the period the following:
16 ", and (C) payments to or on behalf of such individuals for
17 hepatitis B vaccine and its administration".

18 (b) Section 1881(b) of such Act is amended by adding at
19 the end thereof the following new paragraph:

20 "(11) Hepatitis B vaccine and its administration shall be
21 included as dialysis services with respect to individuals who
22 are receiving dialysis services at or through a renal dialysis
23 facility, and payment for such vaccine and its administration
24 shall be made in such manner and amount as the Secretary
25 determines to be appropriate, which may include the inclu-

1 sion within the prospective payment amount established
2 under paragraph (7). Such vaccine and its administration,
3 when furnished to an individual who is receiving dialysis
4 services, but not at or through a renal dialysis facility, shall
5 be included as physicians' services, and payment shall be
6 made in accordance with paragraph (3)."

7 (c)(1) Section 1862(a)(1)(B) of such Act is amended by
8 inserting "or section 1881(b)(1)(C)" after "1861(s)(10)".

9 (2) Section 1862(a)(7) of such Act is amended by insert-
10 ing ", section 1881(b)(1)(C)," after "1861(s)(10)".

11 (d) The amendments made by this section shall apply
12 with respect to hepatitis vaccine administered on or after
13 July 1, 1984.

14 (e) The Secretary of Health and Human Services shall
15 adjust, effective with respect to services provided on or after
16 the date of the enactment of this Act, the comprehensive fee
17 or other basis of payment established under section
18 1881(b)(3)(B) of such Act, to reflect the amendments made by
19 this section.

20 LIMITATION ON CERTAIN FOOT-CARE SERVICES

21 SEC. 914. (a) The Secretary of Health and Human
22 Services shall provide, by regulation and pursuant to section
23 1862(a) of the Social Security Act, that payment will not be
24 made under part B of title XVIII of such Act for a physi-
25 cian's debridement of mycotic toenails to the extent such de-

1 bridement is performed for a patient more frequently than
2 once every sixty days, unless the medical necessity for more
3 frequent treatment is documented by the billing physician.

4 (b) The provision of subsection (a) shall apply to services
5 performed on or after the date of the enactment of this Act.

6 COVERAGE OF HEMOPHILIA CLOTTING FACTOR

7 SEC. 915. (a) Section 1861(s)(2) of the Social Security
8 Act is amended by striking out “and” at the end of subpara-
9 graph (G), by adding “and” at the end of subparagraph (H),
10 and by adding at the end thereof the following new subpara-
11 graph:

12 “(I) blood clotting factors, for hemophilia patients
13 competent to use such factors to control bleeding with-
14 out medical or other supervision, and items related to
15 the administration of such factors, subject to utilization
16 controls deemed necessary by the Secretary or neces-
17 sary for the efficient use of such factors;”.

18 (b) The amendments made by subsection (a) shall be ef-
19 fective with respect to items and services purchased on or
20 after the date of the enactment of this Act.

21 INDEXING OF PART B DEDUCTIBLE

22 SEC. 916. (a) Section 1833 (b) of the Social Security
23 Act is amended—

24 (1) by striking out “of \$75” and inserting in lieu
25 thereof “determined under paragraph (2)”;

1 (2) by redesignating clauses (1) through (3) as
2 clauses (A) through (C);

3 (3) by inserting “(1)” after “(b)”; and

4 (4) by adding at the end thereof the following new
5 paragraph:

6 “(2)(A) The part B deductible—

7 “(i) shall be \$75 for the calendar year 1984;

8 “(ii) for each of the calendar years 1985, 1986,
9 and 1987 shall be an amount equal to \$75 increased or
10 decreased by the percentage increase or decrease in
11 the economic index utilized under section 1842 (b)(3)
12 from the 12-month period which began on July 1,
13 1983, to the 12-month period that began on July 1 of
14 the year preceding such calendar year (rounded to the
15 nearest multiple of \$1, or if midway between multiples
16 of \$1, rounded to the next higher multiple of \$1); and

17 “(iii) for the calendar year 1988 and each suc-
18 ceeding calendar year, shall be equal to the deductible
19 for calendar year 1987.

20 “(B) The Secretary shall, between July 1 and October 1
21 of 1984, and of each year thereafter, determine and promul-
22 gate the part B deductible which shall be applicable for the
23 following calendar year.”.

24 (b) The amendments made by subsection (a) shall be ef-
25 fective for calendar years after 1983.

1 (c) The Secretary of Health and Human Services shall
 2 determine and promulgate the part B deductible for calendar
 3 year 1985 as soon as possible after the date of the enactment
 4 of this Act.

5 COST SHARING FOR DURABLE MEDICAL EQUIP-
 6 MENT FURNISHED AS A HOME HEALTH
 7 BENEFIT

8 SEC. 917. (a)(1) The matter in section 1814(b) of the
 9 Social Security Act preceding paragraph (1) is amended by
 10 inserting “and other than a home health agency with respect
 11 to durable medical equipment” after “hospice care”.

12 (2) Section 1814 of such Act is amended by adding at
 13 the end thereof the following new subsection:

14 “Payments to Home Health Agencies for Durable Medical
 15 Equipment

16 “(k) The amount paid to any home health agency with
 17 respect to durable medical equipment for which payment may
 18 be made under this part shall be—

19 “(1) the lesser of—

20 “(A) the reasonable cost of such equipment,
 21 as determined under section 1861(v), or

22 “(B) the customary charges with respect to
 23 such equipment,

24 less the amount the home health agency may charge as
 25 described in section 1866(a)(2)(A)(ii), but in no case

1 may the payment for such equipment exceed 80 per-
2 cent of such reasonable cost, or

3 “(2) if such equipment is furnished by a public
4 home health agency free of charge or at nominal
5 charge to the public, the amount which the Secretary
6 finds will provide fair compensation to the home health
7 agency.”.

8 (b)(1) The matter in section 1833(a)(2)(A) of such Act
9 preceding clause (i) is amended by inserting ¹“(other than du-
10 rable medical equipment)” after “home health services”.

11 (2) The matter in section 1833(a)(2)(B) of such Act pre-
12 ceding clause (i) is amended by inserting “items and” after
13 “other”.

14 (c) Section 1866(a)(2)(A)(ii) of such Act is amended by
15 inserting “or which are durable medical equipment furnished
16 as home health services” after “part B”.

17 (d)(1) The first sentence of section 1833(f)(1) of such Act
18 is amended by striking out “as described in section
19 1861(s)(6)”.

20 (2) Section 1833(f)(2) of such Act is amended—

21 (A) by striking out “the 20 percent” and inserting
22 in lieu thereof “any”, and

23 (B) by striking out “under subsection (a)”.

1 (3) Section 1833 (f)(3) of such Act is amended by strik-
2 ing out “paragraph (1)” and inserting in lieu thereof “subsec-
3 tion (a)”.

4 (4)(A) Subsection (f) of section 1833 of such Act is re-
5 designated as section 1889, is assigned the heading “Pur-
6 chase of Durable Medical Equipment”, and is moved to the
7 end of part C.

8 (B) Paragraphs (1) through (4) of section 1889 are re-
9 designated as subsections (a) through (d).

10 (e)(1) Section 1861 (m)(5) of such Act is amended by
11 striking out “, and the use of medical appliances” and insert-
12 ing in lieu thereof “and durable medical equipment”.

13 (2) Section 1861(s)(6) of such Act is amended by strik-
14 ing out everything after “durable medical equipment” up to
15 the semicolon.

16 (3) Section 1861 of such Act is amended by inserting
17 after subsection (m) the following:

18 “Durable Medical Equipment

19 “(n) The term ‘durable medical equipment’ includes iron
20 lungs, oxygen tents, hospital beds, and wheelchairs (which
21 may include a power-operated vehicle that may be appropri-
22 ately used as a wheelchair, but only where the use of such a
23 vehicle is determined to be necessary on the basis of the indi-
24 vidual’s medical and physical condition and the vehicle meets
25 such safety requirements as the Secretary may prescribe)

1 used in the patient's home (including an institution used as
2 his home other than an institution that meets the require-
3 ments of subsection (e)(1) or (j)(1) of this section), whether
4 furnished on a rental basis or purchased."

5 (4) Section 1861(cc)(1)(G) of such Act is amended by
6 striking out ", appliances, and equipment, including the pur-
7 chase or rental of equipment" and inserting in lieu thereof
8 "and durable medical equipment".

9 (f) Section 1814(j)(2) of such Act is amended—

10 (1) by redesignating subparagraphs (B) and (C) as
11 (C) and (D), respectively, and

12 (2) by inserting the following after subparagraph
13 (A):

14 "(B) Subsection (k)(1)(B)."

15 (g) The amendments made by this section shall apply to
16 items and services furnished on or after the date of the enact-
17 ment of this Act.

18 TRANSFERS TO FEDERAL HOSPITAL INSURANCE

19 TRUST FUND

20 SEC. 918. Section 1817 of the Social Security Act is
21 amended by adding at the end thereof the following new sub-
22 section:

23 "(k) There shall be transferred for each of the fiscal
24 years 1984, 1985, 1986, and 1987, from the general fund in
25 the Treasury into the Federal Hospital Insurance Trust Fund

1 amounts equal to the additional amounts which would have
2 been included in the Government contribution for such fiscal
3 year to the Federal Supplementary Medical Insurance Trust
4 Fund under section 1844 for months beginning with July
5 1984 if the amendments made by part I of subtitle A of title
6 IX of the Omnibus Reconciliation Act of 1983 had not been
7 enacted (as estimated by the Secretary of Health and Human
8 Services).”.

9 PART II—MEDICAID AND MCH BUDGET PROVISIONS

10 EXTENSION OF MEDICAID PAYMENT

11 REDUCTIONS AND OFFSETS

12 SEC. 921. (a) Section 1903(s)(1)(A) of the Social Secu-
13 rity Act is amended by striking out “and” at the end of
14 clause (ii), by adding “and” at the end of clause (iii), and by
15 inserting after clause (iii) the following:

16 “(iv) each of the fiscal years 1985, 1986, and
17 1987, shall be reduced by 3 percent,”.

18 (b) Section 1903(t)(1) of such Act is amended—

19 (1) by striking out “and 1984” and inserting in
20 lieu thereof “1984, 1985, 1986, and 1987”;

21 (2) by inserting “and” at the end of subparagraph
22 (A); and

23 (3) by striking out subparagraphs (B) and (C) and
24 inserting in lieu thereof the following:

1 “(B) 1983, 1984, 1985, 1986, or 1987, is equal
2 to the target amount determined under subparagraph
3 (A) for the State, increased or decreased by a percent-
4 age equal to the percentage increase or decrease (as
5 the case may be) in the index of the medical care ex-
6 penditure category of the Consumer Price Index for all
7 urban consumers (U.S. city average) published by the
8 Bureau of Labor Statistics for the period beginning on
9 October 1, 1982, and ending on the last day of the
10 fiscal year for which the target is being computed.”.

11 (c) Section 1903(t)(2) of such Act is amended by striking
12 out “1985” and inserting in lieu thereof “1988”.

13 (d) Section 1903(t)(3) of such Act is amended by insert-
14 ing “(A)” after “(3)” and by adding at the end thereof the
15 following new subparagraph:

16 “(B) Only for purposes of computing under this subsec-
17 tion the Federal share of expenditures for a State for fiscal
18 years 1985, 1986, and 1987 (in the case of the payments
19 which may be made for the first quarter of fiscal years 1986,
20 1987, and 1988, respectively), the Federal medical assist-
21 ance percentage for fiscal years 1985, 1986, and 1987 shall
22 be the lower of the Federal medical assistance percentage for
23 the State in effect for fiscal year 1981, or the Federal medi-
24 cal assistance percentage for the State in effect for the fiscal
25 year for which such expenditures are being computed.”.

1 (e)(1) Section 1903(t) of such Act is amended by adding
2 at the end thereof the following new paragraph:

3 “(4)(A) Except as provided in subparagraph (B), this
4 subsection and paragraph (2) of subsection (s) shall not apply
5 with respect to any payments based upon a claim (or adjust-
6 ment to a claim) for a State expenditure which is submitted
7 to the Secretary for payment after the end of the 24-month
8 period beginning after the calendar quarter in which such ex-
9 penditure was made.

10 “(B) Subparagraph (A) shall not apply to a State for a
11 fiscal year if the total net amount of the claims (and adjust-
12 ments) submitted by such State during that fiscal year which
13 would otherwise be excluded under subparagraph (A) exceeds
14 \$5,000,000.”.

15 (2) The amendment made by paragraph (1) shall apply
16 to claims submitted on or after October 1, 1984.

17 (f) Section 2161 of the Omnibus Budget Reconciliation
18 Act of 1981 is amended by striking out subsection (c).

19 **MANDATORY ASSIGNMENT OF RIGHTS OF**
20 **PAYMENT BY MEDICAID RECIPIENTS**

21 **SEC. 922.** (a) Section 1902(a) of the Social Security Act
22 is amended—

23 (1) by striking out “and” at the end of paragraph
24 (43);

1 (2) by striking out the period at the end of para-
2 graph (44) and inserting in lieu thereof “; and”; and

3 (3) by inserting after paragraph (44) the following
4 new paragraph:

5 “(45) provide for mandatory assignment of rights
6 of payment for medical support and other medical care
7 owed to recipients, in accordance with section 1912.”.

8 (b) Section 1912(a) of such Act is amended by striking
9 out “State plan for medical assistance may” and inserting in
10 lieu thereof “State plan for medical assistance shall”.

11 (c)(1) Except as provided in paragraph (2), the amend-
12 ments made by this section shall become effective on October
13 1, 1984.

14 (2) In the case of a State plan for medical assistance
15 under title XIX of the Social Security Act which the Secre-
16 tary of Health and Human Services determines requires
17 State legislation in order for the plan to meet the additional
18 requirements imposed by the amendments made by this sec-
19 tion, the State plan shall not be regarded as failing to comply
20 with the requirements of such title solely on the basis of its
21 failure to meet these additional requirements before the first
22 day of the first calendar quarter beginning after the close of
23 the first regular session of the State legislature that begins
24 after the date of the enactment of this Act.

1 INCREASE IN MEDICAID CEILING AMOUNT FOR
2 PUERTO RICO, THE VIRGIN ISLANDS, GUAM,
3 THE NORTHERN MARIANA ISLANDS, AND
4 AMERICAN SAMOA

5 SEC. 923. (a) Section 1108(c) of the Social Security Act
6 is amended to read as follows:

7 “(c) The total amount certified by the Secretary under
8 title XIX with respect to a fiscal year for payment to—

9 “(1) Puerto Rico shall not exceed \$63,400,000;

10 “(2) the Virgin Islands shall not exceed
11 \$2,100,000;

12 “(3) Guam shall not exceed \$2,000,000;

13 “(4) the Northern Mariana Islands shall not
14 exceed \$550,000; and

15 “(5) American Samoa shall not exceed
16 \$1,150,000.”.

17 (b) The amendment made by subsection (a) shall be ef-
18 fective for fiscal years beginning on or after October 1, 1983.

19 INCREASE IN AUTHORIZATION FOR MATERNAL
20 AND CHILD HEALTH BLOCK GRANT

21 SEC. 924. (a) Section 501(a) of the Social Security Act
22 is amended by striking out “\$373,000,000 for fiscal year
23 1982 and for each fiscal year thereafter” and inserting in lieu
24 thereof “\$452,000,000 for fiscal year 1984, \$453,000,000

1 for fiscal year 1985, and \$455,000,000 for fiscal year 1986
2 and each fiscal year thereafter”.

3 (b) The amendment made by subsection (a) shall be ef-
4 fective for fiscal years beginning on or after October 1, 1983.

5 MEDICAID COVERAGE FOR PREGNANT WOMEN

6 SEC. 925. (a)(1) Section 406(g)(2) of the Social Security
7 Act is amended by striking out “may provide” and inserting
8 in lieu thereof “shall provide”.

9 (2) Section 1902(a)(10)(A)(i) of such Act is amended by
10 striking out “as authorized in section 406(g)” and inserting in
11 lieu thereof “as required in section 406(g)(2)”.

12 (b)(1) Except as provided in paragraph (2), the amend-
13 ments made by this section shall become effective on July 1,
14 1984.

15 (2) In the case of a State plan for medical assistance
16 under title XIX of the Social Security Act which the Secre-
17 tary of Health and Human Services determines requires
18 State legislation in order for the plan to meet the additional
19 requirements imposed by the amendments made by this sec-
20 tion, the State plan shall not be regarded as failing to comply
21 with the requirements of such title solely on the basis of its
22 failure to meet these additional requirements before the first
23 day of the first calendar quarter beginning after the close of
24 the first regular session of the State legislature that begins
25 after the date of the enactment of this Act.

1 **RECERTIFICATION OF SNF AND ICF PATIENTS**

2 **SEC. 926. (a)(1)** Section 1903(g)(1) of the Social Secu-
3 rity Act is amended, in the matter preceding subparagraph
4 (A), by—

5 (A) striking out “, skilled nursing facility or inter-
6 mediate care facility on 60 days” and inserting in lieu
7 thereof “or intermediate care facility for 60 days, or in
8 a skilled nursing facility for 30 days”;

9 (B) striking out “, skilled nursing facility services,
10 or intermediate care facility services furnished beyond
11 60 days (or inpatient mental hospital services furnished
12 beyond 90 days)” and inserting in lieu thereof “or in-
13 termediate care facility services furnished beyond 60
14 days, skilled nursing facility services furnished beyond
15 30 days, or inpatient mental hospital services furnished
16 beyond 90 days”; and

17 (C) striking out “which for purposes of this sec-
18 tion means the four calendar quarters ending with
19 June 30,”.

20 (2) Section 1903(g)(1)(A) of such Act is amended by
21 striking out “at least every 60 days” and inserting in lieu
22 thereof “at least as often as required under paragraph (7)”.

23 (3) Section 1903(g) of such Act is amended by adding at
24 the end thereof the following new paragraph:

1 “(7)(A) Recertifications under paragraph (1)(A) shall be
2 required at least every 60 days in the case of inpatient hospi-
3 tal services.

4 “(B) Such recertifications in the case of skilled nursing
5 facility services shall be required at least—

6 “(i) 30 days after the initial certification,

7 “(ii) 60 days after the initial certification,

8 “(iii) 90 days after the initial certification, and

9 “(iv) every 60 days thereafter.

10 “(C) Such recertifications in the case of intermediate
11 care facility services shall be required at least—

12 “(i) 60 days after the initial certification,

13 “(ii) 120 days after the initial certification,

14 “(iii) 12 months after the initial certification,

15 “(iv) 18 months after the initial certification,

16 “(v) 24 months after the initial certification, and

17 “(vi) every 12 months thereafter.

18 “(D) For purposes of determining compliance with the
19 schedule established by this paragraph, the Secretary shall
20 not consider any violation of such schedule in any case where
21 there is a delay of 10 days or less, and the State establishes
22 good cause why the physician or other person making such
23 recertification did not meet such schedule.”.

24 (b) Section 1903(g)(4) of such Act is amended by adding
25 at the end thereof the following new subparagraph:

1 “(C) The Secretary shall find a showing of a State, with
2 respect to a calendar quarter under paragraph (1), to be satis-
3 factory under such paragraph with respect to the require-
4 ments of subparagraphs (A) and (B) of such paragraph as
5 applicable to a type of facility or institutional services, if the
6 total number of patients receiving such type of services in
7 that quarter whose records were included in sample onsite
8 surveys conducted with respect to that quarter under para-
9 graph (2) and were found not to comply with the require-
10 ments of subparagraphs (A) and (B) of paragraph (1) is less
11 than 3 percent of the total number of patients whose records
12 were included in such surveys with respect to that quarter.”.

13 (c) Section 1903(g)(5) of such Act is amended by strik-
14 ing out “33½ per centum” and inserting in lieu thereof “5
15 percent”.

16 (d) The amendments made by this section shall apply to
17 quarters beginning on or after the date of the enactment of
18 this Act.

19 **PART III—OTHER MEDICARE AND MEDICAID PROVISIONS**
20 **STUDY OF PHYSICIAN REIMBURSEMENT FOR**
21 **COGNITIVE SERVICES**

22 **SEC. 931.** The Director of the Office of Technology As-
23 sessment shall conduct a study of physician reimbursement
24 under the medicare program with respect to any inequities
25 that may exist between reimbursement levels for medical pro-

1 cedures and cognitive services, and shall make any recom-
2 mendations for changes in such reimbursement system which
3 may be appropriate. The study shall include specific findings
4 and recommendations with respect to creating a method for
5 adjusting payments to physicians as the costs and risks to
6 physicians of providing services decrease over time due to
7 new technologies and procedures. In carrying out the study,
8 the Director shall consult with national physician organiza-
9 tions and with the Secretary of Health and Human Services.
10 The Director shall report the results of such study to the
11 Congress prior to December 31, 1985.

12 **ELIMINATION OF PART B DEDUCTIBLE FOR**
13 **CERTAIN DIAGNOSTIC LABORATORY TESTS**

14 **SEC. 932.** (a) Section 1833(b) of the Social Security Act
15 is amended by striking out "and" at the end of clause (2), and
16 by inserting before the period at the end of clause (3) the
17 following: ", and (4) such deductible shall not apply with re-
18 spect to diagnostic tests performed in a laboratory for which
19 the Secretary has established a payment rate under subsec-
20 tion (h)".

21 (b) Section 1833(h) of such Act, as such section shall be
22 in effect on and after October 1, 1987, is amended by insert-
23 ing before the period at the end thereof the following: "(in-
24 cluding any deductibles which would have been made under
25 subsection (b))".

1 (c) The amendments made by this section shall apply
2 with respect to diagnostic tests performed on or after October
3 1, 1987.

4 PAYMENT FOR SERVICES FOLLOWING TERMINA-
5 TION OF PARTICIPATION AGREEMENTS
6 WITH HOME HEALTH AGENCIES

7 SEC. 933. (a) Section 1866(b)(4)(B) of the Social Secu-
8 rity Act is amended by striking out “after the calendar year
9 in which such termination is effective” and inserting in lieu
10 thereof “more than 30 days after such effective date”.

11 (b) The amendment made by this section shall apply to
12 terminations issued on or after the date of the enactment of
13 this Act.

14 REPEAL OF SPECIAL TUBERCULOSIS TREAT-
15 MENT REQUIREMENTS UNDER MEDICARE
16 AND MEDICAID

17 SEC. 934. (a) Section 1814(a) of the Social Security Act
18 is amended—

19 (1) by repealing subparagraph (B) of paragraph

20 (2);

21 (2) in paragraph (3), by striking out “and inpa-
22 tient tuberculosis hospital services”;

23 (3) by repealing paragraph (5); and

24 (4) in the matter following paragraph (8), by strik-
25 ing out “(B),”.

1 (b)(1) Subsections (d) and (g) of section 1861 of such Act
2 are repealed.

3 (2) Section 1861(e) of such Act is amended in the
4 matter following paragraph (9) by striking out “or tuberculo-
5 sis unless it is a tuberculosis hospital (as defined in subsection
6 (g)) or”.

7 (3) Section 1861(j) of such Act is amended in the matter
8 following paragraph (15) by striking out “or tuberculosis”.

9 (c) Section 1863 of such Act is amended by striking out
10 “(g)(4),”.

11 (d) Section 1866 of such Act is amended—

12 (1) in subsection (b)(3), by striking out “tuberculo-
13 sis hospital services and”; and

14 (2) in subsection (d), by striking out “inpatient tu-
15 berculosis hospital services and”.

16 (e) Section 1902(a)(28) of such Act is amended by strik-
17 ing out “and tuberculosis”.

18 (f) Section 1903(g)(1) of such Act is amended by striking
19 out “(including an institution for tuberculosis)”, and by strik-
20 ing out “(including tuberculosis hospitals)”.

21 (g) Section 1905(a) of such Act is amended by striking
22 out “tuberculosis or” each place it appears in paragraphs (1),
23 (4)(A), (14), (15), and (18)(B).

24 (h) The amendments made by this section shall become
25 effective on the date of the enactment of this Act.

1 **MEDICARE RECOVERY AGAINST CERTAIN**
2 **THIRD PARTIES**

3 **SEC. 935. (a)** Section 1862(b)(1) of the Social Security
4 Act is amended—

5 (1) in the first sentence, by inserting “promptly”
6 after “to be made”;

7 (2) in the second sentence, by inserting “or could
8 be” after “has been”; and

9 (3) by inserting after the second sentence the fol-
10 lowing new sentences: “In order to recover payment
11 made under this title for an item or service, the United
12 States may bring an action against any entity that
13 would be responsible for payment with respect to such
14 item or service (or any portion thereof) under such a
15 law, policy, plan, or insurance, or against any individu-
16 al or entity that has been paid with respect to such
17 item or service under such law, policy, plan, or insur-
18 ance, and may join or intervene in any action related
19 to the events that gave rise to the need for such item
20 or service. The United States shall be subrogated (to
21 the extent of payment made under this title for an item
22 or service) to any right of the individual or any other
23 entity to payment with respect to such item or service
24 under such a law, policy, plan, or insurance.”.

25 **(b)** Section 1862(b)(2)(B) of such Act is amended—

1 (1) in the first sentence, by inserting “or could
2 be” after “has been”; and

3 (2) by inserting after the first sentence the follow-
4 ing new sentences: “In order to recover payment made
5 under this title for an item or service, the United
6 States may bring an action against any entity that
7 would be responsible for payment with respect to such
8 item or service (or any portion thereof) under such a
9 plan, or against any individual or entity that has been
10 paid with respect to such item or service under such
11 plan, and may join or intervene in any action related to
12 the events that gave rise to the need for such item or
13 service. The United States shall be subrogated (to the
14 extent of payment made under this title for an item or
15 service) to any right of the individual or any other
16 entity to payment with respect to such item or service
17 under such a plan.”.

18 (c) Section 1862(b)(3)(A)(ii) of such Act is amended—

19 (1) in the first sentence, by inserting “or could
20 be” after “has been”; and

21 (2) by inserting after the first sentence the follow-
22 ing new sentences: “In order to recover payment made
23 under this title for an item or service, the United
24 States may bring an action against any entity that
25 would be responsible for payment with respect to such

1 item or service (or any portion thereof) under such a
2 plan, or against any individual or entity that has been
3 paid with respect to such item or service under such
4 plan, and may join or intervene in any action related to
5 the events that gave rise to the need for such item or
6 service. The United States shall be subrogated (to the
7 extent of payment made under this title for an item or
8 service) to any right of the individual or any other
9 entity to payment with respect to such item or service
10 under such a plan.”.

11 (d) The amendments made by this section shall become
12 effective on the date of the enactment of this Act.

13 **INDIRECT PAYMENT OF SUPPLEMENTARY**
14 **MEDICAL INSURANCE BENEFITS**

15 **SEC. 936.** (a) The first sentence of section 1842(b)(6), as
16 so redesignated by section 202 of this Act, is amended by
17 inserting before the period at the end thereof the following: “,
18 or (C) to an entity (i) which provides coverage of the service
19 under a health benefits plan (to the extent that payment is
20 not made under this part), (ii) which has paid the person who
21 provided the service an amount which includes the amount
22 payable under this part and which that person has accepted
23 as payment in full for such service, and (iii) to which the
24 individual has agreed in writing that payment may be made
25 under this part”.

1 (b) The second sentence of section 1842(b)(6) is amend-
2 ed by striking out “(i)” and “(ii)” and inserting in lieu thereof
3 “(I)” and “(II)”, respectively.

4 (c) The amendments made by this section shall become
5 effective on the date of the enactment of this Act.

6 ELIMINATION OF HEALTH INSURANCE

7 BENEFITS ADVISORY COUNCIL

8 SEC. 937. (a) Section 1867 of the Social Security Act is
9 repealed.

10 (b)(1) The first sentence of section 1863 of such Act is
11 amended by striking out “the Health Insurance Benefits Ad-
12 visory Council established by section 1867, appropriate State
13 agencies,” and inserting in lieu thereof “appropriate State
14 agencies”.

15 (2) The first sentence of section 7(d)(4) of the Railroad
16 Retirement Act of 1974 is amended by striking out “1867,”.

17 (3) Section 361 of the Social Security Amendments of
18 1977 (Public Law 95–216) is amended by striking out sub-
19 section (i).

20 (c) The amendments made by this section shall become
21 effective on the date of the enactment of this Act.

22 CONFIDENTIALITY OF ACCREDITATION

23 SURVEYS

24 SEC. 938. (a) Section 1865(a) of the Social Security Act
25 is amended—

1 (1) in paragraph (2), by striking out “(on a confi-
2 dential basis)”, and

3 (2) by adding at the end thereof the following new
4 sentence: “The Secretary may not disclose any ac-
5 creditation survey made and released to him by the
6 Joint Commission on Accreditation of Hospitals, the
7 American Osteopathic Association, or any other nation-
8 al accreditation body, of an entity accredited by such
9 body.”.

10 (b) The amendments made by this section shall become
11 effective on the date of the enactment of this Act.

12 FLEXIBLE SANCTIONS FOR NONCOMPLIANCE
13 WITH REQUIREMENTS FOR END STAGE
14 RENAL DISEASE FACILITIES

15 SEC. 939. (a) Section 1881(c)(3) of the Social Security
16 Act is amended by adding at the end thereof the following
17 new sentence: “If the Secretary determines that the facility’s
18 or provider’s failure to cooperate with network plans and
19 goals does not jeopardize patient health or safety or justify
20 termination of certification, he may instead, after reasonable
21 notice to the provider or facility and to the public, impose
22 such other sanctions as he determines to be appropriate,
23 which sanctions may include denial of reimbursement with
24 respect to some or all patients admitted to the facility after

1 the date of the notice, and graduated reduction in reimburse-
2 ment for all patients.”.

3 (b) The amendment made by this section shall become
4 effective on the date of the enactment of this Act.

5 USE OF ADDITIONAL ACCREDITING
6 ORGANIZATIONS UNDER MEDICARE

7 SEC. 940. (a) The third sentence of section 1865(a) of
8 the Social Security Act is amended—

9 (1) by striking out “section 1861(e), (j), (o), or
10 (dd)” and inserting in lieu thereof “section
11 1832(a)(2)(F)(i), 1861(e), 1861(j), 1861(o),
12 1861(p)(4)(A) or (B), paragraphs (11) and (12) of sec-
13 tion 1861(s), section 1861(aa)(2), 1861(cc)(2), or
14 1861(dd)(2)”; and

15 (2) by striking out “institution or agency” each
16 place it appears and inserting in lieu thereof in each
17 instance “entity”.

18 (b) The amendments made by this section shall become
19 effective on the date of the enactment of this Act.

20 REPEAL OF EXCLUSION OF FOR-PROFIT ORGANI-
21 ZATIONS FROM RESEARCH AND DEMON-
22 STRATION GRANTS

23 SEC. 941. (a) Section 1110(a)(1) of the Social Security
24 Act is amended by striking out “nonprofit”.

1 (b) The first sentence of section 402(a)(1) of the Social
2 Security Amendments of 1967 (Public Law 90-248) is
3 amended by striking out "nonprofit".

4 (c) The amendments made by this section shall become
5 effective on the date of the enactment of this Act.

6 REQUIREMENTS FOR MEDICAL REVIEW AND IN-
7 DEPENDENT PROFESSIONAL REVIEW
8 UNDER MEDICAID

9 SEC. 942. (a) Section 1902(a)(31) of such Act is amend-
10 ed to read as follows:

11 "(31) with respect to skilled nursing facilities (and
12 with respect to intermediate care facility services,
13 where the State plan includes medical assistance for
14 such services) provide—

15 "(A) with respect to each patient receiving
16 such assistance, for a written plan of care, prior
17 to admission to or authorization of benefits in such
18 facility, in accordance with regulations of the Sec-
19 retary, and for a regular program of independent
20 professional review (including medical evaluation)
21 which shall periodically review his need for such
22 care;

23 "(B) with respect to each facility within the
24 State, for periodic onsite inspections of the care
25 being provided to each person receiving medical

1 assistance, by one or more independent profes-
2 sional review teams (composed of a physician or
3 registered nurse and other appropriate health and
4 social service personnel), including with respect to
5 each such person (i) the adequacy of the services
6 available to meet his current health needs and
7 promote his maximum physical well-being, (ii) the
8 necessity and desirability of his continued place-
9 ment in the facility, and (iii) the feasibility of
10 meeting his health care needs through alternative
11 institutional or noninstitutional services; and

12 “(C) for full reports to the State agency by
13 each independent professional review team of the
14 findings of each inspection under subparagraph
15 (B), together with any recommendations;”.

16 (b) Section 1902(a)(26) of the Social Security Act is
17 amended to read as follows:

18 “(26) if the State plan includes medical assistance
19 for inpatient mental hospital services provide—

20 “(A) with respect to each patient receiving
21 such assistance, for a regular program of medical
22 review (including medical evaluation) of his need
23 for such care, and for a written plan of care;

24 “(B) for periodic inspections to be made in
25 all mental institutions within the State by one or

1 more medical review teams (composed of physi-
2 cians and other appropriate health and social
3 service personnel) of the care being provided to
4 each person receiving such assistance, including (i)
5 the adequacy of the services available to meet his
6 current health needs and promote his maximum
7 physical well-being, (ii) the necessity and desir-
8 ability of his continued placement in the institu-
9 tion, and (iii) the feasibility of meeting his health
10 care needs through alternative institutional or
11 noninstitutional services; and

12 “(C) for full reports to the State agency by
13 each medical review team of the findings of each
14 inspection under subparagraph (B), together with
15 any recommendations;”.

16 (c) Section 1902(a) of such Act is amended, in the
17 matter following paragraph (45)—

18 (1) by striking out “, (26)” after “(9)(A)”; and

19 (2) by striking out “the term ‘skilled nursing fa-
20 cility’ and ‘nursing home’ ” and inserting in lieu there-
21 of “the terms ‘skilled nursing facility’, ‘intermediate
22 care facility’, and ‘nursing home’ ”.

23 (d) The amendments made by this section shall become
24 effective on the date of the enactment of this Act.

1 FLEXIBILITY IN SETTING PAYMENT RATES FOR
2 HOSPITALS FURNISHING LONG-TERM CARE
3 SERVICES UNDER MEDICAID

4 SEC. 943. (a) Section 1913(b) of the Social Security Act
5 is amended to read as follows:

6 “(b) Payment to any such hospital, for any skilled nurs-
7 ing or intermediate care facility services furnished pursuant
8 to subsection (a), shall be at a payment rate established by
9 the State in accordance with the requirements of section
10 1902(a)(13)(A). Such rate may, but need not, be the same as
11 any rate established by the State for such services furnished
12 by a skilled nursing or intermediate care facility.”.

13 (b) The amendment made by this section shall become
14 effective on the date of the enactment of this Act.

15 AUTHORITY OF THE SECRETARY TO ISSUE AND
16 ENFORCE SUBPENAS UNDER MEDICAID

17 SEC. 944. (a) Title XIX of the Social Security Act is
18 amended by adding at the end thereof the following new
19 section:

20 “APPLICATION OF PROVISIONS OF TITLE II
21 RELATING TO SUBPENAS

22 “SEC. 1918. The provisions of subsections (d) and (e) of
23 section 205 of this Act shall apply with respect to this title to
24 the same extent as they are applicable with respect to title
25 II.”.

1 (b) The amendment made by this section shall become
2 effective on the date of the enactment of this Act.

3 REPEAL OF AUTHORITY FOR PAYMENTS TO PRO-
4 MOTE CLOSING AND CONVERSION OF UN-
5 DERUTILIZED HOSPITAL FACILITIES

6 SEC. 945. (a)(1) Section 1884 of the Social Security Act
7 is repealed.

8 (2) Section 1903(e) of such Act is repealed.

9 (b) The amendments made by this section shall become
10 effective on the date of the enactment of this Act, but shall
11 not apply to any transitional allowance established by the
12 Secretary of Health and Human Services under section 1884
13 of the Social Security Act before the date of the enactment of
14 this Act.

15 PRESIDENTIAL APPOINTMENT OF AND PAY
16 LEVEL FOR THE ADMINISTRATOR OF THE
17 HEALTH CARE FINANCING ADMINISTRA-
18 TION

19 SEC. 946. (a) Title XI of the Social Security Act is
20 amended by inserting after section 1116 the following new
21 section:

1 "APPOINTMENT OF THE ADMINISTRATOR OF
2 THE HEALTH CARE FINANCING ADMINIS-
3 TRATION

4 "SEC. 1117. The Administrator of the Health Care Fi-
5 nancing Administration shall be appointed by the President
6 by and with the advice and consent of the Senate."

7 (b) Section 5315 of title 5, United States Code, is
8 amended by adding at the end thereof the following:

9 "Administrator of the Health Care Financing Ad-
10 ministration."

11 (c) The amendments made by this section shall apply to
12 appointments made after the date of the enactment of this
13 Act.

14 EXCLUSION OF CERTAIN ENTITIES OWNED OR
15 CONTROLLED BY INDIVIDUALS CONVICTED
16 OF MEDICARE- OR MEDICAID-RELATED
17 CRIMES

18 SEC. 947. (a) Section 1128 of the Social Security Act is
19 amended—

20 (1) by redesignating subsections (b), (c), and (d) as
21 subsections (c), (d), and (e), respectively, and

22 (2) by inserting after subsection (a) the following
23 new subsection:

24 "(b) Whenever the Secretary determines, with respect
25 to an entity, that a person who has a direct or indirect own-

1 ership or control interest of 5 percent or more in the entity,
2 or who is an officer, director, agent, or managing employee
3 (as defined in section 1126(b)) of such entity, is a person de-
4 scribed in section 1126(a), the Secretary—

5 “(1) may bar from participation in the program
6 under title XVIII, for such period as he may deem ap-
7 propriate, each such entity otherwise eligible to partici-
8 pate in such program;

9 “(2) shall promptly notify each appropriate State
10 agency administering or supervising the administration
11 of a State plan approved under title XIX of the fact
12 and circumstances of the determination, and may
13 require each such agency to bar the entity from par-
14 ticipation in the program for such period as he may
15 specify, which in the case of an entity specified in
16 paragraph (1), may not exceed the period established
17 pursuant to paragraph (1); and

18 “(3) shall promptly notify the appropriate State or
19 local agency or authority having responsibility for the
20 licensing or certification of such entity of the fact and
21 circumstances of such determination, request that ap-
22 propriate investigations be made and sanctions invoked
23 in accordance with applicable State law and policy,
24 and request that such State or local agency or authori-
25 ty keep the Secretary and the Inspector General of the

1 Department of Health and Human Services fully and
2 currently informed with respect to any actions taken in
3 response to such request.”.

4 (b) Section 1128(e) of such Act (as redesignated by sub-
5 section (a)(1)) is amended—

6 (1) by inserting “or entity” after “Any person”,
7 and

8 (2) by striking out “(a) or (b)” and inserting in
9 lieu thereof “(a), (b), or (c)”.

10 (c) The amendments made by this section shall become
11 effective on the date of the enactment of this Act.

12 JUDICIAL REVIEW OF PROVIDER

13 REIMBURSEMENT REVIEW BOARD DECISIONS

14 SEC. 948. (a) Section 602(h)(2) of the Social Security
15 Amendments of 1983 (Public Law 98-21) is amended by
16 adding at the end thereof the following new subparagraph:

17 “(C) Notwithstanding section 604, the amendments
18 made by this paragraph shall be effective with respect to any
19 appeal or action brought on or after April 20, 1983.”.

20 (b) The amendment made by this section shall be effec-
21 tive as if it had been originally included in section 602(h)(2)
22 of the Social Security Amendments of 1983.

23 ACCESS TO HOME HEALTH SERVICES

24 SEC. 949. (a) Section 1814(a) of the Social Security Act
25 is amended by adding at the end thereof the following new

1 sentences: "For purposes of the preceding sentence, service
2 by a physician as an uncompensated officer or director of a
3 home health agency shall not constitute having a significant
4 ownership interest in, or a significant financial or contractual
5 relationship with, such agency. Such regulations shall not
6 prohibit a physician who has a significant interest in, or a
7 significant relationship with, an agency that is the only home
8 health agency in a county from performing such certification
9 and establishing or reviewing such plan with respect to indi-
10 viduals who are furnished, or to be furnished, services by
11 such agency."

12 (b) Section 1835(a) of such Act is amended by adding at
13 the end thereof the following new sentences: "For purposes
14 of the preceding sentence, service by a physician as an un-
15 compensated officer or director of a home health agency shall
16 not constitute having a significant ownership interest in, or a
17 significant financial or contractual relationship with, such
18 agency. Such regulations shall not prohibit a physician who
19 has a significant interest in, or a significant relationship with,
20 an agency that is the only home health agency in a county
21 from performing such certification and establishing or review-
22 ing such plan with respect to individuals who are furnished,
23 or to be furnished, services by such agency."

24 (c) The amendments made by this section shall become
25 effective on the date of the enactment of this Act.

1 PROVIDER REPRESENTATION IN PEER REVIEW
2 ORGANIZATIONS

3 SEC. 950. (a) Section 1153(b)(3) of the Social Security
4 Act is amended by inserting “(A)” after “(3)” and by adding
5 at the end thereof the following new subparagraph:

6 “(B) For purposes of subparagraph (A), an entity shall
7 not be considered to be affiliated with a health care facility or
8 association of facilities by reason of common control if the
9 common control consists of—

10 “(i) only one officer, governing body member, or
11 managing employee who is common to the entity and
12 the health care facility or association, in the case of an
13 entity having 15 or fewer governing body members; or

14 “(ii) two or less such common officers, governing
15 body members, or managing employees, in the case of
16 an entity having more than 15 governing body mem-
17 bers.”.

18 (b) The amendments made by subsection (a) shall
19 become effective on the date of the enactment of this Act.

20 PROSPECTIVE PAYMENT ASSESSMENT
21 COMMISSION

22 SEC. 951. (a) Section 1886 (e) (2) of the Social Security
23 Act is amended by inserting “(without regard to the provi-
24 sions of title 5, United States Code, governing appointments

1 in the competitive service)” after “appointed by the Direc-
2 tor”.

3 (b) (1) Section 1886 (e) (6) (C) (i) of such Act is amended
4 to read as follows:

5 “(i) employ and fix the compensation of an Execu-
6 tive Director (subject to the approval of the Director of
7 the Office) and such other personnel (not to exceed 25)
8 as may be necessary to carry out its duties (without
9 regard to the provisions of title 5, United States Code,
10 governing appointments in the competitive service);”.

11 (2) Section 1886 (e) (6) (C) (iii) of such Act is amended
12 by inserting “(without regard to section 3709 of the Revised
13 Statutes (41 U.S.C 5))” after “Commission”.

14 (3) Section 1886 (e) (6) (C) (vi) of such Act is amended
15 by inserting “(without regard to the provisions of the Federal
16 Advisory Committee Act)” after “Commission”.

17 (4) Section 1886(e)(6)(D) of such Act is amended by
18 adding at the end thereof the following sentence: “Physicians
19 serving as personnel of the Commission may be provided a
20 physician comparability allowance by the Commission in the
21 same manner as Government physicians may be provided
22 such an allowance by an agency under section 5948 of title
23 5, United States Code, and for such purpose subsection (i) of
24 such section shall apply to the Commission in the same
25 manner as it applies to the Tennessee Valley Authority.”.

1 (e) Section 1886 (e) (6) of such Act is further amend-
2 ed—

3 (1) by redesignating subparagraphs (G), (H), and
4 (I) as subparagraphs (H), (I), and (J) , respectively;
5 and

6 (2) by inserting after subparagraph (F) the follow-
7 ing new subparagraph:

8 “(G) In order to supplement the activities of the Com-
9 mission in assessing the safety, efficacy, and cost-effective-
10 ness of new and existing medical procedures, the Secretary
11 may carry out, or award grants or contracts for, original re-
12 search and experimentation of the type described in clause (ii)
13 of subparagraph (E) with respect to such a procedure if the
14 Secretary finds that—

15 “(i) such procedure is not of sufficient commercial
16 value to justify research and experimentation by a
17 commercial organization;

18 “(ii) research and experimentation with respect to
19 such procedure is not of a type that may appropriately
20 be carried out by an institute, division, or bureau of the
21 National Institutes of Health; and

22 “(iii) such procedure has the potential to be more
23 cost-effective in the treatment of a condition than pro-
24 cedures currently in use with respect to such condi-
25 tion.”.

1 (d) Section 1886(e)(6) of such Act is further amended—

2 (1) by redesignating subparagraphs (I) and (J) (as
3 redesignated by subsection (c)(1)) as subparagraphs (K)
4 and (L), respectively; and

5 (2) by inserting after subparagraph (H) (as so re-
6 designated) the following new subparagraphs:

7 “(I)(i) The Secretary shall provide the Commission with
8 such services, equipment, and facilities (including office
9 space, office furnishings, and financial and administrative
10 services) as are necessary for the operation of the Commis-
11 sion.

12 “(ii) As agreed upon by the Secretary and the Commis-
13 sion, the Secretary shall be reimbursed, for such services,
14 equipment, and facilities by the Commission from appropri-
15 ations made with respect to the Commission.

16 “(J) The Commission shall submit requests for appropri-
17 ations in the same manner as the Office submits requests for
18 appropriations, but amounts appropriated for the Commission
19 shall be separate from amounts appropriated for the Office.”.

20 (e) The amendments made by this section shall become
21 effective on the date of the enactment of this Act.

22 MEDICAID CLINIC ADMINISTRATION

23 SEC. 952. (a) Section 1905(a)(9) of the Social Security
24 Act is amended to read as follows:

1 “(9) clinic services furnished by or under the di-
2 rection of a physician (but for purposes of this para-
3 graph the clinic itself need not be administered by a
4 physician);”.

5 (b) The amendment made by subsection (a) shall become
6 effective on the date of the enactment of this Act.

7 **ENROLLMENT AND PREMIUM PENALTY WITH**
8 **RESPECT TO WORKING AGED PROVISION**

9 **SEC. 953.** (a) The second sentence of section 1839(b) of
10 the Social Security Act is amended by adding before the
11 period at the end the following: “, but there shall not be
12 taken into account months in which the individual has met
13 the conditions specified in clauses (i) and (iii) of section
14 1862(b)(3)(A) and can demonstrate that the individual was
15 enrolled in a group health plan described in clause (iv) of such
16 section by reason of the individual’s (or the individual’s
17 spouse’s) current employment”.

18 (b) Section 1837 of such Act is amended by adding at
19 the end the following new subsection:

20 “(i)(1) In the case of an individual who—

21 “(A) meets the conditions described in clauses (i)
22 and (iii) of section 1862(b)(3)(A),

23 “(B) at the time the individual first satisfies para-
24 graph (1) or (2) of section 1836, is enrolled in a group
25 health plan described in section 1862(b)(3)(A)(iv) by

1 reason of the individual's (or the individual's spouse's)
2 current employment, and

3 "(C) has elected not to enroll (or to be deemed
4 enrolled) under this section during the individual's ini-
5 tial enrollment period,

6 there shall be a special enrollment period described in para-
7 graph (3).

8 "(2) In the case of an individual who—

9 "(A) meets the conditions described in clauses (i)
10 and (iii) of section 1862(b)(3)(A),

11 "(B)(i) has enrolled (or has been deemed to have
12 enrolled) in the medical insurance program established
13 under this part during the individual's initial enrollment
14 period and any subsequent special enrollment period
15 under this subsection during which the individual was
16 not enrolled in a group health plan described in section
17 1862(b)(3)(A)(iv) by reason of the individual's (or indi-
18 vidual's spouse's) current employment, and

19 "(C) has not terminated enrollment under this sec-
20 tion at any time at which the individual is not enrolled
21 in such a group health plan by reason of the individ-
22 ual's (or individual's spouse's) current employment,
23 there shall be a special enrollment period described in para-
24 graph (3).

1 “(3) The special enrollment period referred to in para-
2 graphs (1) and (2) is the period—

3 “(A) beginning with the first day of the third
4 month before the month in which the individual attains
5 the age of 70 and ending seven months later, or

6 “(B) beginning with the first day of the first
7 month in which the individual is no longer enrolled in a
8 group health plan described in section 1862(b)(3)(A)(iv)
9 by reason of current employment and ending seven
10 months later,
11 whichever period results in earlier coverage.”.

12 (c) Section 1838 of such Act is amended by adding at
13 the end the following new subsection:

14 “(e) Notwithstanding subsection (a), in the case of an
15 individual who enrolls during a special enrollment period pur-
16 suant to—

17 “(1) subparagraph (A) of section 1837(i)(3)—

18 “(A) before the month in which he attains
19 the age of 70, the coverage period shall begin on
20 the first day of the month in which he has at-
21 tained the age of 70, or

22 “(B) in or after the month in which he at-
23 tains the age of 70, the coverage period shall
24 begin on the first day of the month following the
25 month in which he so enrolls; or

1 “(2) subparagraph (B) of section 1837(i)(3)—

2 “(A) in the first month of the special enroll-
3 ment period, the coverage period shall begin on
4 the first day of such month, or

5 “(B) in a month after the first month of the
6 special enrollment period, the coverage period
7 shall begin on the first day of the month following
8 the month in which he so enrolls.”.

9 (d)(1) The amendment made by subsection (a) shall
10 apply to months beginning with January 1983 for premiums
11 for months beginning with the first effective month (as de-
12 fined in paragraph (3)).

13 (2) The amendments made by subsections (b) and (c)
14 shall apply to enrollments in months beginning with the first
15 effective month, except that in the case of any individual who
16 would have had a special enrollment period under section
17 1837(i) of the Social Security Act that would have begun
18 before such first effective month, such period shall be deemed
19 to begin with the first day of such first effective month.

20 (3) For purposes of this subsection, the term “first effec-
21 tive month” means the first month which begins more than
22 ninety days after the date of the enactment of this Act.

1 **EMERGENCY ROOM SERVICES**

2 **SEC. 954. (a)** Section 1861(v)(1)(K) of the Social Secu-
3 rity Act is amended by inserting “(i)” after “(K)” and by
4 adding at the end thereof the following:

5 — “(ii) For purposes of clause (i), the term ‘bona fide emer-
6 gency services’ means services provided in a hospital emer-
7 gency room after the sudden onset of a medical condition
8 manifesting itself by acute symptoms of sufficient severity (in-
9 cluding severe pain) such that the absence of immediate
10 medical attention could reasonably be expected to result in—

11 “(I) placing the patient’s health in serious jeop-
12 ardy;

13 “(II) serious impairment to bodily functions; or

14 “(III) serious dysfunction of any bodily organ or
15 part.”.

16 **(b)** Section 1861(v)(1)(K)(i) as so designated is amended
17 by striking out “provided in an emergency room” and insert-
18 ing in lieu thereof “as defined in clause (ii)”.

19 **(c)** The amendments made by this section shall apply to
20 services furnished on or after the date of the enactment of
21 this Act.

1 (b) Section 1886(a)(4) of such Act is amended by insert-
2 ing “, services provided by a certified registered nurse anes-
3 thetist” after “approved education activities”.

4 (c) The amendments made by subsections (a) and (b)
5 shall apply to cost reporting periods beginning on or after
6 October 1, 1984.

7 (d) The Secretary of Health and Human Services shall
8 conduct a study of possible methods of reimbursement under
9 title XVIII of the Social Security Act which would not dis-
10 courage the use of certified registered nurse anesthetists by
11 hospitals. The Secretary shall report the results of such study
12 to the Congress as soon as is practicable.

13 PROSPECTIVE PAYMENT WAGE INDEX

14 SEC. 956. (a) The Secretary of Health and Human
15 Services, in consultation with the Secretary of Labor, shall
16 conduct a study to develop an appropriate index for purposes
17 of adjusting payment amounts under section 1886(d) of the
18 Social Security Act to reflect area differences in average hos-
19 pital wage levels, as required under paragraphs (2)(H) and
20 (3)(E) of such section, taking into account wage differences of
21 full time and part time workers. The Secretary of Health and
22 Human Services shall report the results of such study to the
23 Congress prior to May 1, 1984, including any changes which
24 the Secretary determines to be necessary to provide for an
25 appropriate index.

1 (b) The Secretary shall adjust the payment amounts for
2 hospitals for cost reporting periods beginning on or after Oc-
3 tober 1, 1983, to reflect any changes made in the wage index
4 pursuant to subsection (a). Any adjustment in such payments
5 to take account of overpayments or underpayments for the
6 first cost reporting period of a hospital to which section
7 1886(d) of the Social Security Act applies, shall be made by
8 decreasing or increasing payments in the succeeding cost re-
9 porting period.

10 HOSPICE CONTRACTING FOR CORE SERVICES

11 SEC. 957. (a) Section 1861(dd)(2)(A)(ii)(I) of the Social
12 Security Act is amended by inserting "except as otherwise
13 provided in paragraph (5)," before "and" at the end thereof.

14 (b) Section 1861(dd) of such Act is amended by adding
15 at the end thereof the following new paragraph:

16 “(5)(A) The Secretary may waive the requirements of
17 paragraph (2)(A)(ii)(I) for an agency or organization with re-
18 spect to all or part of the nursing care described in paragraph
19 (1)(A) if such agency or organization—

20 “(i) is located in an area which is not an urban-
21 ized area (as defined by the Bureau of the Census);

22 “(ii) was in operation on or before January 1,
23 1983; and

1 “(iii) has demonstrated a good faith effort (as de-
2 termined by the Secretary) to hire a sufficient number
3 of nurses to provide such nursing care directly.

4 “(B) Any waiver requested by an agency or organiza-
5 tion under subparagraph (A) shall be deemed to be granted
6 unless such request is denied by the Secretary within 60 days
7 after such request is received by the Secretary. The granting
8 of a waiver under subparagraph (A) shall not preclude the
9 granting of any subsequent waiver request should such a
10 waiver again become necessary.”.

11 (c) The amendments made by subsections (a) and (b)
12 shall become effective on the date of the enactment of this
13 Act.

14 (d) The Secretary of Health and Human Services shall
15 conduct a study of the necessity and appropriateness of the
16 requirements that certain “core” services be furnished direct-
17 ly by a hospice, as required under section 1861(dd)(2)(A)(ii)(I)
18 of the Social Security Act. The Secretary shall report the
19 results of such study to the Congress within 18 months after
20 the date of the enactment of this Act.

21 EXEMPTION OF PUBLIC PSYCHIATRIC HOSPI-
22 TALS FROM PROVISION LIMITING REIM-
23 BURSEMENT TO SNF RATES

24 SEC. 958. The provisions of section 1902(a)(13) of the
25 Social Security Act, insofar as they require a reduction of the

1 amount of payment otherwise to be made to a public psychi-
2 atric hospital due to the level of care received in such hospi-
3 tal, shall not apply to payments to hospitals before July 1,
4 1985, and such a reduction made for payments during the
5 twelve-month period ending June 30, 1986, and during the
6 twelve-month period ending June 30, 1987, shall be one-
7 third and two-thirds, respectively, of the amount of the re-
8 duction which would have been made without regard to this
9 section.

10 CERTIFICATION OF PSYCHIATRIC HOSPITALS

11 SEC. 959. (a) Section 1861(f) of the Social Security Act
12 is amended—

13 (1) by adding “and” at the end of paragraph (3);

14 (2) by striking out “; and” at the end of para-
15 graph (4) and inserting in lieu thereof a period;

16 (3) by striking out paragraph (5); and

17 (4) in the second sentence thereof, by striking out
18 “if the institution is accredited” and all that follows,
19 and inserting in lieu thereof a period.

20 (b) Section 1865(a) of such Act is amended by inserting
21 “(f),” after “1861(e),” in the matter following paragraph (4).

22 (c) Section 1905(h)(1)(A) of such Act is amended to read
23 as follows:

1 “(A) inpatient services which are provided in an
2 institution (or distinct part thereof) which is a psychiat-
3 ric hospital as defined in section 1861(f);”.

4 (d) The amendments made by this section shall become
5 effective on the date of the enactment of this Act.

6 PAYMENTS TO TEACHING PHYSICIANS

7 SEC. 960. (a) Section 1842(b)(6)(A)(ii) of the Social Se-
8 curity Act is amended to read as follows:

9 “(ii) to the extent that the amount of the payment
10 exceeds the greater of (I) the reasonable charge for the
11 services (with the customary charge determined con-
12 sistent with subparagraph (B)), or (II) 75 percent of
13 the prevailing charge for the services in the locality.”.

14 (b) The amendment made by subsection (a) shall become
15 effective on the date of the enactment of this Act.

16 PACEMAKER REIMBURSEMENT REVIEW AND 17 REFORM

18 SEC. 961. (a) Not later than April 1, 1984, the Secre-
19 tary of Health and Human Services (hereafter in this section
20 referred to as the “Secretary”) shall issue revisions to the
21 current guidelines for the payment under part B of title
22 XVIII of the Social Security Act for the transtelephonic
23 monitoring of cardiac pacemakers. Such revised guidelines
24 shall include provisions regarding the specifications for and

1 frequency of transtelephonic monitoring procedures which
2 will be found to be reasonable and necessary.

3 (b) Not later than April 1, 1984, the Secretary shall
4 review, and report to the Committees on Energy and Com-
5 merce and Ways and Means of the House of Representatives
6 and the Committee on Finance of the Senate, regarding the
7 appropriateness of the current rate of reimbursement under
8 part A of title XVIII of the Social Security Act for inpatient
9 hospital services associated with implantation or replacement
10 of pacemaker devices and pacemaker leads, and under part B
11 of such title for physicians' services associated with such im-
12 plantations and replacements. Such review shall take into ac-
13 count the amounts recognized as reasonable with respect to
14 such procedures and the time and difficulty of such proce-
15 dures at the current time in comparison with such amounts
16 and the time and difficulty of such procedures at the time the
17 rates for such procedures were first established under such
18 title.

19 (c)(1) The Secretary shall provide for the establishment
20 and maintenance by the Administrator of the Food and Drug
21 Administration of a registry of all cardiac pacemaker devices
22 and pacemaker leads produced by any manufacturer for
23 which payment was made under this title. Such registry shall
24 include, with respect to each such device or lead, the model,
25 serial number, and the name of the recipient of such device or

1 lead, the date and location of the implantation or removal of
2 such device or lead, the name of the physician involved in
3 implanting or removing such device or lead, the name of the
4 hospital or other provider billing for such procedure, any ex-
5 press on implied warranties associated with such device or
6 lead, and such other information as the Secretary deems to
7 be appropriate. Submission of the information required for the
8 registry by a manufacturer shall be a condition for any pay-
9 ment under title XVIII of the Social Security Act with re-
10 spect to any devices or leads produced by such manufacturer.
11 The registry shall be for the purposes of assisting the Secre-
12 tary in determining when payments may properly be made
13 under this title, tracing the performance of cardiac pacemaker
14 devices and leads, determining when inspection by the Food
15 and Drug Administration may be necessary under paragraph
16 (3), and carrying out studies with respect to the use of such
17 devices and leads. In carrying out any such study, the Secre-
18 tary may not reveal any specific information which identifies
19 any pacemaker device or lead recipient by name (or which
20 would otherwise identify a specific recipient).

21 (2) As a condition for payment being made for the im-
22 plant or replacement of a cardiac pacemaker device or lead,
23 the Secretary may, by regulation, require that a provider
24 shall furnish to a manufacturer of cardiac pacemaker devices
25 and pacemaker leads information with respect to all patients

1 bearing a device or lead produced by such manufacturer for
2 which payment was made or requested by such provider
3 under title XVIII of the Social Security Act. The Secretary
4 may also require that any device or lead removed from any
5 such patient be returned to the manufacturer of such device
6 or lead. An organization serving as a fiscal intermediary for a
7 provider may, under regulations prescribed by the Secretary,
8 deny payment for the replacement of a device or lead if such
9 provider fails to return such device or lead in accordance
10 with the preceding sentence, and such provider may not
11 charge the beneficiary for such replacement. Charging a pa-
12 tient in violation of the preceding sentence shall constitute a
13 violation of the provider's agreement under section 1866 of
14 the Social Security Act.

15 (3) The Secretary may, by regulation, as a condition for
16 payment under title XVIII of the Social Security Act with
17 respect to any devices or leads produced by a manufacturer,
18 require the manufacturer to test or analyze each returned
19 cardiac pacemaker device or lead for which payment is made
20 or requested under such title and provide the results of such
21 test or analysis to the provider who returned it to the manu-
22 facturer, together with information and documentation with
23 respect to any warranties covering such device or lead. In
24 any case where the Secretary has reason to believe, based
25 upon information in a pacemaker registry or otherwise avail-

1 able to him, that replacement of a cardiac pacemaker device
2 or lead for which payment is or may be requested under such
3 title is related to the malfunction of such device or lead, the
4 Secretary may require that personnel of the Food and Drug
5 Administration test such device, or be present at the testing
6 of such device by such manufacturer, to determine whether
7 such device or lead was functioning properly.

8 (4) A manufacturer of cardiac pacemaker devices and
9 pacemaker leads shall post a bond or provide such other as-
10 surances as the Secretary deems appropriate to ensure that
11 such manufacturer will comply with the requirements of this
12 subsection.

13 (5) The Secretary may by regulation require any manu-
14 facturer of cardiac pacemaker devices and pacemaker leads to
15 provide to the Food and Drug Administration—

16 (A) a written report with respect to any adverse
17 reaction to a device or lead and any device or lead
18 defect, of which such manufacturer is notified (within
19 ten days of the date on which such manufacturer is so
20 notified); and

21 (B) an annual written report summarizing clinical
22 experiences with devices and leads, including informa-
23 tion on all removals, deaths, adverse reactions, device
24 or lead defects, and the results of tests performed on
25 all returned devices and leads.

1 (6) For purposes of this subsection, the term “manufac-
2 turer” shall have the meaning given to such term in regula-
3 tions promulgated by the Food and Drug Administration.

4 OPEN ENROLLMENT PERIOD FOR HEALTH MAIN-
5 TENANCE ORGANIZATIONS AND COMPETI-
6 TIVE MEDICAL PLANS

7 SEC. 962. (a) Section 1876(c)(3)(A) of the Social Secu-
8 rity Act is amended—

9 (1) by inserting “(i)” after “(3)(A)”.

10 (2) by inserting “and including the 30-day period
11 specified under clause (ii)” after “30 days’ duration
12 every year”, and

13 (3) by adding at the end the following new clause:

14 “(ii) For each area served by more than one eligible
15 organization under this section, the Secretary (after consulta-
16 tion with such organizations) shall establish a single 30-day
17 period each year during which all eligible organizations serv-
18 ing the area must provide for open enrollment under this sec-
19 tion. The Secretary shall determine annual per capita rates
20 under subsection (a)(1)(A) in a manner that assures that indi-
21 viduals enrolling during such a 30-day period will not have
22 premium charges increased or any additional benefits de-
23 creased during the 12-month enrollment period for which the
24 individual is enrolling. An eligible organization may provide

1 for such other open enrollment period or periods as it deems
2 appropriate consistent with this section.”.

3 (b) The amendments made by subsection (a) shall
4 become effective on the date of the enactment of this Act.

5 (c) The Secretary of Health and Human Services may
6 phase in, over a period of not longer than three years, the
7 application of the amendments made by subsection (a) to all
8 applicable areas in the United States if the Secretary deter-
9 mines that it is not administratively feasible to establish a
10 single thirty-day open enrollment period for all such applica-
11 ble areas before the end of the period.

12 WAIVERS FOR SOCIAL HEALTH MAINTENANCE

13 ORGANIZATION

14 SEC. 963. (a) In the case of a project described in sub-
15 section (b), the Secretary of Health and Human Services
16 shall approve, with appropriate terms and conditions as de-
17 fined by the Secretary, applications or protocols submitted for
18 waivers described in subsection (c), and the evaluation of
19 such protocols, in order to carry out such project. Such ap-
20 proval shall be effected not later than 30 days after the date
21 on which the application or protocol for a waiver is submitted
22 or not later than 30 days after the date of the enactment of
23 this Act in the case of an application or protocol submitted
24 before the date of the enactment of this Act.

25 (b) A project referred to in subsection (a) is a project—

1 (1) to demonstrate the concept of a social health
2 maintenance organization with the organizations as de-
3 scribed in Project No. 18-P-9.7604/1 of the University
4 Health Policy Consortium of Brandeis University;

5 (2) which provides for the integration of health
6 and social services under the direct financial manage-
7 ment of a provider of services;

8 (3) under which all medicare services will be pro-
9 vided by or under arrangements made by the organiza-
10 tion at a fixed annual prepaid capitation rate for medi-
11 care of 100 percent of the adjusted average per capita
12 cost;

13 (4) under which medicaid services will be provided
14 at a rate approved by the Secretary;

15 (5) under which all payors will share risk for no
16 more than two years, with the organization being at
17 full risk in the third year;

18 (6) which is being provided funds under a grant
19 provided by the Secretary of Health and Human Serv-
20 ices; and

21 (7) with respect to which substantial private funds
22 are being provided other than under the grant referred
23 to in paragraph (5).

24 (c) The waivers referred to in subsection (a) are appro-
25 priate waivers of—

1 (1) certain requirements of title XVIII of the
2 Social Security Act, pursuant to section 402(a) of the
3 Social Security Amendments of 1967 (as amended by
4 section 222 of the Social Security Amendments of
5 1972); and

6 (2) certain requirements of title XIX of the Social
7 Security Act, pursuant to section 1115 of such Act.

8 **FUNDING FOR PSRO REVIEW**

9 **SEC. 964. (a)** Section 1866(a)(1)(F) of the Social Secu-
10 rity Act is amended by inserting “with a professional stand-
11 ards review organization (if there is such an organization in
12 existence in the area in which the hospital is located) or”
13 after “maintain an agreement”.

14 (b) Notwithstanding section 604(a)(2) of the Social Se-
15 curity Amendments of 1983, the requirement that a hospital
16 maintain an agreement with a utilization and quality control
17 peer review organization, as contained in section
18 1866(a)(1)(F) of the Social Security Act, shall become effec-
19 tive on January 1, 1985.

20 (c)(1) Section 1153(b)(2)(A) of the Social Security Act
21 is amended by striking out “During the first twelve months
22 in which the Secretary is entering into contracts under this
23 section” and inserting in lieu thereof “Prior to January 1,
24 1985”.

1 (2) Section 1153(b)(2)(B) of such Act is amended by
2 striking out “after the expiration of the twelve-month period
3 referred to in subparagraph (A)” and inserting in lieu thereof
4 “after December 31, 1984”.

5 (3) Section 1153(b)(2) of such Act is amended by strik-
6 ing out subparagraph (C).

7 (d) The provisions of, and amendments made by, this
8 section shall become effective on May 1, 1984.

9 **MEDICARE TECHNICAL AMENDMENTS RELAT-**
10 **ING TO THE SOCIAL SECURITY AMEND-**
11 **MENTS OF 1983**

12 **SEC. 965.** (a)(1) Section 1818(c) of the Social Security
13 Act is amended by striking out “subsection (a) of section
14 1839” and inserting in lieu thereof “subsection (b) of section
15 1839”.

16 (2) Section 1866(a)(1)(F) of such Act is amended by
17 striking out “(c) or (d)” and inserting in lieu thereof “(b), (c),
18 or (d)”.

19 (3) Section 1886(c)(4)(A) of such Act is amended by
20 striking out “and (D)” and inserting in lieu thereof “(D) and
21 (E)”.

22 (4) Section 1886(e)(5) of such Act is amended—

23 (A) by striking out “for public comment” in the
24 matter preceding subparagraph (A); and

1 (B) by inserting “for public comment” in subpara-
2 graph (A) after “that fiscal year,”.

3 (b) Section 604(c)(3) of the Social Security Amendments
4 of 1983 is amended by striking out “to implement subsection
5 (d) of section 1886 of the Social Security Act (as so amend-
6 ed)” and inserting in lieu thereof “to implement the amend-
7 ments made by this title”.

8 (c) The amendments made by the preceding provisions
9 of this section shall be effective as though they had been
10 originally included in the Social Security Amendments of
11 1983.

12 (d) Section 1878(f)(1) of such Act is amended by striking
13 out “such determination is rendered” and inserting in lieu
14 thereof “notification of such determination is received”.

15 SUBTITLE B—INCOME MAINTENANCE PROVISIONS
16 PARENTS AND SIBLINGS OF DEPENDENT CHILD
17 INCLUDED IN AFDC FAMILY

18 SEC. 971. (a) Section 402(a) of the Social Security Act
19 is amended—

20 (1) by striking out “and” at the end of paragraph
21 (35);

22 (2) by striking out the period at the end of para-
23 graph (36) and inserting in lieu thereof “; and”; and

24 (3) by adding at the end thereof the following new
25 paragraphs:

1 “(37) provide that in making the determination
2 under paragraph (7) with respect to a dependent child
3 and applying paragraph (8), the State agency shall
4 (except as otherwise provided in this part) include—

5 “(A) any parent of such child, and

6 “(B) any brother or sister of such child, if
7 such brother or sister meets the conditions de-
8 scribed in clauses (1) and (2) of section 406(a),
9 if such parent, brother, or sister is living in the same
10 home as the dependent child, and any income of or
11 available for such parent, brother, or sister shall be in-
12 cluded in making such determination and applying such
13 paragraph with respect to the family (notwithstanding
14 section 205(j), in the case of benefits provided under
15 title II); and

16 “(38) provide that in making the determination
17 under paragraph (7) with respect to a dependent child
18 whose parent or legal guardian is under the age select-
19 ed by the State pursuant to section 406(a)(2), the
20 State agency shall (except as otherwise provided in
21 this part) include any income of such minor’s own par-
22 ents or legal guardians who are living in the same
23 home as such minor and dependent child, to the same
24 extent that income of a stepparent is included under
25 paragraph (31).”.

1 (b) The amendments made by this section shall become
2 effective on April 1, 1984.

3 **HOUSEHOLDS HEADED BY MINOR PARENTS**

4 **SEC. 972.** (a) Section 402(a) of the Social Security Act
5 (as amended by section 971 of this Act) is further amended—

6 (1) by striking out “and” at the end of paragraph
7 (37);

8 (2) by striking out the period at the end of para-
9 graph (38) and inserting in lieu thereof “; and”; and

10 (3) by adding at the end thereof the following new
11 paragraph:

12 “(39) provide—

13 “(A) that any individual who is under the
14 age limit selected by the State pursuant to section
15 406(a)(2) and is not and has never been married,
16 and who is responsible for the care of a dependent
17 child (or is pregnant and on that basis eligible for
18 aid under the State plan) shall be eligible for aid
19 under the plan (and such dependent child shall be
20 eligible for such aid) only if such individual resides
21 in a place of residence maintained by such individ-
22 ual’s parent or legal guardian as such parent’s or
23 guardian’s own home; except that this paragraph
24 shall not apply to such individual if the State
25 agency determines that—

1 “(i) such individual has no parent or
2 legal guardian who is living and whose
3 whereabouts are known;

4 “(ii) the health and safety of such indi-
5 vidual or such dependent child would be seri-
6 ously jeopardized if such individual lived in
7 the same residence with such individual’s
8 parent or legal guardian; or

9 “(iii) such individual has lived apart
10 from his parent or legal guardian for a period
11 of at least one year prior to (I) the birth of
12 the dependent child for whose care the indi-
13 vidual is responsible, or (II) the making of a
14 claim for aid under this part, whichever is
15 later; and

16 “(B) that whenever an individual to whom
17 this paragraph applies is eligible for aid under the
18 plan, the State may make payments of the type
19 described in section 406(b)(2) for one or more
20 months until such individual exceeds the age limit
21 selected by the State pursuant to section
22 406(a)(2).”.

23 (b) The amendments made by this section shall become
24 effective on April 1, 1984.

1 CLARIFICATION OF EARNED INCOME PROVISION

2 SEC. 973. (a) Section 402(a)(8) of the Social Security
3 Act is amended by striking out “and” at the end of subpara-
4 graph (A), by adding “and” at the end of subparagraph (B),
5 and by adding at the end thereof the following new subpara-
6 graph:

7 “(C) provide that in implementing this paragraph
8 the term ‘earned income’ shall mean gross earned
9 income, prior to any deductions for taxes or other pur-
10 poses;”.

11 (b) The amendments made by subsection (a) shall
12 become effective on the date of the enactment of this Act.

13 CWEP WORK FOR FEDERAL AGENCIES

14 PERMITTED

15 SEC. 974. (a) Section 409(a) of the Social Security Act
16 is amended by adding at the end thereof the following new
17 paragraph:

18 “(4) (A) Participants in community work experience
19 programs under this section may, subject to subparagraph
20 (B), perform work in the public interest (which otherwise
21 meets the requirements of this section) for a Federal office or
22 agency with its consent, and, notwithstanding section 1342
23 of title 31, United States Code, or any other provision of law,
24 such agency may accept such services, but such participants

1 shall not be considered to be Federal employees for any pur-
2 pose.

3 “(B) The State agency shall provide appropriate work-
4 ers’ compensation and tort claims protection to each partici-
5 pant performing work for a Federal office or agency pursuant
6 to subparagraph (A).”.

7 (b) The amendment made by this section shall become
8 effective on the date of the enactment of this Act.

9 EARNED INCOME OF FULL-TIME STUDENTS

10 SEC. 975. (a) Section 402(a)(18) of the Social Security
11 Act is amended by inserting before the semicolon at the end
12 thereof the following: “except that, in determining the total
13 income of the family, the State may exclude any earned
14 income of a dependent child who is a full-time student, in
15 such amounts and for such period of time (not to exceed six
16 months) as the State may determine”

17 (b) The amendment made by subsection (a) shall become
18 effective on the date of the enactment of this Act.

19 ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT 20 OF RETROACTIVE BENEFITS UNDER TITLE II

21 SEC. 976. (a) Section 1127 of the Social Security Act is
22 amended to read as follows:

1 "ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT
2 OF RETROACTIVE BENEFITS UNDER TITLE II

3 "SEC. 1127. (a) Notwithstanding any other provision of
4 this Act, in any case where an individual—

5 "(1) is entitled to benefits under title II that were
6 not paid in the months in which they were regularly
7 due; and

8 "(2) is an individual or eligible spouse eligible for
9 supplemental security income benefits for one or more
10 months in which the benefits referred to in clause (1)
11 were regularly due,

12 then any benefits under title II that were regularly due in
13 such month or months, or supplemental security income
14 benefits for such month or months which are due but have
15 not been paid to such individual or eligible spouse, shall be
16 reduced by an amount equal to so much of the supplemental
17 security income benefits, whether or not paid retroactively,
18 as would not have been paid or would not be paid with re-
19 spect to such individual or spouse if he had received such
20 benefits under title II in the month or months in which they
21 were regularly due.

22 "(b) For purposes of this section, the term 'supplemental
23 security income benefits' means benefits paid or payable by
24 the Secretary under title XVI, including State supplementary
25 payments under an agreement pursuant to section 1616(a) or

1 an administration agreement under section 212(b) of Public
2 Law 93-66.

3 “(c) From the amount of the reduction made under sub-
4 section (a), the Secretary shall reimburse the State on behalf
5 of which supplementary payments were made for the amount
6 (if any) by which such State’s expenditures on account of
7 such supplementary payments for the month or months in-
8 volved exceeded the expenditures which the State would
9 have made (for such month or months) if the individual had
10 received the benefits under title II at the times they were
11 regularly due. An amount equal to the portion of such reduc-
12 tion remaining after reimbursement of the State under the
13 preceding sentence shall be covered into the general fund of
14 the Treasury.”.

15 (b) The amendment made by this section shall apply for
16 purposes of reducing retroactive benefits under title II of the
17 Social Security Act or retroactive supplemental security
18 income benefits payable beginning with the seventh month
19 following the month in which this Act is enacted; except that
20 in the case of retroactive title II benefits other than those
21 which result from a determination of entitlement following an
22 application for benefits under title II or from a reinstatement
23 of benefits under title II following a period of suspension or
24 termination of such benefits, it shall apply when the Secre-

1 tary of Health and Human Services determines that it is ad-
 2 ministratively feasible.

3 REGULATORY INITIATIVE ON MEDICAL SUPPORT

4 SEC. 977. The Secretary of Health and Human Serv-
 5 ices shall issue regulations to require that State agencies ad-
 6 ministering the child support enforcement program under
 7 part D of title IV of the Social Security Act petition courts to
 8 include medical support as part of any child support order
 9 whenever health care coverage is available to the absent
 10 parent at a reasonable cost. Such regulations shall also pro-
 11 vide for improved information exchange between such State
 12 agencies and the State agencies administering the State med-
 13 icaid programs under title XIX of such Act with respect to
 14 the availability of health insurance coverage.

15 SUBTITLE C—OASDI PROVISIONS

16 SPECIAL SOCIAL SECURITY TREATMENT FOR 17 CHURCH EMPLOYEES

18 SEC. 981. (a)(1) Section 210(a)(8) of the Social Security
 19 Act is amended by inserting “(A)” after “(8)”, by striking out
 20 “this paragraph” and inserting in lieu thereof “this subpara-
 21 graph”, and by adding at the end thereof the following new
 22 subparagraph:

23 “(B) Service performed in the employ of a church
 24 or qualified church-controlled organization if such
 25 church or organization has in effect an election under

1 section 3121(w) of the Internal Revenue Code of
2 1954, other than service in an unrelated trade or busi-
3 ness (within the meaning of section 513(a) of such
4 Code);”.

5 (2) Section 3121(b)(8) of the Internal Revenue Code of
6 1954 is amended by inserting “(A)” after “(8)”, by striking
7 out “this paragraph” and inserting in lieu thereof “this sub-
8 paragraph”, and by adding at the end thereof the following
9 new subparagraph:

10 “(B) service performed in the employ of a church
11 or qualified church-controlled organization if such
12 church or organization has in effect an election under
13 subsection (w), other than service in an unrelated trade
14 or business (within the meaning of section 513(a));”.

15 (b) Section 3121 of the Internal Revenue Code of 1954
16 is amended by adding at the end thereof the following new
17 subsection:

18 “(w) EXEMPTION OF CHURCHES AND QUALIFIED
19 CHURCH-CONTROLLED ORGANIZATIONS.—

20 “(1) GENERAL RULE.—Any church or qualified
21 church-controlled organization (as defined in paragraph
22 (3)) may make an election within the time period de-
23 scribed in paragraph (2), in accordance with such pro-
24 cedures as the Secretary determines to be appropriate,
25 that services performed in the employ of such church

1 or organization shall be excluded from employment for
2 purposes of title II of the Social Security Act and
3 chapter 21 of this Code. An election may be made
4 under this subsection only if the church or qualified
5 church-controlled organization states that such church
6 or organization is opposed for religious reasons to the
7 payment of the tax under section 3111, and only if
8 such church or organization did not have a waiver in
9 effect under subsection (k) on December 31, 1980.

10 “(2) TIMING AND DURATION OF ELECTION.—An
11 election under this subsection must be made prior to
12 the first date, more than 90 days after the date of the
13 enactment of this subsection, on which a quarterly em-
14 ployment tax return for the tax imposed under section
15 3111 is due, or would be due but for the election, from
16 such church or organization. An election under this
17 subsection shall apply to current and future employees,
18 and shall apply to service performed after December
19 31, 1983. The election may not be revoked by the
20 church or organization, but shall be permanently re-
21 voked by the Secretary if such church or organization
22 fails to furnish the information required under section
23 6051 to the Secretary for a period of two years or
24 more with respect to remuneration paid for such serv-
25 ices by such church or organization, and, upon request

1 by the Secretary, fails to furnish all such previously
2 unfurnished information for the period covered by the
3 election. Such revocation shall apply retroactively to
4 the beginning of the two-year period for which the in-
5 formation was not furnished.

6 “(3) DEFINITIONS.—

7 “(A) For purposes of this subsection, the
8 term ‘church’ means a church, a convention or as-
9 sociation of churches, or an elementary or second-
10 ary school which is controlled, operated, or princi-
11 pally supported by a church or by a convention or
12 association of churches.

13 “(B) For purposes of this subsection, the
14 term ‘qualified church-controlled organization’
15 means any church-controlled tax-exempt organiza-
16 tion described in section 501(c)(3), other than an
17 organization which—

18 “(i) offers goods, services, or facilities
19 for sale, other than on an incidental basis, to
20 the general public, other than goods, serv-
21 ices, or facilities which are sold at a nominal
22 charge which is substantially less than the
23 cost of providing such goods, services, or
24 facilities; and

1 “(ii) normally receives more than 25
2 percent of its support from either (I) govern-
3 mental sources, or (II) receipts from admis-
4 sions, sales of merchandise, performance of
5 services, or furnishing of facilities, in activi-
6 ties which are not unrelated trades or busi-
7 nesses, or both.”.

8 (c)(1) Section 211(c)(2) of the Social Security Act is
9 amended—

10 (A) by striking out “and” at the end of subpara-
11 graph (E);

12 (B) by striking out the semicolon at the end of
13 subparagraph (F) and inserting in lieu thereof “, and”;
14 and

15 (C) by adding at the end thereof the following
16 new subparagraph:

17 “(G) service described in section 210(a)(8)(B);”.

18 (2) Section 1402(c)(2) of the Internal Revenue Code of
19 1954 is amended—

20 (A) by striking out “and” at the end of subpara-
21 graph (E);

22 (B) by striking out the semicolon at the end of
23 subparagraph (F) and inserting in lieu thereof “, and”;
24 and

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

3 “(G) service described in section 3121(b)(8)(B);”.

4 (d)(1) Section 211(a) of the Social Security Act is
5 amended—

6 (A) by striking out “and” at the end of paragraph
7 (11);

8 (B) by striking out the period at the end of para-
9 graph (12) and inserting in lieu thereof “; and”; and

10 (C) by inserting after paragraph (12) the following
11 new paragraph:

12 “(13) With respect to remuneration for services
13 which are treated as services in a trade or business
14 under subsection (c)(2)(G)—

15 “(A) no deduction for trade or business ex-
16 penses provided under the Internal Revenue Code
17 of 1954 (other than the deduction under para-
18 graph (11) of this subsection) shall apply;

19 “(B) the provisions of subsection (b)(2) shall
20 not apply; and

21 “(C) if the amount of such remuneration
22 from an employer for the taxable year is less than
23 \$100, such remuneration from that employer shall
24 not be included in self-employment income.”.

1 (2) Section 1402(a) of the Internal Revenue Code of
2 1954 is amended—

3 (A) by striking out “and” at the end of paragraph
4 (12);

5 (B) by striking out the period at the end of para-
6 graph (13) and inserting in lieu thereof “; and”; and

7 (C) by inserting after paragraph (13) the following
8 new paragraph:

9 “(14) With respect to remuneration for services
10 which are treated as services in a trade or business
11 under subsection (c)(2)(G)—

12 “(A) no deduction for trade or business ex-
13 penses provided under this Code (other than the
14 deduction under paragraph (12)) shall apply;

15 “(B) the provisions of subsection (b)(2) shall
16 not apply; and

17 “(C) if the amount of such remuneration
18 from an employer for the taxable year is less than
19 \$100, such remuneration from that employer shall
20 not be included in self-employment income.”.

21 (e) The amendments made by this section shall apply to
22 service performed after December 31, 1983.

23 (f) In any case where a church or qualified church-con-
24 trolled organization makes an election under section 3121(w)
25 of the Internal Revenue Code of 1954, the Secretary of the

1 Treasury shall refund (without interest) to such church or
2 organization any taxes paid under sections 3101 and 3111 of
3 such Code with respect to service performed after December
4 31, 1983, which is covered under such election. The refund
5 shall be conditional upon the church or organization agreeing
6 to pay to each employee (or former employee) the portion of
7 the refund attributable to the tax imposed on such employee
8 (or former employee) under section 3101, and such employee
9 (or former employee) may not receive any other refund pay-
10 ment of such taxes.

11 **SOCIAL SECURITY COVERAGE FOR LEGISLATIVE**
12 **BRANCH EMPLOYEES NOT COVERED BY THE**
13 **CIVIL SERVICE RETIREMENT SYSTEM**

14 **SEC. 982. (a)(1) Clause (v) of section 210(a)(5) of the**
15 **Social Security Act is amended to read as follows:**

16 “(v) any other service in the legislative
17 branch of the Federal Government if such
18 service (I) is performed by an individual who
19 was not subject to subchapter III of chapter
20 83 of title 5, United States Code, on Decem-
21 ber 31, 1983, or (II) is performed by an indi-
22 vidual who has, at any time after December
23 31, 1983, received a lump-sum payment
24 under section 8342(a) of title 5, United
25 States Code, or (III) is performed by an indi-

1 service (I) is performed by an individual who
2 was not subject to subchapter III of chapter
3 83 of title 5, United States Code, on Decem-
4 ber 31, 1983, or (II) is performed by an indi-
5 vidual who has, at any time after December
6 31, 1983, received a lump-sum payment
7 under section 8342(a) of title 5, United
8 States Code, or (III) is performed by an indi-
9 vidual after such individual has otherwise
10 ceased to be subject to subchapter III of
11 chapter 83 of title 5, United States Code, or
12 does not have an application pending for cov-
13 erage under such subchapter, for any period
14 of time after December 31, 1983, while per-
15 forming service in the legislative branch of
16 the Federal Government (determined without
17 regard to the provisions of subparagraph (B)
18 relating to continuity of employment for indi-
19 viduals who return to service within 365
20 days); and for purposes of this clause, an in-
21 dividual shall be 'subject to subchapter III of
22 chapter 83 of title 5, United States Code',
23 only if such individual's pay is subject to de-
24 ductions and contributions (concurrent with
25 the performance of the service) under section

1 8334(a) of such title 5, or such individual is
2 receiving an annuity from the Civil Service
3 Retirement and Disability Fund (for service
4 as an employee);”.

5 (b) Except as otherwise provided in subsection (d), the
6 amendments made by subsection (a) shall be effective with
7 respect to service performed after December 31, 1983.

8 (c) For purposes of section 210(a)(5)(v) of the Social
9 Security Act and section 3121(b)(5)(v) of the Internal Reve-
10 nue Code of 1954, an individual shall not be considered to be
11 subject to subchapter III of chapter 83 of title 5, United
12 States Code, if he is contributing a reduced amount by reason
13 of the Federal Employees' Retirement Contribution Tempo-
14 rary Adjustment Act of 1983.

15 (d)(1) Any individual who—

16 (A) was performing service in the employ of the
17 United States (or an instrumentality thereof) and was
18 subject to subchapter III of chapter 83 of title 5,
19 United States Code, on December 31, 1983 (as deter-
20 mined for purposes of section 210(a)(5)(v) of the Social
21 Security Act), and

22 (B)(i) received a lump-sum payment under section
23 8342(a) of such title 5 after December 31, 1983, and
24 prior to the date of the enactment of this Act, or (ii)
25 has otherwise ceased to be subject to subchapter III of

1 chapter 83 of such title (or did not have an application
2 pending for coverage under such subchapter) after De-
3 cember 31, 1983, and prior to the date of the enact-
4 ment of this Act, for any service performed in the leg-
5 islative branch,
6 shall, if such individual again becomes subject to subchapter
7 III of chapter 83 of title 5 (or applies for coverage under
8 such subchapter) within 30 days after the date of the enact-
9 ment of this Act, requalify for the exemption from social se-
10 curity coverage and taxes under section 210(a)(5) of the
11 Social Security Act and section 3121(b)(5) of the Internal
12 Revenue Code of 1954 for service in the legislative branch of
13 the Federal Government performed after again becoming
14 subject to such subchapter, as if such cessation of coverage
15 under title 5 had not occurred.

16 (2) An individual meeting the requirements of subpara-
17 graphs (A) and (B) of paragraph (1) who is not in the employ
18 of the United States or an instrumentality thereof on the date
19 of the enactment of this Act may requalify for such exemp-
20 tions in the same manner as under paragraph (1) if such indi-
21 vidual again becomes subject to subchapter III of chapter 83
22 of title 5 (or applies for coverage under such subchapter)
23 within 30 days after the date on which he first returns to
24 service in the legislative branch after such date of enactment,
25 if such date (on which he returns to service) is within 365

1 days after he was last in the employ of the United States or
2 an instrumentality thereof.

3 (3) If an individual meeting the requirements of subpara-
4 graphs (A) and (B) of paragraph (1) does not again become
5 subject to subchapter III of chapter 83 of title 5 (or apply for
6 coverage under such subchapter) within the relevant 30-day
7 period as provided in paragraph (1) or (2), social security cov-
8 erage and taxes by reason of section 210(a)(5)(v) of the
9 Social Security Act and section 3121(b)(5)(v) of the Internal
10 Revenue Code of 1954 shall, with respect to such individ-
11 ual's service in the legislative branch of the Federal Govern-
12 ment, become effective with the first month beginning after
13 such 30-day period.

14 (4) The provisions of paragraphs (1) and (2) shall apply
15 only for purposes of reestablishing an exemption from social
16 security coverage and taxes, and do not affect the amount of
17 service to be credited to an individual for purposes of title 5,
18 United States Code.

19 **EMPLOYEES OF NONPROFIT ORGANIZATIONS**
20 **WHO ARE REQUIRED TO PARTICIPATE IN**
21 **THE CIVIL SERVICE RETIREMENT SYSTEM**

22 **SEC. 983. (a)** For purposes of section 210(a)(5) of the
23 Social Security Act (as in effect in January 1983 and as in
24 effect on and after January 1, 1984) and section 3121(b)(5)
25 of the Internal Revenue Code of 1954 (as so in effect), serv-

1 ice performed in the employ of a nonprofit organization de-
2 scribed in section 501(c)(3) of the Internal Revenue Code of
3 1954 by an employee who is required by law to be subject to
4 subchapter III of chapter 83 of title 5, United States Code,
5 with respect to such service, shall be considered to be service
6 performed in the employ of an instrumentality of the United
7 States.

8 (b) For purposes of section 203 of the Federal Employ-
9 ees' Retirement Contribution Temporary Adjustment Act of
10 1983, service described in subsection (a) which is also "em-
11 ployment" for purposes of title II of the Social Security Act,
12 shall be considered to be "covered service".

13 (c) The provisions of this section shall apply to service
14 performed on and after January 1, 1984.

15 **OTHER TECHNICAL CORRECTIONS TO TITLE II**
16 **OF THE SOCIAL SECURITY ACT AND THE IN-**
17 **TERNAL REVENUE CODE NECESSITATED BY**
18 **THE SOCIAL SECURITY AMENDMENTS OF**
19 **1983**

20 **SEC. 984. (a)** Section 201(l)(3)(B)(i) of the Social Secu-
21 rity Act is amended by inserting "Insurance" after "Survi-
22 vors".

23 (b)(1) Section 202(c)(1) of such Act is amended (in the
24 matter appearing between subparagraphs (D) and (E) of such
25 section)—

1 (A) by striking out all that follows “has attained”
2 and precedes “, the first month” in clause (i) and in-
3 serting in lieu thereof “retirement age (as defined in
4 section 216(l))”;

5 (B) by striking out all that follows “has not at-
6 tained” and precedes “, or” in clause (ii)(I) and insert-
7 ing in lieu thereof “retirement age (as defined in sec-
8 tion 216(l))”; and

9 (C) by striking out “to which” in the matter fol-
10 lowing clause (ii) and inserting in lieu thereof “in
11 which”.

12 (2) Section 202(c)(5)(A) of such Act is amended by
13 striking out “classes (i) and (ii)” and inserting in lieu thereof
14 “clauses (i) and (ii)”.

15 (e)(1) Section 202(e)(2)(A) of such Act is amended by
16 striking out “paragraph (8)” and inserting in lieu thereof
17 “paragraph (7)”.

18 (2) Section 202(e)(2)(C) of such Act is amended—

19 (A) by striking out the period immediately after
20 “deceased individual”; and

21 (B) by inserting a closing parenthesis after “para-
22 graph (3) of such subsection (w)”.

23 (3) Section 202(e)(7) of such Act is amended by striking
24 out “paragraph (2)(B)” and inserting in lieu thereof “para-
25 graph (2)(D)”.

1 (d)(1) Section 202(f)(1)(C)(ii) of such Act is amended by
2 striking out all that follows “attained” and precedes “, and”
3 and inserting in lieu thereof “retirement age (as defined in
4 section 216(l))”.

5 (2) Section 202(f)(2)(A) of such Act is amended by strik-
6 ing out “paragraph (3)(B)” and inserting in lieu thereof
7 “paragraph (3)(D)”.

8 (3) Section 202(f)(3)(C) of such Act is amended by strik-
9 ing out the period immediately after “deceased individual”.

10 (e) Section 202(q)(9)(B)(i) of such Act is amended by
11 striking out “section 216(a)” and inserting in lieu thereof
12 “section 216(l)”.

13 (f) Section 202(x) of such Act is amended by adding at
14 the beginning thereof the following heading:

15 “Limitation on Payments to Prisoners”.

16 (g)(1) Section 203(d) of such Act is amended—

17 (A) by striking out “on seven or more different
18 calendar days of which he engaged” in paragraph
19 (1)(A) and inserting in lieu thereof “for more than
20 forty-five hours of which such individual engaged”; and

21 (B) by striking out “on seven or more different
22 calendar days” in paragraph (2) and inserting in lieu
23 thereof “for more than forty-five hours”.

1 (2) The amendments made by paragraph (1) shall apply
2 only with respect to months beginning with the second month
3 after the month in which this Act is enacted.

4 (3) Paragraphs (3) and (8)(D) of section 203(f) of such
5 Act are each amended by striking out “who has attained re-
6 tirement age” and inserting in lieu thereof in each instance
7 “who has attained the retirement age applicable for old-age
8 insurance benefits”.

9 (h) Section 205(r) of such Act is amended—

10 (1) by striking out “(r)(3)(A) and (r)(3)(B)” in
11 paragraph (4) and inserting in lieu thereof “subpara-
12 graphs (A) and (B) of paragraph (3)”;

13 (2) by striking out “the Act” in paragraph (7) and
14 inserting in lieu thereof “this Act”; and

15 (3) by striking out the heading and inserting in
16 lieu thereof the following:

17 “Use of Death Certificates to Correct Program
18 Information”.

19 (i) Section 209(e) of such Act is amended by striking out
20 the semicolon after “Act of 1974”.

21 (j)(1) Section 215(a)(7)(B)(ii)(I) of the Social Security
22 Act is amended by striking out “who initially become eligible
23 for old-age or disability insurance benefits” and inserting in
24 lieu thereof “who become eligible (as defined in paragraph
25 (3)(B)) for old-age insurance benefits (or became eligible as so

1 defined for disability insurance benefits before attaining age
2 62”.

3 (2) Section 215(a)(7)(C)(ii) of such Act is amended by
4 striking out “survivors” and inserting in lieu thereof “survi-
5 vor’s”.

6 (3) Section 215(f)(9)(B)(i) of such Act is amended by
7 striking out “as though such primary insurance amount had
8 initially been computed without regard to subsection (a)(7) or
9 (d)(5)” and inserting in lieu thereof “as though the recomput-
10 ed primary insurance amount were being computed under
11 subsection (a)(7) or (d)(5)”.

12 (4) Section 215(i)(5)(A) of such Act is amended by
13 adding at the end thereof the following new sentence: “Any
14 amount so increased that is not a multiple of \$0.10 shall be
15 decreased to the next lower multiple of \$0.10.”.

16 (5) Section 215(i)(5)(B) of such Act is amended—

17 (A) by striking out clause (iii) and inserting in lieu
18 thereof the following:

19 “(iii) multiplying such quotient by 100 so as to
20 yield such applicable additional percentage (which shall
21 be rounded to the nearest one-tenth of 1 percent),”;

22 (B) by striking out “ending with such subsequent
23 calendar year” in clauses (iv) and (v) and inserting in
24 lieu thereof “ending with the year before such subse-
25 quent calendar year”; and

1 (C) by striking out “initially became eligible for
2 an old-age or disability insurance benefit” in clause (v)
3 and inserting in lieu thereof “became eligible (as de-
4 fined in subsection (a)(3)(B)) for the old-age or disabil-
5 ity insurance benefit that is being increased under this
6 subsection”.

7 (k)(1) Section 216(f) of such Act is amended by adding
8 at the end thereof the following new sentence: “For purposes
9 of subparagraph (C) of section 202(c)(1), a divorced husband
10 shall be deemed not to be married throughout the month in
11 which he becomes divorced.”.

12 (2) Section 216(h)(3)(A)(i) of such Act is amended by
13 striking out “(as defined in section 216(l))” and inserting in
14 lieu thereof “(as defined in subsection (l))”.

15 (3) Section 216(i)(2) of such Act is amended by striking
16 out “(as defined in section 216(l))” in subparagraphs (B) and
17 (D) and inserting in lieu thereof “(as defined in subsection
18 (l))”.

19 (l) Subparagraph (B) of section 223(e)(1) of such Act is
20 amended by moving clause (iii) two ems to the left, and by
21 moving the preceding provisions of such subparagraph two
22 ems to the right, so that the left margin of such subparagraph
23 and its clauses is indented four ems and is aligned with the
24 margin of subparagraph (A) of such section.

1 (m) Section 229(b) of such Act is amended by adding at
2 the end thereof the following new sentence: "Additional ad-
3 justments may be made in the amounts so authorized to be
4 appropriated to the extent that the amounts transferred in
5 accordance with clauses (i) and (ii) of section 151(b)(3)(B) of
6 the Social Security Amendments of 1983 with respect to
7 wages deemed to have been paid in 1983 were in excess of or
8 were less than the amount which the Secretary, on the basis
9 of appropriate data, determines should have been so
10 transferred."

11 TECHNICAL CORRECTIONS TO THE SOCIAL
12 SECURITY AMENDMENTS OF 1983

13 SEC. 985. (a) Section 101(d) of the Social Security
14 Amendments of 1983 (Public Law 98-21) is amended by
15 striking out "remuneration paid" and inserting in lieu thereof
16 "service performed".

17 (b) Section 112(f) of such Amendments is amended by
18 inserting "of such Act" after "section 201(a)".

19 (c) Section 201(c) of such Amendments is amended—

20 (1) by inserting "the" immediately before "age of
21 65" in paragraph (1); and

22 (2) by inserting "the" immediately before "age of
23 sixty-five" in paragraph (3).

24 (d) Section 301(a)(5) of such Amendments is amended
25 by striking out "Section 202(c)" and inserting in lieu thereof

1 “Effective with respect to monthly insurance benefits for
2 months after December 1984 (but only on the basis of appli-
3 cations filed on or after January 1, 1985), section 202(c)”.

4 (e) Section 305(d)(2) of such Amendments is amended
5 by inserting “each place it appears” immediately before “in
6 subsection (c)(4)(C)”.

7 (f) Section 339(b) of such amendments is amended to
8 read as follows:

9 “(b) Section 223 of such Act is amended by adding at
10 the end thereof the following new subsection:

11 “ ‘(h) For provisions relating to limitation on payments
12 to prisoners, see section 202(x).’ ”.

13 (g) Section 111(e) of such Amendments is amended by
14 inserting “Budget” before “Reconciliation”.

15 **SUBTITLE D—IMPLEMENTATION OF GRACE COMMISSION**

16 **RECOMMENDATIONS**

17 **INCOME AND ELIGIBILITY VERIFICATION**

18 **PROCEDURES**

19 **SEC. 991.** Part A of title XI of the Social Security Act
20 is amended by adding at the end thereof the following new
21 section:

1 "INCOME AND ELIGIBILITY VERIFICATION
2 SYSTEM

3 "SEC. 1136. (a) In order to meet the requirements of
4 this section, a State must have in effect an income and eligi-
5 bility verification system under which—

6 "(1) the State shall require, as a condition of eli-
7 gibility for benefits under any program listed in subsec-
8 tion (b), that each applicant for or recipient of benefits
9 under that program furnish to the State his social secu-
10 rity account number (or numbers, if he has more than
11 one such number), and the State shall utilize such ac-
12 count numbers in the administration of that program so
13 as to enable the association of the records pertaining to
14 the applicant or recipient with his account number;

15 "(2) wage information from agencies administering
16 State unemployment compensation laws available pur-
17 suant to section 3304(a)(16) of the Internal Revenue
18 Code of 1954, wage information reported pursuant to
19 paragraph (3) of this subsection, and wage, income and
20 other information from the Social Security Administra-
21 tion and the Internal Revenue Service available pursu-
22 ant to section 6103(l)(7) of such Code, shall be re-
23 quested and utilized to the extent that such information
24 may be useful in verifying eligibility for, and the
25 amount of, benefits available under any program listed

1 in subsection (b), as determined by the Secretary of
2 Health and Human Services (or, in the case of the un-
3 employment compensation program, by the Secretary
4 of Labor);

5 “(3) employers in such State are required to make
6 quarterly wage reports to a State agency (which may
7 be the agency administering the State’s unemployment
8 compensation law) except that the Secretary of Labor
9 (in consultation with the Secretary of Health and
10 Human Services) may waive the provisions of this
11 paragraph if he determines that the State has in effect
12 an alternative system which is as effective and timely
13 for purposes of providing employment related income
14 and eligibility data for the purposes described in para-
15 graph (2);

16 “(4) the State agencies administering the pro-
17 grams listed in subsection (b) adhere to standardized
18 formats and procedures established by the Secretary of
19 Health and Human Services under which—

20 “(A) the agencies will exchange with each
21 other information in their possession which may
22 be of use in establishing or verifying eligibility or
23 benefit amounts under any other such program;

24 “(B) such information shall be made availa-
25 ble to assist in the child support program under

1 part D of title IV of this Act, and to assist the
2 Secretary of Health and Human Services in es-
3 tablishing or verifying eligibility or benefit
4 amounts under titles II and XVI of this Act, but
5 subject to the safeguards and restrictions estab-
6 lished by the Secretary of the Treasury with re-
7 spect to information released pursuant to section
8 6103 (l) of the Internal Revenue Code of 1954;
9 and

10 “(C) the use of such information shall be tar-
11 geted to those uses which are most likely to be
12 productive in identifying and preventing ineligibil-
13 ity and incorrect payments;

14 “(5) adequate safeguards are in effect so as to
15 assure that—

16 “(A) the information exchanged by the State
17 agencies is made available only to the extent nec-
18 essary to assist in the valid administrative needs
19 of the program receiving such information, and
20 the information released pursuant to section 6103
21 (l) of the Internal Revenue Code is only ex-
22 changed with agencies authorized to receive such
23 information under such section 6103 (l); and

24 “(B) the information is adequately protected
25 against unauthorized disclosure for other purposes,

1 as provided in regulations established by the Sec-
2 retary of Health and Human Services, or, in the
3 case of the unemployment compensation program,
4 the Secretary of Labor, or in the case of informa-
5 tion released pursuant to section 6103 (l) of the
6 Internal Revenue Code of 1954, the Secretary of
7 the Treasury; and

8 “(6) accounting systems are utilized which assure
9 that programs providing data receive appropriate reim-
10 bursement from the programs utilizing the data for the
11 costs incurred in providing the data.

12 “(b) The programs which must participate in the income
13 verification system are—

14 “(1) the aid to families with dependent children
15 program under part A of title IV of this Act;

16 “(2) the medicaid program under title XIX of this
17 Act;

18 “(3) the unemployment compensation program
19 under section 3304 of the Internal Revenue Code of
20 1954; and

21 “(4) any State program under a plan approved
22 under title I, X, XIV, or XVI of this Act.”.

23 (b)(1) Section 402(a)(25) of the Social Security Act is
24 amended to read as follows:

1 “(25) provide that information is requested and
2 exchanged for purposes of income and eligibility verifi-
3 cation in accordance with a State system which meets
4 the requirements of section 1136 of this Act;”.

5 (2) Section 402(a)(29) of such Act is repealed.

6 (3) Section 411 of such Act is repealed.

7 (c) Section 1902(a) of the Social Security Act is
8 amended—

9 (1) by striking out “and” at the end of paragraph
10 (43);

11 (2) by striking out the period at the end of para-
12 graph (44) and inserting in lieu thereof “; and”; and

13 (3) by inserting after paragraph (44) the following
14 new paragraph:

15 “(45) provide that information is requested and
16 exchanged for purposes of income and eligibility verifi-
17 cation in accordance with a State system which meets
18 the requirements of section 1136 of this Act.”.

19 (d) Section 303 of the Social Security Act is amended
20 by adding at the end thereof the following new subsection:

21 “(f) The State agency charged with the administration
22 of the State law shall provide that information shall be re-
23 quested and exchanged for purposes of income and eligibility
24 verification in accordance with a State system which meets
25 the requirements of section 1136 of this Act.”.

1 (e) Section 2 (a) of the Social Security Act is amend-
2 ed—

3 (1) by striking out the period at the end of para-
4 graph (10) and inserting in lieu thereof “; and”; and

5 (2) by adding at the end thereof the following new
6 paragraph:

7 “(11) provide that information is requested and
8 exchanged for purposes of income and eligibility verifi-
9 cation in accordance with a State system which meets
10 the requirements of section 1136 of this Act.”.

11 (f) Section 1002 (a) of the Social Security Act is amend-
12 ed—

13 (1) by striking out “and” at the end of clause
14 (12); and

15 (2) by inserting before the period at the end there-
16 of the following: “; and (14) provide that information is
17 requested and exchanged for purposes of income and
18 eligibility verification in accordance with a State
19 system which meets the requirements of section 1136
20 of this Act”.

21 (g) Section 1402 (a) of the Social Security Act is
22 amended—

23 (1) by striking out “and” at the end of clause
24 (11); and

1 (2) by inserting before the period at the end there-
2 of the following: “; and (13) provide that information is
3 requested and exchanged for purposes of income and
4 eligibility verification in accordance with a State
5 system which meets the requirements of section 1136
6 of this Act”.

7 (h) Section 1602 (a) of the Social Security Act (as in
8 effect with respect to Puerto Rico, Guam, and the Virgin
9 Islands) is amended—

10 (1) by striking out “and” at the end of paragraph
11 (13);

12 (2) by striking out the period at the end of para-
13 graph (14) and inserting in lieu thereof “; and”; and

14 (3) by inserting after paragraph (14) the following
15 new paragraph:

16 “(15) provide that information is requested and
17 exchanged for purposes of income and eligibility verifi-
18 cation in accordance with a State system which meets
19 the requirements of section 1136 of this Act.”.

20 (i) Section 1631(e)(1)(B) of the Social Security Act is
21 amended by adding at the end thereof the following: “For
22 this purpose, the Secretary shall, as may be necessary, re-
23 quest and utilize information available pursuant to section
24 6103(l)(7) of the Internal Revenue Code of 1954, and any

1 information which may be available from State systems under
2 section 1136 of this Act.”.

3 (j)(1) Section 6103 (l) (7) of the Internal Revenue Code
4 of 1954 is amended to read as follows:

5 “(7) Disclosure of return information to Federal,
6 State, and local agencies administering certain pro-
7 grams under the Social Security Act or the Food
8 Stamp Act of 1977.—

9 “(A) RETURN INFORMATION FROM SOCIAL
10 SECURITY ADMINISTRATION.—The Commission-
11 er of Social Security shall, upon written request,
12 disclose return information from returns with re-
13 spect to net earnings from self-employment (as de-
14 fined in section 1402), wages (as defined in sec-
15 tion 3121(a) or 3401(a)), and payments of retire-
16 ment income, which have been disclosed to the
17 Social Security Administration as provided by
18 paragraph (1) or (5) of this subsection, to any
19 Federal, State, or local agency administering a
20 program listed in subparagraph (D).

21 “(B) RETURN INFORMATION FROM INTER-
22 NAL REVENUE SERVICE.—The Secretary shall,
23 upon written request, disclose return information
24 from returns with respect to unearned income
25 from the Internal Revenue Service files to any

1 Federal, State, or local agency administering a
2 program listed in subparagraph (D).

3 “(C) RESTRICTION ON DISCLOSURE.—The
4 Commissioner of Social Security and the Secre-
5 tary shall disclose return information under sub-
6 paragraphs (A) and (B) only for purposes of, and
7 to the extent necessary in, determining eligibility
8 for, or the correct amount of, benefits under a
9 program listed in subparagraph (D).

10 “(D) PROGRAMS TO WHICH RULE AP-
11 PLIES.—The programs to which this paragraph
12 applies are:

13 “(i) aid to families with dependent chil-
14 dren provided under a State plan approved
15 under part A of title IV of the Social Secu-
16 rity Act;

17 “(ii) medical assistance provided under a
18 State plan approved under title XIX of the
19 Social Security Act;

20 “(iii) supplemental security income
21 benefits provided under title XVI of the
22 Social Security Act;

23 “(iv) any benefits provided under a
24 State plan approved under title I, X, XIV,
25 or XVI of the Social Security Act (as those

1 titles apply to Puerto Rico, Guam, and the
2 Virgin Islands);

3 “(v) unemployment compensation pro-
4 vided under a State law described in section
5 3304 of this Code; and

6 “(vi) assistance provided under the Food
7 Stamp Act of 1977.”.

8 (2) Section 6103(a)(2) of such Code is amended by strik-
9 ing out “or of any local child support enforcement agency”
10 and inserting in lieu thereof “, any local child support en-
11 forcement agency, or any local agency administering a pro-
12 gram listed in subsection (l)(7)(D)”.

13 (k)(1) The amendments made by subsections (i) and (j)
14 shall become effective on the date of the enactment of this
15 Act.

16 (2) The amendments made by subsections (a) through (h)
17 shall become effective on April 1, 1985. In the case of any
18 State which submits a plan describing a good faith effort by
19 such State to come into compliance with the requirements of
20 such subsections, the Secretary of Health and Human Serv-
21 ices (or, in the case of the State unemployment compensation
22 program or the wage reporting requirements, the Secretary
23 of Labor) may by waiver grant a delay in the effective date of
24 such subsections, but such waiver may not delay the effective
25 date beyond September 30, 1986.

1 **COLLECTION AND DEPOSIT OF PAYMENTS TO**
2 **EXECUTIVE AGENCIES**

3 **SEC. 992. (a)(1)** Subchapter II of chapter 37 of title 31,
4 United States Code, is amended by adding at the end thereof
5 the foilowing new section:

6 **“§ 3720. Collection of payments**

7 **“(a)** Each head of an executive agency shall, under such
8 regulations as the Secretary of the Treasury shall prescribe,
9 provide for the timely deposit of money by officials and
10 agents of such agency in accordance with section 3302, and
11 for the collection and timely deposit of sums owed to such
12 agency by the use of such procedures as withdrawals and
13 deposits by electronic transfer of funds, automatic withdraw-
14 als from accounts at financial institutions, and a system under
15 which financial institutions receive and deposit, on behalf of
16 the executive agency, payments transmitted to post office
17 lockboxes. The Secretary is authorized to collect from any
18 agency not complying with the requirements imposed pursu-
19 ant to the preceding sentence a charge in an amount the
20 Secretary determines to be the cost to the general fund
21 caused by such noncompliance.

22 **“(b)** The head of an executive agency shall pay to the
23 Secretary of the Treasury charges imposed pursuant to sub-
24 section (a). Payments shall be made out of amounts appropri-
25 ated or otherwise made available to carry out the program to

1 which the collections relate. The amounts of the charges paid
2 under this subsection shall be deposited in the Cash Manage-
3 ment Improvements Fund established by subsection (c).

4 “(c) There is established in the Treasury of the United
5 States a revolving fund to be known as the ‘Cash Manage-
6 ment Improvements Fund’. Sums in the fund shall be availa-
7 ble without fiscal year limitation for the payment of expenses
8 incurred in developing the methods of collection and deposit
9 described in subsection (a) of this section and the expenses
10 incurred in carrying out collections and deposits using such
11 methods, including the costs of personal services and the
12 costs of the lease or purchase of equipment and operating
13 facilities.”.

14 (2) The analysis of subchapter II of chapter 37 of title
15 31, United States Code, is amended by adding at the end
16 thereof the following new item:

“3720. Collection of payments.”.

17 (3) The Secretary of the Treasury shall prescribe regu-
18 lations, including regulations under section 3720 of title 31,
19 United States Code, designed to achieve by October 1, 1986,
20 full implementation of the purposes of this subsection.

21 (b)(1) Subsection (c) of section 3302 of title 31, United
22 States Code, is amended—

23 (A) by inserting “(1)” after the subsection desig-
24 nation;

1 (B) by striking out “, but not later than the 30th
2 day after the custodian receives the money,”;

3 (C) by inserting after the first sentence the follow-
4 ing new sentence: “Except as provided in paragraph
5 (2), money required to be deposited pursuant to this
6 subsection shall be deposited not later than the third
7 day after the custodian receives the money.”; and

8 (D) by adding at the end thereof the following
9 new paragraph:

10 “(2) The Secretary of the Treasury may by regulation
11 prescribe that a person having custody or possession of
12 money required by this subsection to be deposited shall de-
13 posit such money during a period of time that is greater or
14 lesser than the period of time specified by the second sen-
15 tence of paragraph (1).”.

16 (2) The amendments made by this subsection shall
17 become effective January 1, 1985.

18 **COLLECTION OF NON-TAX DEBTS OWED TO**
19 **FEDERAL AGENCIES**

20 **SEC. 993. (a)(1)** Subchapter II of chapter 37 of title 31,
21 United States Code, is amended by adding at the end thereof
22 the following new section:

23 **“§ 3721. Reduction of tax refund by amount of debt**

24 **“(a)** Any Federal agency that is owed a past-due legally
25 enforceable debt (other than any OASDI overpayment and

1 past-due support) by a named person shall, in accordance
2 with regulations issued pursuant to subsection (d), notify the
3 Secretary of the Treasury of the amount of such debt.

4 “(b) No Federal agency may take action pursuant to
5 subsection (a) with respect to any debt until such agency—

6 “(1) notifies the person incurring such debt that
7 such agency proposes to take action pursuant to such
8 paragraph with respect to such debt;

9 “(2) gives such person at least 60 days to present
10 evidence that all or part of such debt is not past-due or
11 not legally enforceable;

12 “(3) considers any evidence presented by such
13 person and determines that an amount of such debt is
14 past due and legally enforceable; and

15 “(4) satisfies such other conditions as the Secre-
16 tary may prescribe to ensure that the determination
17 made under paragraph (3) with respect to such debt is
18 valid and that the agency has made reasonable efforts
19 to obtain payment of such debt.

20 “(c) Upon receiving notice from any Federal agency
21 that a named person owes to such agency a past-due legally
22 enforceable debt, the Secretary of the Treasury shall deter-
23 mine whether any amounts, as refunds of Federal taxes paid,
24 are payable to such person. If the Secretary of the Treasury
25 finds that any such amount is payable, he shall reduce such

1 refunds by an amount equal to the amount of such debt, pay
2 the amount of such reduction to such agency, and notify such
3 agency of the individual's home address.

4 “(d) The Secretary of the Treasury shall issue regula-
5 tions prescribing the time or times at which agencies must
6 submit notices of past-due legally enforceable debts, the
7 manner in which such notices must be submitted, and the
8 necessary information that must be contained in or accompa-
9 ny the notices. The regulations shall specify the minimum
10 amount of debt to which the reduction procedure established
11 by subsection (c) may be applied and the fee that an agency
12 must pay to reimburse the Secretary of the Treasury for the
13 full cost of applying such procedure. Any fee paid to the Sec-
14 retary pursuant to the preceding sentence may be used to
15 reimburse appropriations which bore all or part of the cost of
16 applying such procedure.

17 “(e) Any Federal agency receiving notice from the Sec-
18 retary of the Treasury that an erroneous payment has been
19 made to such agency under subsection (c) shall pay promptly
20 to the Secretary, in accordance with such regulations as the
21 Secretary may prescribe, an amount equal to the amount of
22 such erroneous payment (without regard to whether any
23 other amounts payable to such agency under such subsection
24 have been paid to such agency).

25 “(f) For purposes of this section—

1 “(1) the term “Federal agency” means a depart-
2 ment, agency, or instrumentality of the United States
3 and includes a Government corporation (as such term
4 is defined in section 103 of title 5, United States
5 Code);

6 “(2) the term “past-due support” means any de-
7 linquency subject to section 464 of the Social Security
8 Act; and

9 “(3) the term “OASDI overpayment” means any
10 overpayment of benefits made to an individual under
11 title II of the Social Security Act.”.

12 (2) The analysis of subchapter II of chapter 37 of title
13 31, United States Code, is amended by adding at the end
14 thereof the following new item:

 “3721. Reduction of tax refund by amount of debt.”.

15 (b)(1) Section 6402 of the Internal Revenue Code of
16 1954 (relating to authority to make credits or refunds) is
17 amended by adding at the end thereof the following new sub-
18 sections:

19 “(d) COLLECTION OF DEBTS OWED TO FEDERAL
20 AGENCIES.—

21 “(1) IN GENERAL.—Upon receiving notice from
22 any Federal agency that a named person owes a past-
23 due legally enforceable debt (other than any OASDI
24 overpayment and past-due support subject to the provi-

1 sions of subsection (c)) to such agency, the Secretary
2 shall—

3 “(A) reduce the amount of any overpayment
4 payable to such person by the amount of such
5 debt;

6 “(B) pay the amount by which such overpay-
7 ment is reduced under subparagraph (A) to such
8 agency; and

9 “(C) notify the person making such overpay-
10 ment that such overpayment has been reduced by
11 an amount necessary to satisfy such debt.

12 “(2) PRIORITIES FOR OFFSET.—Any overpay-
13 ment by a person shall be reduced pursuant to this
14 subsection after such overpayment is reduced pursuant
15 to subsection (c) with respect to past-due support col-
16 lected pursuant to an assignment under section
17 402(a)(26) of the Social Security Act and before such
18 overpayment is credited to the future liability for tax of
19 such person pursuant to subsection (b). If the Secretary
20 receives notice from a Federal agency or agencies of
21 more than one debt subject to paragraph (1) that is
22 owed by a person to such agency or agencies, any
23 overpayment by such person shall be applied against
24 such debts in the order in which such debts accrued.

1 “(3) DEFINITIONS.—For purposes of this subsec-
2 tion the term ‘OASDI overpayment’ means any over-
3 payment of benefits made to an individual under title
4 II of the Social Security Act.

5 “(e) REVIEW OF REDUCTIONS.—No court of the United
6 States shall have jurisdiction to hear any action, whether
7 legal or equitable, brought to restrain or review a reduction
8 authorized by subsection (c) or (d). No such reduction shall be
9 subject to review by the Secretary in an administrative pro-
10 ceeding. No action brought against the United States to re-
11 cover the amount of any such reduction shall be considered to
12 be a suit for refund of tax. This subsection does not preclude
13 any legal, equitable, or administrative action against the Fed-
14 eral agency to which the amount of such reduction was paid.

15 “(f) FEDERAL AGENCY.—For purposes of this section,
16 the term ‘Federal agency’ means a department, agency, or
17 instrumentality of the United States, and includes a Govern-
18 ment corporation (as such term is defined in section 103 of
19 title 5, United States Code).

20 “(g) CROSS REFERENCE.—For procedures relating to
21 agency notification of the Secretary, see section 3721 of title
22 31, United States Code.”.

23 (2) Subsection (a) of section 6402 of such Code is
24 amended by striking out “subsection (c)” and inserting in lieu
25 thereof “subsections (c) and (d)”.

1 (3)(A) Subsection (l) of section 6103 of such Code (relat-
2 ing to confidentiality and disclosure of returns and informa-
3 tion) is amended by adding at the end thereof the following
4 new paragraph:

5 “(9) DISCLOSURE OF CERTAIN INFORMATION TO
6 AGENCIES REQUESTING A REDUCTION UNDER SEC-
7 TION 6402(c) OR 6402(d).—

8 “(A) RETURN INFORMATION FROM INTER-
9 NAL REVENUE SERVICE.—The Secretary may,
10 upon receiving a written request, disclose to offi-
11 cers and employees of an agency seeking a reduc-
12 tion under section 6402(c) or 6402(d)—

13 “(i) the fact that a reduction has been
14 made or has not been made under such sub-
15 section with respect to any person;

16 “(ii) the amount of such reduction; and

17 “(iii) taxpayer identifying information of
18 the person against whom a reduction was
19 made or not made.

20 “(B) RESTRICTION ON USE OF DISCLOSED
21 INFORMATION.—Any officers and employees of
22 an agency receiving return information under sub-
23 paragraph (A) shall use such information only for
24 the purposes of, and to the extent necessary in,
25 establishing appropriate agency records or in the

1 defense of any litigation or administrative proce-
2 dure ensuing from reduction made under section
3 6402(c) or section 6402(d).”.

4 (B)(i) Section 6103(p)(3)(A) of such Code (relating to
5 procedure and recordkeeping) is amended by striking out
6 “(l)(1), (4)(B), (5), (7), or (8)” and inserting in lieu thereof
7 “(l)(1), (4)(B), (5), (7), (8), or (9)”.

8 (ii) Section 6103(p)(4) of such Code is amended by strik-
9 ing out “(l)(1), (2), or (5)” and inserting in lieu thereof “(l)(1),
10 (2), (5), or (9)”.

11 (iii) Section 6103(p)(4)(F)(ii) of such Code is amended
12 by striking out “(l)(1), (2), (3), or (5)” and inserting in lieu
13 thereof “(l)(1), (2), (3), (5), or (9)”.

14 (4) Section 7213(a)(2) of such Code (relating to unau-
15 thorized disclosure of information) is amended by striking out
16 “(l)(6), (7), or (8)” and inserting in lieu thereof “(l)(6), (7),
17 (8), or (9)”.

18 (c) The amendments made by this section shall apply
19 with respect to refunds payable under section 6402 of the
20 Internal Revenue Code of 1954 after December 31, 1985,
21 and before January 1, 1988.

1 SUBTITLE E—CERTAIN PROVISIONS RELATING TO
2 PUERTO RICO AND THE VIRGIN ISLANDS
3 CLARIFICATION OF DEFINITION OF ARTICLES
4 PRODUCED IN PUERTO RICO OR THE VIRGIN
5 ISLANDS

6 SEC. 996. (a) Section 7652 of the Internal Revenue
7 Code of 1954 (relating to shipments to the United States) is
8 amended by adding at the end thereof the following new sub-
9 section:

10 “(d) ARTICLES PRODUCED IN PUERTO RICO OR THE
11 VIRGIN ISLANDS.—For purposes of subsections (a)(3), (b)(3),
12 and (c)(1), any article containing distilled spirits shall in no
13 event be treated as produced in Puerto Rico or the Virgin
14 Islands unless at least 92 percent of the alcoholic content in
15 such article is attributable to rum.”.

16 (b)(1) Except as provided in paragraph (2), the amend-
17 ments made by subsection (a) shall apply with respect to arti-
18 cles brought into the United States on or after February 28,
19 1984.

20 (2)(A) Subject to the limitations of subparagraphs (B)
21 and (C), the amendment made by subsection (a) shall not
22 apply with respect to articles brought into the United States
23 from Puerto Rico after February 28, 1984, and before July
24 1, 1984.

1 (B) In the case of articles containing distilled spirits
2 brought into the United States from Puerto Rico after Febru-
3 ary 28, 1984, and before July 1, 1984, the aggregate
4 amount payable to Puerto Rico by reason of subparagraph
5 (A) shall not exceed the excess of—

6 (i) \$130,000,000, over,

7 (ii) the aggregate amount payable to Puerto Rico
8 under section 7652(a) of the Internal Revenue Code of
9 1954 with respect to articles (other than rum) which
10 were brought into the United States after June 30,
11 1983, and before February 29, 1984, and which would
12 not meet the requirements of section 7652(d)(1) of such
13 Code.

14 (C)(i) Subparagraph (A) shall not apply with respect to
15 any article if the Secretary determines that an amount in
16 excess of transportation costs was provided by Puerto Rico
17 directly or indirectly to a distiller located in the United States
18 with respect to such article.

19 (ii) For purposes of this subparagraph, the term “trans-
20 portation costs” means reimbursement for direct costs of
21 transportation to and from Puerto Rico with respect to any
22 article containing distilled spirits.

1 LIMITATION ON TRANSFERS OF EXCISE TAX
2 REVENUES TO PUERTO RICO AND THE
3 VIRGIN ISLANDS

4 SEC. 997. (a) Section 7652 of the Internal Revenue
5 Code of 1954 (relating to shipments to the United States) is
6 amended by adding at the end thereof the following new sub-
7 section:

8 “(e) LIMITATION ON COVER OVER OF TAX ON DIS-
9 TILLED SPIRITS.—For purposes of this section, with respect
10 to taxes collected under section 5001 on all distilled spirits,
11 the amount covered into the treasuries of Puerto Rico and
12 the Virgin Islands shall not exceed the lesser of the rate of—

13 “(1) \$10.50, or

14 “(2) the tax imposed under section 5001(a)(1),
15 on each proof gallon.”.

16 (b) The amendment made by this section shall apply to
17 articles containing distilled spirits brought into the United
18 States after December 31, 1984.

