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109TH CONGRESS
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S. 1321

[Report No. 109-____]

To amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2005

Mr. SANTORUM (for himself, Mr. CRAPO, Mr. SMITH, Mr. HAGEL, Mr. ENSIGN, Mr. ALLEN, Mr. COBURN, Mr. THUNE, Mr. CHAMBLISS, Mr. SESSIONS, Mr. ALLARD, Mr. COCHRAN, Mr. ISAKSON, Mr. HATCH, Mr. CRAIG, Mr. BROWNBACK, Mr. TALENT, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Finance

SEPTEMBER ____ (legislative day, SEPTEMBER _____), 2006

Reported by Mr. GRASSLEY, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Telephone Excise Tax
3 Repeal Act of 2005”.

4 **SEC. 2. REPEAL OF EXCISE TAX ON TELEPHONE AND**
5 **OTHER COMMUNICATIONS SERVICES.**

6 (a) **IN GENERAL.**—Chapter 33 of the Internal Rev-
7 enue Code of 1986 (relating to facilities and services) is
8 amended by striking subchapter B.

9 (b) **CONFORMING AMENDMENTS.**—

10 (1) Section 4293 of such Code is amended by
11 striking “chapter 32 (other than the taxes imposed
12 by sections 4064 and 4121) and subchapter B of
13 chapter 33,” and inserting “and chapter 32 (other
14 than the taxes imposed by sections 4064 and
15 4121),”.

16 (2)(A) Paragraph (1) of section 6302(e) of such
17 Code is amended by striking “section 4251 or”.

18 (B) Paragraph (2) of section 6302(e) of such
19 Code is amended—

20 (i) by striking “imposed by—” and all that
21 follows through “with respect to” and inserting
22 “imposed by section 4261 or 4271 with respect
23 to”, and

24 (ii) by striking “bills rendered or”.

1 ~~(C)~~ The subsection heading for section 6302(e)
2 of such Code is amended by striking “Communica-
3 tions Services and”.

4 ~~(3)~~ Section 6415 of such Code is amended by
5 striking “4251, 4261, or 4271” each place it ap-
6 pears and inserting “4261 or 4271”.

7 ~~(4)~~ Paragraph ~~(2)~~ of section 7871(a) of such
8 Code is amended by inserting “or” at the end of
9 subparagraph ~~(B)~~, by striking subparagraph ~~(C)~~,
10 and by redesignating subparagraph ~~(D)~~ as subpara-
11 graph ~~(C)~~.

12 ~~(5)~~ The table of subchapters for chapter ~~33~~ of
13 such Code is amended by striking the item relating
14 to subchapter B.

15 ~~(c)~~ EFFECTIVE DATE.—The amendments made by
16 this section shall apply to amounts paid pursuant to bills
17 first rendered more than 90 days after the date of the
18 enactment of this Act.

19 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**
20 **TABLE OF CONTENTS.**

21 ~~(a)~~ *SHORT TITLE.*—*This Act may be cited as the*
22 *“Telephone Excise Tax Repeal and Taxpayer Protection*
23 *and Assistance Act of 2006”.*

24 ~~(b)~~ *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
25 *expressly provided, whenever in this Act an amendment or*

1 *repeal is expressed in terms of an amendment to, or repeal*
2 *of, a section or other provision, the reference shall be consid-*
3 *ered to be made to a section or other provision of the Inter-*
4 *nal Revenue Code of 1986.*

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TELEPHONE EXCISE TAX REPEAL

Sec. 101. Repeal of excise tax on telephone and other communications services.

TITLE II—TAXPAYER PROTECTION AND ASSISTANCE

- Sec. 201. Low-income taxpayer clinics.*
- Sec. 202. Clarification of enrolled agent credentials.*
- Sec. 203. Regulation of Federal tax return preparers.*
- Sec. 204. Contract authority for examinations of preparers.*
- Sec. 205. Regulation of refund anticipation loan facilitators.*
- Sec. 206. Taxpayer access to financial institutions.*

*TITLE III—IMPROVEMENTS IN TAX ADMINISTRATION AND
TAXPAYER SAFEGUARDS*

- Sec. 301. Waiver of user fee for installment agreements using automated with-*
drawals.
- Sec. 302. Termination of installment agreements.*
- Sec. 303. Individuals held harmless on improper levy on individual retirement*
plan.
- Sec. 304. Office of Chief Counsel review of offers-in-compromise.*
- Sec. 305. Elimination of restriction on offsetting refunds from former residents.*
- Sec. 306. Revisions relating to termination of employment of IRS employees for*
misconduct.
- Sec. 307. Modification of collection due process procedures for employment tax li-*
abilities.
- Sec. 308. Extension of time limit for contesting IRS levy.*
- Sec. 309. Authorization for IRS to require increased electronic filing of returns*
prepared by paid return preparers.
- Sec. 310. Direct access to e-file Federal income tax returns.*
- Sec. 311. Modifications and report regarding Free File program.*
- Sec. 312. Study on clarifying recordkeeping responsibilities.*
- Sec. 313. Modification of TIGTA reporting requirements.*
- Sec. 314. Streamline reporting process for National Taxpayer Advocate.*
- Sec. 315. Whistleblower reforms.*
- Sec. 316. Authorization for Financial Management Service retention of trans-*
action fees from levied amounts.
- Sec. 317. Clarification of definition of church tax inquiry.*
- Sec. 318. Treatment of funds from Indian tribal governments as public support*
for purposes of public charity-private foundation classification.

- Sec. 319. Tax court review of requests for equitable relief from joint and several liability.*
- Sec. 320. Authorization of appropriations for tax law enforcement relating to human sex trafficking.*
- Sec. 321. Regulation of payroll tax deposit agents.*
- Sec. 322. Special period of limitation when uniformed services retired pay is reduced as a result of award of disability compensation.*

TITLE IV—REFORM OF PENALTY AND INTEREST

- Sec. 401. Individual estimated tax.*
- Sec. 402. Corporate estimated tax.*
- Sec. 403. Increase in large corporation threshold for estimated tax payments.*
- Sec. 404. Expansion of interest netting.*
- Sec. 405. Clarification of application of Federal tax deposit penalty.*
- Sec. 406. Frivolous tax submissions.*
- Sec. 407. Understatement of taxpayer liability by return preparers.*
- Sec. 408. Penalty for aiding and abetting the understatement of tax liability.*
- Sec. 409. Increase in criminal monetary penalty limitation for the underpayment or overpayment of tax due to fraud.*
- Sec. 410. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.*
- Sec. 411. Increase in penalty for bad checks and money orders.*
- Sec. 412. Increase in penalty excise taxes on the political and excess lobbying activities of section 501(c)(3) organizations.*
- Sec. 413. Penalty for filing erroneous refund claims.*

TITLE V—CONFIDENTIALITY AND DISCLOSURE

- Sec. 501. Collection activities with respect to joint return disclosable to either spouse based on oral request.*
- Sec. 502. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.*
- Sec. 503. Compliance by contractors with confidentiality safeguards.*
- Sec. 504. Higher standards for requests for and consents to disclosure.*
- Sec. 505. Civil damages for unauthorized disclosure or inspection.*
- Sec. 506. Expansion of disclosure in emergency circumstances.*
- Sec. 507. Disclosure of taxpayer identity for tax refund purposes.*
- Sec. 508. Treatment of public records.*
- Sec. 509. Taxpayer identification number matching.*
- Sec. 510. Form 8300 disclosures.*
- Sec. 511. Expansion of penalty for disclosure or use of information by tax return preparer.*
- Sec. 512. Restrictions on disclosure and use of tax return information.*

TITLE VI—UNITED STATES TAX COURT EMPLOYEE APPOINTMENT MODERNIZATION

- Sec. 601. Amendments to appoint employees.*

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Expensing of broadband Internet access expenditures.*
- Sec. 702. Modification of refunds for kerosene used in aviation.*
- Sec. 703. Declarations on Federal corporate income tax returns.*
- Sec. 704. Certified professional employer organizations.*

- Sec. 705. Study on collecting estimated tax payments through the electronic fund transfer system.*
- Sec. 706. Study on use of voluntary withholding agreements.*
- Sec. 707. Offset of State judicial debts against income tax refund.*
- Sec. 708. Clarification of responsibilities of United States marshals attending the Tax Court.*
- Sec. 709. Authorization of appropriations to combat the tax gap and for tax law enforcement.*
- Sec. 710. Annual tax gap report.*
- Sec. 711. Operations for the enforcement of tax laws relating to hiring and continued employment of undocumented workers.*
- Sec. 712. Repeal of dollar limitation on contributions to funeral trusts.*
- Sec. 713. Administrative relief for certain late qualified terminable interest property elections.*
- Sec. 714. Disclosure of written determinations.*
- Sec. 715. Disclosure of Internet web site and name under which organization does business.*
- Sec. 716. Modification to reporting capital transactions.*
- Sec. 717. Disclosure that Form 990 is publicly available.*
- Sec. 718. Expedited review process for certain tax-exemption applications.*
- Sec. 719. Expansion of declaratory judgment remedy to tax-exempt organizations.*
- Sec. 720. Wireless telecommunications equipment.*
- Sec. 721. Permanent extension of Internet tax moratorium.*
- Sec. 722. Simplification through elimination of inoperative provisions.*

TITLE VIII—REVENUE OFFSET PROVISIONS

- Sec. 801. Clarification of economic substance doctrine.*
- Sec. 802. Penalty for understatements attributable to transactions lacking economic substance, etc.*
- Sec. 803. Application of rules treating inverted corporations as domestic corporations to certain transactions occurring after March 20, 2002.*

**TITLE I—TELEPHONE EXCISE
TAX REPEAL**

**SEC. 101. REPEAL OF EXCISE TAX ON TELEPHONE AND
OTHER COMMUNICATIONS SERVICES.**

(a) IN GENERAL.—Chapter 33 (relating to facilities and services) is amended by striking subchapter B.

(b) CONFORMING AMENDMENTS.—

(1) Section 4293 is amended by striking “chapter 32 (other than the taxes imposed by sections 4064 and 4121) and subchapter B of chapter 33,” and in-

1 serting “and chapter 32 (other than the taxes imposed
2 by sections 4064 and 4121),”.

3 (2)(A) Section 6302(e)(1) is amended by striking
4 “section 4251 or”.

5 (B) Section 6302(e)(2)(A) is amended—

6 (i) by striking “imposed by—” and all that
7 follows through “with respect to” and inserting
8 “imposed by section 4261 or 4271 with respect
9 to”, and

10 (ii) by striking “bills rendered or”.

11 (C) The heading for subsection (e) of section
12 6302 is amended by striking “COMMUNICATIONS
13 SERVICES”.

14 (3) Section 6415 is amended by striking “4251,
15 4261, or 4271” each place it appears and inserting
16 “4261 or 4271”.

17 (4) Section 7871(a)(2) is amended by adding
18 “or” at the end of subparagraph (B), by striking sub-
19 paragraph (C), and by redesignating subparagraph
20 (D) as subparagraph (C).

21 (5) The table of subchapters for chapter 33 is
22 amended by striking the item relating to subchapter
23 B.

24 (c) *EFFECTIVE DATE.*—The amendments made by this
25 section shall apply to amounts paid pursuant to bills first

1 rendered more than 90 days after the date of the enactment
2 of this Act.

3 (d) *AUTHORIZATION FOR REFUND PROGRAM.*—There
4 is authorized to be appropriated \$49,000,000 to the Internal
5 Revenue Service to implement the telephone excise tax re-
6 fund program under Internal Revenue Service Notice 2006-
7 50.

8 **TITLE II—TAXPAYER**
9 **PROTECTION AND ASSISTANCE**

10 **SEC. 201. LOW-INCOME TAXPAYER CLINICS.**

11 (a) *GRANTS FOR RETURN PREPARATION CLINICS.*—

12 (1) *IN GENERAL.*—Chapter 77 (relating to mis-
13 cellaneous provisions) is amended by inserting after
14 section 7526 the following new section:

15 **“SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-IN-**
16 **COME TAXPAYERS.**

17 “(a) *IN GENERAL.*—The Secretary may, subject to the
18 availability of appropriated funds, make grants to provide
19 matching funds for the development, expansion, or continu-
20 ation of qualified return preparation clinics.

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

22 “(1) *QUALIFIED RETURN PREPARATION CLIN-*
23 *IC.*—

24 “(A) *IN GENERAL.*—The term ‘qualified re-
25 turn preparation clinic’ means a clinic which—

1 “(i) does not charge more than a nomi-
2 nal fee for its services (except for reimburse-
3 ment of actual costs incurred), and

4 “(ii) operates programs which assist
5 low-income taxpayers, including individ-
6 uals for whom English is a second lan-
7 guage, in preparing and filing their Federal
8 income tax returns, including schedules re-
9 porting sole proprietorship or farm income.

10 “(B) ASSISTANCE TO LOW-INCOME TAX-
11 PAYERS.—A clinic is treated as assisting low-in-
12 come taxpayers under subparagraph (A)(ii) if at
13 least 90 percent of the taxpayers assisted by the
14 clinic have incomes which do not exceed 250 per-
15 cent of the poverty level, as determined in ac-
16 cordance with criteria established by the Director
17 of the Office of Management and Budget.

18 “(2) CLINIC.—The term ‘clinic’ includes—

19 “(A) a clinical program at an eligible edu-
20 cational institution (as defined in section
21 529(e)(5)) which satisfies the requirements of
22 paragraph (1) through student assistance of tax-
23 payers in return preparation and filing, and

24 “(B) an organization described in section
25 501(c) and exempt from tax under section 501(a)

1 *which satisfies the requirements of paragraph*
2 *(1).*

3 “(c) *SPECIAL RULES AND LIMITATIONS.*—

4 “(1) *AGGREGATE LIMITATION.*—*Unless otherwise*
5 *provided by specific appropriation, the Secretary*
6 *shall not allocate more than \$10,000,000 per year (ex-*
7 *clusive of costs of administering the program) to*
8 *grants under this section.*

9 “(2) *OTHER APPLICABLE RULES.*—*Rules similar*
10 *to the rules under paragraphs (2) through (7) of sec-*
11 *tion 7526(c) shall apply with respect to the awarding*
12 *of grants to qualified return preparation clinics.”.*

13 (2) *CLERICAL AMENDMENT.*—*The table of sec-*
14 *tions for chapter 77 is amended by inserting after the*
15 *item relating to section 7526 the following new item:*

 “*Sec. 7526A. Return preparation clinics for low-income taxpayers.*”.

16 (b) *GRANTS FOR TAXPAYER REPRESENTATION AND*
17 *ASSISTANCE CLINICS.*—

18 (1) *INCREASE IN AUTHORIZED GRANTS.*—*Section*
19 *7526(c)(1) (relating to aggregate limitation) is*
20 *amended by striking “\$6,000,000” and inserting*
21 *“\$10,000,000”.*

22 (2) *USE OF GRANTS FOR OVERHEAD EXPENSES*
23 *PROHIBITED.*—

1 (A) *IN GENERAL.*—Section 7526(c) (relating
2 to special rules and limitations) is amended by
3 adding at the end the following new paragraph:

4 “(6) *USE OF GRANTS FOR OVERHEAD EXPENSES*
5 *PROHIBITED.*—No grant made under this section may
6 be used for the overhead expenses of any clinic or of
7 any institution sponsoring such clinic.”.

8 (B) *CONFORMING AMENDMENTS.*—Section
9 7526(c)(5) is amended—

10 (i) by inserting “qualified” before
11 “low-income”, and

12 (ii) by striking the last sentence.

13 (3) *PROMOTION OF CLINICS.*—Section 7526(c), as
14 amended by paragraph (2), is amended by adding at
15 the end the following new paragraph:

16 “(7) *PROMOTION OF CLINICS.*—The Secretary is
17 authorized to promote the benefits of and encourage
18 the use of low-income taxpayer clinics through the use
19 of mass communications, referrals, and other means.”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this
21 section shall apply to grants made after the date of the en-
22 actment of this Act.

1 **SEC. 202. CLARIFICATION OF ENROLLED AGENT CREDEN-**
2 **TIALS.**

3 (a) *IN GENERAL.*—Chapter 77 (relating to miscella-
4 neous provisions) is amended by adding at the end the fol-
5 lowing new section:

6 **“SEC. 7529. ENROLLED AGENTS.**

7 “(a) *IN GENERAL.*—The Secretary may prescribe such
8 regulations as may be necessary to regulate the conduct of
9 enrolled agents in regards to their practice before the Inter-
10 nal Revenue Service.

11 “(b) *USE OF CREDENTIALS.*—Any enrolled agents
12 properly licensed to practice as required under rules pro-
13 mulgated under subsection (a) shall be allowed to use the
14 credentials or designation as ‘enrolled agent’, ‘EA’, or
15 ‘E.A.’.”.

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

“Sec. 7529. Enrolled agents.”.

19 (c) *PRIOR REGULATIONS.*—The authority to prescribe
20 regulations under the amendments made by this section
21 may not be construed to have any effect on part 10 of title
22 31, Code of Federal Regulations, or any other related Fed-
23 eral rule or regulation issued before the date of the enact-
24 ment of this Act.

1 **SEC. 203. REGULATION OF FEDERAL TAX RETURN PRE-**
2 **PARERS.**

3 (a) *AUTHORIZATION.*—Section 330(a)(1) of title 31,
4 *United States Code*, is amended by inserting “(including
5 *compensated preparers of Federal tax returns, documents,*
6 *and other submissions)*” after “*representatives*”.

7 (b) *REQUIREMENT.*—

8 (1) *IN GENERAL.*—Not later than 1 year after
9 the date of the enactment of this Act, the Secretary of
10 the Treasury shall prescribe regulations under section
11 330 of title 31, *United States Code*—

12 (A) to regulate those compensated preparers
13 not otherwise regulated under regulations pro-
14 mulgated under such section on the date of the
15 enactment of this Act, and

16 (B) to carry out the provisions of, and
17 amendments made by, this section.

18 (2) *EXAMINATION.*—

19 (A) *IN GENERAL.*—In promulgating the reg-
20 ulations under paragraph (1), the Secretary
21 shall develop (or approve) and administer an eli-
22 gibility examination designed to test—

23 (i) the technical knowledge and com-
24 petency of each preparer described in para-
25 graph (1)(A)—

1 (I) to prepare Federal tax returns,
2 including individual and business in-
3 come tax returns, and

4 (II) to properly claim the earned
5 income tax credit under section 32 of
6 the Internal Revenue Code of 1986
7 with respect to such individual returns,
8 and

9 (ii) the knowledge of each such pre-
10 parer regarding such ethical standards for
11 the preparation of such returns as deter-
12 mined appropriate by the Secretary.

13 (B) STATE LICENSING OR STATE REGISTRA-
14 TION PROGRAMS.—In promulgating the regula-
15 tions under paragraph (1), the Secretary shall
16 accept the credentials of any State licensing or
17 State registration program for any preparer de-
18 scribed in paragraph (1)(A) in lieu of the ad-
19 ministration of an eligibility examination to
20 such preparer under subparagraph (A) if such
21 program has an eligibility examination which is
22 comparable to the eligibility examination under
23 subparagraph (A).

24 (3) CONTINUING ELIGIBILITY.—

1 (A) *IN GENERAL.*—*The regulations under*
2 *paragraph (1) shall require a renewal of eligi-*
3 *bility every 3 years and shall set forth the man-*
4 *ner in which a preparer described in paragraph*
5 *(1)(A) must renew such eligibility.*

6 (B) *CONTINUING EDUCATION REQUIRE-*
7 *MENTS.*—*As part of the renewal of eligibility,*
8 *such regulations shall require that each such pre-*
9 *parer show evidence of completion of such con-*
10 *tinuing education requirements as specified by*
11 *the Secretary.*

12 (C) *NONMONETARY SANCTIONS.*—*The regu-*
13 *lations under paragraph (1) shall provide for the*
14 *suspension or termination of such eligibility in*
15 *the event of any failure to comply with the re-*
16 *quirements for such eligibility.*

17 (4) *PENALTY FOR UNAUTHORIZED PREPARATION*
18 *OF RETURNS, ETC.*—*In promulgating the regulations*
19 *under paragraph (1), the Secretary shall impose a*
20 *penalty of \$1,000 for each Federal tax return, docu-*
21 *ment, or other submission prepared by a preparer de-*
22 *scribed in paragraph (1)(A) who is not in compliance*
23 *with the requirements of paragraph (2) or (3) or who*
24 *is suspended or disbarred from practice before the De-*
25 *partment of the Treasury under such regulations.*

1 *Such penalty shall be in addition to any other pen-*
2 *alty which may be imposed.*

3 *(c) OFFICE OF PROFESSIONAL RESPONSIBILITY.—Sec-*
4 *tion 330 of title 31, United States Code, is amended by add-*
5 *ing at the end the following new subsection:*

6 “(e) *OFFICE OF PROFESSIONAL RESPONSIBILITY.—*

7 “(1) *IN GENERAL.—There shall be in the Inter-*
8 *nal Revenue Service an Office of Professional Respon-*
9 *sibility the functions of which shall be as prescribed*
10 *by the Secretary of the Treasury, including the car-*
11 *rying out of the purposes of this section.*

12 “(2) *DIRECTOR.—*

13 “(A) *IN GENERAL.—The Office of Profes-*
14 *sional Responsibility shall be under the super-*
15 *vision and direction of an official known as the*
16 *‘Director, Office of Professional Responsibility’.*
17 *The Director, Office of Professional Respon-*
18 *sibility, shall report directly to the Commissioner*
19 *of Internal Revenue and shall be entitled to com-*
20 *ensation at the same rate as the highest rate of*
21 *basic pay established for the Senior Executive*
22 *Service under section 5382 of title 5, or, if the*
23 *Secretary of the Treasury so determines, at a*
24 *rate fixed under section 9503 of such title.*

1 “(B) *APPOINTMENT.*—*The Director, Office*
2 *of Professional Responsibility, shall be appointed*
3 *by the Secretary of the Treasury without regard*
4 *to the provisions of title 5 relating to appoint-*
5 *ments in the competitive service or the Senior*
6 *Executive Service.*

7 “(3) *HEARING.*—*Any hearing on an action initi-*
8 *ated by the Director, Office of Professional Responsi-*
9 *bility, to impose a sanction under regulations pro-*
10 *mulgated under this section shall be conducted in ac-*
11 *cordance with sections 556 and 557 of title 5 by 1 or*
12 *more administrative law judges appointed by the Sec-*
13 *retary of the Treasury under section 3105 of title 5.*

14 “(4) *COORDINATION WITH STATE SANCTION PRO-*
15 *GRAMS.*—*In carrying out the purposes of this section,*
16 *the Director, Office of Professional Responsibility*
17 *shall coordinate with appropriate State officials in*
18 *order to collect information regarding representatives,*
19 *employers, firms and other entities which have been*
20 *disciplined or suspended under State or local rules.*

21 “(5) *INFORMATION ON SANCTIONS TO BE AVAIL-*
22 *ABLE TO THE PUBLIC.*—

23 “(A) *SANCTIONS INITIATED BY ACTION.*—
24 *When an action is initiated by the Director, Of-*
25 *fice of Professional Responsibility, to impose a*

1 *sanction under regulations promulgated under*
2 *this section, the pleadings and the record of the*
3 *proceeding and hearing shall be open to the pub-*
4 *lic (subject to restrictions imposed under sub-*
5 *paragraph (C)).*

6 “(B) *SANCTION NOT INITIATED BY AC-*
7 *TION.—When a sanction under regulations pro-*
8 *mulgated under this section (other than a pri-*
9 *vate reprimand) is imposed without initiation of*
10 *an action, the Director, Office of Professional Re-*
11 *sponsibility, shall make available to the public*
12 *information identifying the representative, em-*
13 *ployer, firm, or other entity sanctioned, as well*
14 *as information about the conduct which gave rise*
15 *to the sanction (subject to restrictions imposed*
16 *under subparagraph (C)).*

17 “(C) *RESTRICTIONS ON RELEASE OF INFOR-*
18 *MATION.—Information about clients of the rep-*
19 *resentative, employer, firm, or other entity and*
20 *medical information with respect to the rep-*
21 *resentative shall not be released to the public or*
22 *discussed in an open hearing, except to the extent*
23 *necessary to understand the nature, scope, and*
24 *impact of the conduct giving rise to the sanction*
25 *or proposed sanction. Disagreements regarding*

1 *the application of this subparagraph shall be re-*
2 *solved by the administrative law judge or, when*
3 *a sanction is imposed without initiation of an*
4 *action, by the Director, Office of Professional Re-*
5 *sponsibility.*

6 “(6) *FEES.*—*Any fees imposed under regulations*
7 *promulgated under this section shall be available*
8 *without fiscal year limitation to the Office of Profes-*
9 *sional Responsibility for the purpose of reimburse-*
10 *ment of the costs of administering and enforcing the*
11 *requirements of such regulations.”.*

12 *(d) BAN ON AUDIT INSURANCE.*—*Section 330 of title*
13 *31, United States Code, as amended by subsection (c), is*
14 *amended by adding at the end the following new subsection:*

15 “(f) *BAN ON AUDIT INSURANCE.*—*No person admitted*
16 *to practice before the Department of the Treasury may di-*
17 *rectly or indirectly offer or provide insurance to cover pro-*
18 *fessional fees and other expenses incurred in responding to*
19 *or defending an audit by the Internal Revenue Service.”.*

20 *(e) PENALTIES.*—

21 *(1) INCREASE IN CERTAIN PENALTIES.*—*Sub-*
22 *sections (a), (b), and (c) of section 6695 (relating to*
23 *other assessable penalties with respect to the prepara-*
24 *tion of income tax returns for other persons) are each*

1 *amended striking “a penalty of \$50” and all that fol-*
2 *lows and inserting “a penalty equal to—*

3 *“(1) \$1,000, or*

4 *“(2) in the case of 3 or more such failures in a*
5 *calendar year, \$500 for each such failure.*

6 *The preceding sentence shall not apply with respect to any*
7 *failure if such failure is due to reasonable cause and not*
8 *due to willful neglect.”.*

9 *(2) USE OF PENALTIES.—Unless specifically ap-*
10 *propriated otherwise, there is authorized to be appro-*
11 *priated and is appropriated to the Office of Profes-*
12 *sional Responsibility for each fiscal year for the ad-*
13 *ministration of the public awareness campaign de-*
14 *scribed in subsection (g) an amount equal to the pen-*
15 *alties collected during the preceding fiscal year under*
16 *sections 6694 and 6695 of the Internal Revenue Code*
17 *of 1986 and under the regulations promulgated under*
18 *section 330 of title 31, United States Code (by reason*
19 *of subsection (b)(1)).*

20 *(f) COORDINATION WITH SECTION 6060(a).—The Sec-*
21 *retary of the Treasury shall coordinate the requirements*
22 *under the regulations promulgated under section 330 of title*
23 *31, United States Code, with the return requirements of sec-*
24 *tion 6060 of the Internal Revenue Code of 1986.*

1 (g) *PUBLIC AWARENESS CAMPAIGN.—The Secretary of*
2 *the Treasury or the Secretary’s delegate shall conduct a*
3 *public information and consumer education campaign, uti-*
4 *lizing paid advertising—*

5 (1) *to encourage taxpayers to use for Federal tax*
6 *matters only professionals who establish their com-*
7 *petency under the regulations promulgated under sec-*
8 *tion 330 of title 31, United States Code, and*

9 (2) *to inform the public of the requirements that*
10 *any compensated preparer of tax returns, documents,*
11 *and submissions subject to the requirements under the*
12 *regulations promulgated under such section must sign*
13 *the return, document, or submission prepared for a*
14 *fee and display notice of such preparer’s compliance*
15 *under such regulations.*

16 (h) *ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE*
17 *ACTIVITIES.—The Secretary of the Treasury may use any*
18 *specifically appropriated funds for earned income tax credit*
19 *compliance to improve and expand enforcement of the regu-*
20 *lations promulgated under section 330 of title 31, United*
21 *States Code.*

22 (i) *ADDITIONAL CERTIFICATION ON DOCUMENTS*
23 *OTHER THAN RETURNS.—The Secretary of the Treasury*
24 *shall require that each document or other submission filed*
25 *with the Internal Revenue Service (other than a return*

1 *signed by the taxpayer) shall be signed under penalty of*
2 *perjury and the identifying number of any paid preparer*
3 *who prepared such document (if any) under rules similar*
4 *to the rules under section 6109(a)(4).*

5 **SEC. 204. CONTRACT AUTHORITY FOR EXAMINATIONS OF**
6 **PREPARERS.**

7 *The Secretary of the Treasury is authorized to contract*
8 *for the development or administration, or both, of any ex-*
9 *aminations under the regulations promulgated under sec-*
10 *tion 330 of title 31, United States Code.*

11 **SEC. 205. REGULATION OF REFUND ANTICIPATION LOAN**
12 **FACILITATORS.**

13 *(a) REGULATION OF REFUND ANTICIPATION LOAN*
14 *FACILITATORS.—*

15 *(1) IN GENERAL.—Chapter 77 (relating to mis-*
16 *cellaneous provisions), as amended by this Act, is*
17 *amended by inserting at the end the following new*
18 *section:*

19 **“SEC. 7530. REFUND ANTICIPATION LOAN FACILITATORS.**

20 *“(a) REGISTRATION.—Each refund loan facilitator*
21 *shall register with the Secretary on an annual basis. As*
22 *a part of such registration, each refund loan facilitator*
23 *shall provide the Secretary with the name, address, and tax-*
24 *payer identification number of such facilitator and the fee*
25 *schedule of such facilitator for the year of such registration.*

1 “(b) *DISCLOSURE.*—*Each refund loan facilitator shall*
2 *disclose to a taxpayer both orally and on a separate written*
3 *form at the time such taxpayer applies for a refund antici-*
4 *pation loan the following information:*

5 “(1) *NATURE OF THE TRANSACTION.*—*The re-*
6 *fund loan facilitator shall disclose—*

7 “(A) *that the taxpayer is applying for a*
8 *loan that is based upon the taxpayer’s antici-*
9 *ipated income tax refund,*

10 “(B) *the expected time within which the*
11 *loan will be paid to the taxpayer if such loan is*
12 *approved,*

13 “(C) *the time frame in which income tax*
14 *refunds are typically paid based upon the dif-*
15 *ferent filing options available to the taxpayer,*

16 “(D) *that there is no guarantee that a re-*
17 *fund will be paid in full or received within a*
18 *specified time period and that the taxpayer is re-*
19 *sponsible for the repayment of the loan even if*
20 *the refund is not paid in full or has been de-*
21 *layed,*

22 “(E) *if the refund loan facilitator has an*
23 *agreement with another refund loan facilitator*
24 *(or any lender working in conjunction with an-*
25 *other refund loan facilitator) to offset out-*

1 *standing liabilities for previous refund anticipa-*
2 *tion loans provided by such other refund loan*
3 *facilitator, that any refund paid to the taxpayer*
4 *may be so offset and the implication of any such*
5 *offset,*

6 “(F) *that the taxpayer may file an elec-*
7 *tronic return without applying for a refund an-*
8 *ticipation loan and the fee for filing such an*
9 *electronic return, and*

10 “(G) *that the loan may have substantial fees*
11 *and interest charges that may exceed those of*
12 *other sources of credit and the taxpayer should*
13 *carefully consider—*

14 “(i) *whether such a loan is appropriate*
15 *for the taxpayer, and*

16 “(ii) *other sources of credit.*

17 “(2) *FEES AND INTEREST.—The refund loan*
18 *facilitator shall disclose all refund anticipation loan*
19 *fees with respect to the refund anticipation loan. Such*
20 *disclosure shall include—*

21 “(A) *a copy of the fee schedule of the refund*
22 *loan facilitator,*

23 “(B) *the typical fees and interest rates*
24 *(using annual percentage rates as defined by sec-*
25 *tion 107 of the Truth in Lending Act (15 U.S.C.*

1 1606)) for several typical amounts of such loans
2 and of other types of consumer credit,

3 “(C) typical fees and interest charges if a
4 refund is not paid or delayed, and

5 “(D) the amount of a fee (if any) that will
6 be charged if the loan is not approved.

7 “(3) OTHER INFORMATION.—The refund loan
8 facilitator shall disclose any other information re-
9 quired to be disclosed by the Secretary.

10 “(c) FINES AND SANCTIONS.—

11 “(1) IN GENERAL.—The Secretary may impose a
12 monetary penalty on any refund loan facilitator
13 who—

14 “(A) fails to register under subsection (a),

15 or

16 “(B) fails to disclose any information re-
17 quired under subsection (b).

18 “(2) MAXIMUM MONETARY PENALTY.—Any mon-
19 etary penalty imposed under paragraph (1) shall not
20 exceed—

21 “(A) in the case of a failure to register, the
22 gross income derived from all refund anticipa-
23 tion loans made during the period the refund
24 loan facilitator was not registered, and

1 “(B) *in the case of a failure to disclose in-*
2 *formation, the gross income derived from all re-*
3 *fund anticipation loans with respect to which*
4 *such failure applied.*

5 “(3) *REASONABLE CAUSE EXCEPTIONS.—No pen-*
6 *alty may be imposed under this subsection with re-*
7 *spect to any failure if it is shown that such failure*
8 *is due to reasonable cause.*

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

10 “(1) *REFUND LOAN FACILITATOR.—*

11 “(A) *IN GENERAL.—The term ‘refund loan*
12 *facilitator’ means any electronic return origi-*
13 *nator who—*

14 “(i) *solicits for, processes, receives, or*
15 *accepts delivery of an application for a re-*
16 *fund anticipation loan, or*

17 “(ii) *facilitates the making of a refund*
18 *anticipation loan in any other manner.*

19 “(B) *ELECTRONIC RETURN ORIGINATOR.—*
20 *For purposes of subparagraph (A), the term ‘elec-*
21 *tronic return originator’ means a person who*
22 *originates the electronic submission of income*
23 *tax returns for another person.*

24 “(2) *REFUND ANTICIPATION LOAN.—The term*
25 *‘refund anticipation loan’ means any loan of money*

1 *or any other thing of value to a taxpayer in connec-*
2 *tion with the taxpayer's anticipated receipt of a Fed-*
3 *eral tax refund. Such term includes a loan secured by*
4 *the tax refund or an arrangement to repay a loan*
5 *from the tax refund.*

6 *“(3) REFUND ANTICIPATION LOAN FEES.—The*
7 *term ‘refund anticipation loan fees’ means the fees,*
8 *charges, interest, and other consideration charged or*
9 *imposed by the lender or facilitator for the making of*
10 *a refund anticipation loan.*

11 *“(e) REGULATIONS.—The Secretary may prescribe*
12 *such regulations as necessary to implement the require-*
13 *ments of this section.”.*

14 *(2) CLERICAL AMENDMENT.—The table of sec-*
15 *tions for chapter 77, as amended by this Act, is*
16 *amended by adding at the end the following new item:*

“Sec. 7530. Refund anticipation loan facilitators.”.

17 *(b) DISCLOSURE OF PENALTY.—Section 6103(k) (re-*
18 *lating to disclosure of certain returns and return informa-*
19 *tion for tax administration purposes) is amended by add-*
20 *ing at the end the following new paragraph:*

21 *“(10) DISCLOSURE OF PENALTIES ON REFUND*
22 *ANTICIPATION LOAN FACILITATORS.—The Secretary*
23 *may disclose the name and employer (including the*
24 *employer's address) of any person with respect to*

1 *whom a penalty has been imposed under section 7530*
2 *and the amount of any such penalty.”.*

3 (c) *USE OF PENALTIES.*—*Unless specifically appro-*
4 *priated otherwise, there is authorized to be appropriated*
5 *and is appropriated to the Internal Revenue Service for*
6 *each fiscal year for the administration of the public aware-*
7 *ness campaign described in subsection (d) an amount equal*
8 *to the penalties collected during the preceding fiscal year*
9 *under section 7530 of the Internal Revenue Code of 1986.*

10 (d) *PUBLIC AWARENESS CAMPAIGN.*—*The Secretary of*
11 *the Treasury or the Secretary’s delegate shall conduct a*
12 *public information and consumer education campaign, uti-*
13 *lizing paid advertising, to educate the public on making*
14 *sound financial decisions with respect to refund anticipa-*
15 *tion loans (as defined under section 7530 of the Internal*
16 *Revenue Code of 1986), including the need to compare—*

17 (1) *the rates and fees of such loans with the rates*
18 *and fees of conventional loans; and*

19 (2) *the amount of money received under the loan*
20 *after taking into consideration such costs and fees*
21 *with the total amount of the refund.*

22 (e) *EFFECTIVE DATE.*—*The amendments made by this*
23 *section shall take effect on the date that is 1 year after the*
24 *date of the enactment of this Act.*

1 (f) *TERMINATION OF DEBT INDICATOR PROGRAM.*—
2 *The Secretary of the Treasury shall terminate the Debt In-*
3 *dicator program announced in Internal Revenue Service*
4 *Notice 99–58 and may not implement any similar pro-*
5 *gram.*

6 **SEC. 206. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.**

7 (a) *ESTABLISHMENT OF PROGRAM.*—*The Secretary of*
8 *the Treasury is authorized to award demonstration project*
9 *grants (including multi-year grants) to eligible entities*
10 *which partner with volunteer and low-income preparation*
11 *organizations to provide tax preparation services and as-*
12 *sistance in connection with establishing an account in a*
13 *federally insured depository institution for individuals that*
14 *currently do not have such an account.*

15 (b) *ELIGIBLE ENTITIES.*—

16 (1) *IN GENERAL.*—*An entity is eligible to receive*
17 *a grant under this section if such an entity is—*

18 (A) *an organization described in section*
19 *501(c)(3) of the Internal Revenue Code of 1986*
20 *and exempt from tax under section 501(a) of*
21 *such Code,*

22 (B) *a federally insured depository institu-*
23 *tion,*

24 (C) *an agency of a State or local govern-*
25 *ment,*

1 (D) a community development financial in-
2 stitution,

3 (E) an Indian tribal organization,

4 (F) an Alaska Native Corporation,

5 (G) a Native Hawaiian organization,

6 (H) a labor organization, or

7 (I) a partnership comprised of 1 or more of
8 the entities described in the preceding subpara-
9 graphs.

10 (2) *DEFINITIONS.*—For purposes of this sec-
11 tion—

12 (A) *FEDERALLY INSURED DEPOSITORY IN-*
13 *STITUTION.*—The term “federally insured depository
14 institution” means any insured depository
15 institution (as defined in section 3 of the Federal
16 Deposit Insurance Act (12 U.S.C. 1813)) and
17 any insured credit union (as defined in section
18 101 of the Federal Credit Union Act (12 U.S.C.
19 1752)).

20 (B) *COMMUNITY DEVELOPMENT FINANCIAL*
21 *INSTITUTION.*—The term “community develop-
22 ment financial institution” means any organiza-
23 tion that has been certified as such pursuant to
24 section 1805.201 of title 12, Code of Federal Reg-
25 ulations.

1 (C) *ALASKA NATIVE CORPORATION*.—The
2 term “*Alaska Native Corporation*” has the same
3 meaning as the term “*Native Corporation*”
4 under section 3(m) of the *Alaska Native Claims*
5 *Settlement Act* (43 U.S.C. 1602(m)).

6 (D) *NATIVE HAWAIIAN ORGANIZATION*.—The
7 term “*Native Hawaiian organization*” means
8 any organization that—

9 (i) serves and represents the interests of
10 *Native Hawaiians*, and

11 (ii) has as a primary and stated pur-
12 pose the provision of services to *Native Ha-*
13 *waiians*.

14 (E) *LABOR ORGANIZATION*.—The term
15 “*labor organization*” means an organization—

16 (i) in which employees participate,

17 (ii) which exists for the purpose, in
18 whole or in part, of dealing with employers
19 concerning grievances, labor disputes,
20 wages, rates of pay, hours of employment,
21 or conditions of work, and

22 (iii) which is described in section
23 501(c)(5) of the *Internal Revenue Code* of
24 1986.

1 (c) *APPLICATION.*—An eligible entity desiring a grant
2 under this section shall submit an application to the Sec-
3 retary of the Treasury in such form and containing such
4 information as the Secretary may require.

5 (d) *LIMITATION ON ADMINISTRATIVE COSTS.*—A re-
6 cipient of a grant under this section may not use more than
7 6 percent of the total amount of such grant in any fiscal
8 year for the administrative costs of carrying out the pro-
9 grams funded by such grant in such fiscal year.

10 (e) *EVALUATION AND REPORT.*—For each fiscal year
11 in which a grant is awarded under this section, the Sec-
12 retary of the Treasury shall submit a report to Congress
13 containing a description of the activities funded, amounts
14 distributed, and measurable results, as appropriate and
15 available.

16 (f) *AUTHORIZATION OF APPROPRIATIONS.*—There is
17 authorized to be appropriated to the Secretary of the Treas-
18 ury, for the grant program described in this section,
19 \$10,000,000, or such additional amounts as deemed nec-
20 essary, to remain available until expended.

21 (g) *REGULATIONS.*—The Secretary of the Treasury is
22 authorized to promulgate regulations to implement and ad-
23 minister the grant program under this section.

24 (h) *STUDY ON DELIVERY OF TAX REFUNDS.*—

1 (1) *IN GENERAL.*—*The Secretary of the Treas-*
2 *ury, in consultation with the National Taxpayer Ad-*
3 *vocate, shall conduct a study on the payment of tax*
4 *refunds through debit cards or other electronic means*
5 *to assist individuals that do not have access to finan-*
6 *cial accounts or institutions.*

7 (2) *REPORT.*—*Not later than 1 year after the*
8 *date of the enactment of this Act, the Secretary of the*
9 *Treasury shall submit a report to Congress con-*
10 *taining the result of the study conducted under sub-*
11 *section (a).*

12 **TITLE III—IMPROVEMENTS IN**
13 **TAX ADMINISTRATION AND**
14 **TAXPAYER SAFEGUARDS**

15 **SEC. 301. WAIVER OF USER FEE FOR INSTALLMENT AGREE-**
16 **MENTS USING AUTOMATED WITHDRAWALS.**

17 (a) *IN GENERAL.*—*Section 6159 (relating to agree-*
18 *ments for payment of tax liability in installments) is*
19 *amended by redesignating subsections (e) and (f) as sub-*
20 *sections (f) and (g), respectively, and by inserting after sub-*
21 *section (d) the following new subsection:*

22 “(e) *WAIVER OF USER FEES FOR INSTALLMENT*
23 *AGREEMENTS USING AUTOMATED WITHDRAWALS.*—*In the*
24 *case of a taxpayer who enters into an installment agreement*
25 *in which automated installment payments are agreed to,*

1 *the Secretary shall waive the fee (if any) for entering into*
2 *the installment agreement.”.*

3 (b) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall apply to agreements entered into on or after*
5 *the date which is 180 days after the date of the enactment*
6 *of this Act.*

7 **SEC. 302. TERMINATION OF INSTALLMENT AGREEMENTS.**

8 (a) *IN GENERAL.*—*Section 6159(b)(4) (relating to fail-*
9 *ure to pay an installment or any other tax liability when*
10 *due or to provide requested financial information) is*
11 *amended by striking “or” at the end of subparagraph (B),*
12 *by redesignating subparagraph (C) as subparagraph (E),*
13 *and by inserting after subparagraph (B) the following new*
14 *subparagraphs:*

15 “(C) *to make a Federal tax deposit under*
16 *section 6302 at the time such deposit is required*
17 *to be made,*

18 “(D) *to file a return of tax imposed under*
19 *this title by its due date (including extensions),*
20 *or”.*

21 (b) *CONFORMING AMENDMENT.*—*The heading for*
22 *paragraph (4) of section 6159(b) is amended by striking*
23 *“FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LI-*
24 *ABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL*
25 *INFORMATION” and inserting “FAILURE TO MAKE PAY-*

1 *MENTS OR DEPOSITS OR FILE RETURNS WHEN DUE OR TO*
2 *PROVIDE REQUESTED FINANCIAL INFORMATION”.*

3 *(c) EFFECTIVE DATE.—The amendments made by this*
4 *section shall apply to failures occurring on or after the date*
5 *of the enactment of this Act.*

6 **SEC. 303. INDIVIDUALS HELD HARMLESS ON IMPROPER**
7 **LEVY ON INDIVIDUAL RETIREMENT PLAN.**

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

11 *“(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL*
12 *LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—*

13 *“(1) IN GENERAL.—If the Secretary determines*
14 *that an individual retirement plan has been levied*
15 *upon in a case to which subsection (b) or (d)(2)(A)*
16 *applies and an amount is returned to the individual*
17 *who is the beneficiary of such plan, the individual*
18 *may deposit an amount equal to the sum of—*

19 *“(A) the amount of money returned by the*
20 *Secretary on account of such levy, and*

21 *“(B) interest paid under subsection (c) on*
22 *such amount of money,*

23 *into an individual retirement plan (other than an en-*
24 *dowment contract) to which a rollover from the plan*
25 *levied upon is permitted.*

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

7 “(A) *interest paid under subsection (c) shall*
8 *be treated as part of such distribution and as not*
9 *includible in gross income,*

10 “(B) *the 60-day requirement in such section*
11 *shall be treated as met if the deposit is made not*
12 *later than the 60th day after the day on which*
13 *the individual receives an amount under para-*
14 *graph (1) from the Secretary, and*

15 “(C) *such deposit shall not be taken into ac-*
16 *count under section 408(d)(3)(B).*

17 “(3) *REFUND, ETC., OF INCOME TAX ON LEVY.*—
18 *If any amount is includible in gross income for a tax-*
19 *able year by reason of a levy referred to in paragraph*
20 *(1) and any portion of such amount is treated as a*
21 *rollover under paragraph (2), any tax imposed by*
22 *chapter 1 on such portion shall not be assessed, and*
23 *if assessed shall be abated, and if collected shall be*
24 *credited or refunded as an overpayment made on the*

1 *due date for filing the return of tax for such taxable*
2 *year.*

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

8 “(b) *EFFECTIVE DATE.*—*The amendment made by this*
9 *section shall apply to amounts paid under subsections (b),*
10 *(c), and (d)(2)(A) of section 6343 of the Internal Revenue*
11 *Code of 1986 after December 31, 2005.*

12 **SEC. 304. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS-**
13 **IN-COMPROMISE.**

14 “(a) *IN GENERAL.*—*Section 7122(b) (relating to record)*
15 *is amended by striking “Whenever a compromise” and all*
16 *that follows through “his delegate” and inserting “If the*
17 *Secretary determines that an opinion of the General Coun-*
18 *sel for the Department of the Treasury, or the Counsel’s del-*
19 *egate, is required with respect to a compromise, there shall*
20 *be placed on file in the office of the Secretary such opinion”.*

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

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

1 **SEC. 305. ELIMINATION OF RESTRICTION ON OFFSETTING**
2 **REFUNDS FROM FORMER RESIDENTS.**

3 (a) *IN GENERAL.*—Section 6402(e) (relating to collec-
4 tion of past-due, legally enforceable State income tax obliga-
5 tions) is amended by striking paragraph (2) and by redesignig-
6 nating paragraphs (3), (4), (5), (6), and (7) as paragraphs
7 (2), (3), (4), (5), and (6), respectively.

8 (b) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to refunds payable for taxable years end-
10 ing after the date of the enactment of this Act.

11 **SEC. 306. REVISIONS RELATING TO TERMINATION OF EM-**
12 **PLOYMENT OF IRS EMPLOYEES FOR MIS-**
13 **CONDUCT.**

14 (a) *IN GENERAL.*—Subchapter A of chapter 80 (relat-
15 ing to application of internal revenue laws) is amended by
16 inserting after section 7804 the following new section:

17 **“SEC. 7804A. TERMINATION OF EMPLOYMENT FOR MIS-**
18 **CONDUCT.**

19 “(a) *IN GENERAL.*—Subject to subsection (c), the Com-
20 missioner shall terminate the employment of any employee
21 of the Internal Revenue Service if there is a final adminis-
22 trative or judicial determination that such employee com-
23 mitted any act or omission described under subsection (b)
24 in the performance of the employee’s official duties. Such
25 termination shall be a removal for cause on charges of mis-
26 conduct.

1 “(b) *ACTS OR OMISSIONS.*—*The acts or omissions de-*
2 *scribed under this subsection are—*

3 “(1) *willful failure to obtain the required ap-*
4 *proval signatures on documents authorizing the sei-*
5 *zure of a taxpayer’s home, personal belongings, or*
6 *business assets,*

7 “(2) *providing a false statement under oath with*
8 *respect to a material matter involving a taxpayer or*
9 *taxpayer representative,*

10 “(3) *with respect to a taxpayer, taxpayer rep-*
11 *resentative, or other employee of the Internal Revenue*
12 *Service, the violation of—*

13 “(A) *any right under the Constitution of the*
14 *United States, or*

15 “(B) *any civil right established under—*

16 “(i) *title VI or VII of the Civil Rights*
17 *Act of 1964,*

18 “(ii) *title IX of the Education Amend-*
19 *ments of 1972,*

20 “(iii) *the Age Discrimination in Em-*
21 *ployment Act of 1967,*

22 “(iv) *the Age Discrimination Act of*
23 *1975,*

24 “(v) *section 501 or 504 of the Rehabili-*
25 *tation Act of 1973, or*

1 “(vi) title I of the Americans with Dis-
2 abilities Act of 1990,

3 “(4) falsifying or destroying documents to con-
4 ceal mistakes made by any employee with respect to
5 a matter involving a taxpayer or taxpayer represent-
6 ative,

7 “(5) assault or battery on a taxpayer or tax-
8 payer representative, but only if there is a criminal
9 conviction, or a final judgment by a court in a civil
10 case, with respect to the assault or battery,

11 “(6) violations of this title, Department of the
12 Treasury regulations, or policies of the Internal Rev-
13 enue Service (including the Internal Revenue Man-
14 ual) for the purpose of retaliating against, or
15 harassing, a taxpayer, taxpayer representative, or
16 other employee of the Internal Revenue Service,

17 “(7) willful misuse of the provisions of section
18 6103 for the purpose of concealing information from
19 a congressional inquiry,

20 “(8) willful failure to file any return of tax re-
21 quired under this title on or before the date prescribed
22 therefor (including any extensions) when a tax is due
23 and owing, unless such failure is due to reasonable
24 cause and not due to willful neglect,

1 “(9) *willful understatement of Federal tax liability,*
2 *unless such understatement is due to reasonable*
3 *cause and not due to willful neglect,*

4 “(10) *threatening to audit a taxpayer for the*
5 *purpose of extracting personal gain or benefit, and*

6 “(11) *unauthorized inspection of return or re-*
7 *turn information under section 7213A.*

8 “(c) *DETERMINATIONS OF COMMISSIONER.—*

9 “(1) *IN GENERAL.—The Commissioner may take*
10 *a personnel action other than termination for an act*
11 *or omission described under subsection (b).*

12 “(2) *DISCRETION.—The exercise of authority*
13 *under paragraph (1) shall be at the sole discretion of*
14 *the Commissioner and may not be delegated to any*
15 *other officer. The Commissioner, in the Commis-*
16 *sioner’s sole discretion, may establish a procedure*
17 *which will be used to determine whether an indi-*
18 *vidual should be referred to the Commissioner for a*
19 *determination by the Commissioner under paragraph*
20 *(1).*

21 “(3) *NO APPEAL.—Any determination of the*
22 *Commissioner under this subsection may not be ap-*
23 *pealed in any administrative or judicial proceeding.*

24 “(d) *DEFINITION.—For the purposes of the provisions*
25 *described in clauses (i), (ii), and (iv) of subsection*

1 (b)(3)(B), references to a program or activity receiving Fed-
2 eral financial assistance or an education program or activ-
3 ity receiving Federal financial assistance shall include any
4 program or activity conducted by the Internal Revenue
5 Service for a taxpayer.”.

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

“Sec. 7804A. Termination of employment for misconduct.”.

9 (c) REPEAL OF SUPERSEDED SECTION.—Section 1203
10 of the Internal Revenue Service Restructuring and Reform
11 Act of 1998 (Public Law 105–206; 112 Stat. 720) is re-
12 pealed.

13 **SEC. 307. MODIFICATION OF COLLECTION DUE PROCESS**
14 **PROCEDURES FOR EMPLOYMENT TAX LIABIL-**
15 **ITIES.**

16 (a) IN GENERAL.—Section 6330(f) (relating to jeop-
17 ardy and State refund collection) is amended—

18 (1) by striking “; or” at the end of paragraph
19 (1) and inserting a comma,

20 (2) by adding “or” at the end of paragraph (2),
21 and

22 (3) by inserting after paragraph (2) the fol-
23 lowing new paragraph:

1 of the Internal Revenue Code of 1986 (without regard
2 to this section) as of such date.

3 **SEC. 309. AUTHORIZATION FOR IRS TO REQUIRE IN-**
4 **CREASED ELECTRONIC FILING OF RETURNS**
5 **PREPARED BY PAID RETURN PREPARERS.**

6 (a) *IN GENERAL.*—Section 6011(e) (relating to regula-
7 tions requiring returns on magnetic media, etc.) is amend-
8 ed—

9 (1) by striking the second sentence in paragraph
10 (1), and

11 (2) by striking “250” in paragraph (2)(A) and
12 inserting “5”.

13 (b) *PENALTY FOR FAILURE TO FILE ELECTRONI-*
14 *CALLY.*—

15 (1) *IN GENERAL.*—Part I of subchapter B of
16 chapter 68 (relating to assessable penalties) is amend-
17 ed by inserting after section 6695A the following new
18 section:

19 **“SEC. 6695B. FAILURE OF PAID RETURN PREPARERS TO**
20 **FILE RETURNS ELECTRONICALLY.**

21 “(a) *IN GENERAL.*—Any person who fails to comply
22 with section 6011(e) with respect to any return shall pay
23 a penalty of—

24 “(1) \$1,000, or

1 “(2) *in the case of 10 or more such failures in*
2 *a calendar year, \$100 for each such failure.*”

3 “(b) *REASONABLE CAUSE.—Subsection (a) shall not*
4 *apply with respect to any failure if such failure is due to*
5 *reasonable cause and not due to willful neglect.*”

6 (2) *RULES APPLICABLE TO PENALTY.—Section*
7 *6696 (relating to rules applicable with respect to sec-*
8 *tions 6694, 6695, and 6695A) is amended—*

9 (A) *by striking “and 6695A” each place it*
10 *appears and inserting “6695A, and 6695B”,*

11 (B) *by striking “or 6695A” each place it*
12 *appears and inserting “6695A, or 6695B”,*

13 (C) *by striking “under section 6694(a) or*
14 *under section 6695” in subsection (d)(1) and in-*
15 *serting “under section 6694(a), 6695, 6695A, or*
16 *6695B”, and*

17 (D) *by striking “**AND 6695A**” in the head-*
18 *ing and inserting “**6695A, AND 6695B**”.*

19 (3) *CONFORMING AMENDMENT.—The table of sec-*
20 *tions for part I of subchapter B of chapter 68 is*
21 *amended by striking the item relating to section 6696*
22 *and inserting the following new items:*

“Sec. 6695B. *Failure of paid return preparers to file returns electronically.*”

“Sec. 6696. *Rules applicable with respect to sections 6694, 6695, 6695A, and*
6695B.”

1 **SEC. 310. DIRECT ACCESS TO E-FILE FEDERAL INCOME TAX**
2 **RETURNS.**

3 (a) *IN GENERAL.*—*The Secretary of the Treasury shall*
4 *provide individual taxpayers with the ability to electroni-*
5 *cally file their Federal income tax returns through the In-*
6 *ternal Revenue Service website without the use of an inter-*
7 *mediary or with the use of an intermediary which is con-*
8 *tracted by the Internal Revenue Service to provide free uni-*
9 *versal access for such filing (hereafter in this section re-*
10 *ferred to as the “direct e-file program”) for taxable years*
11 *beginning after the date which is not later than 3 years*
12 *after the date of the enactment of this Act.*

13 (b) *DEVELOPMENT AND OPERATION OF PROGRAM.*—
14 *In providing for the development and operation of the direct*
15 *e-file program, the Secretary of the Treasury—*

16 (1) *shall consult with—*

17 (A) *the National Taxpayer Advocate,*

18 (B) *nonprofit organizations representing the*
19 *interests of taxpayers as well as other organiza-*
20 *tions as determined appropriate by the Sec-*
21 *retary, and*

22 (C) *Federal, State, and local agencies as de-*
23 *termined appropriate by the Secretary,*

24 (2) *may develop electronic filing products for use*
25 *in such program,*

1 (3) *shall provide that if intermediaries are used*
2 *in such program that such intermediaries may not*
3 *advertise, market, or offer to sell any products or*
4 *services,*

5 (4) *promulgate such regulations as necessary to*
6 *administer such program, and*

7 (5) *conduct a public information and consumer*
8 *education campaign to encourage taxpayers to use the*
9 *direct e-file program.*

10 (c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
11 *authorized to be appropriated such sums as are necessary*
12 *to carry out the direct e-file program. Any sums so appro-*
13 *riated shall remain available until expended.*

14 (d) *REPORTS TO CONGRESS REGARDING DIRECT E-*
15 *FILE PROGRAM.—*

16 (1) *REPORT ON IMPLEMENTATION.—The Sec-*
17 *retary of the Treasury shall report to the Committee*
18 *on Finance of the Senate and the Committee on Ways*
19 *and Means of the House of Representatives every 6*
20 *months regarding the status of the implementation of*
21 *the direct e-file program.*

22 (2) *REPORT ON USAGE.—Not later than June 30*
23 *of each year after the implementation of the direct e-*
24 *file program, the Secretary of the Treasury, in con-*
25 *sultation with the National Taxpayer Advocate, shall*

1 *report to the Committee on Finance of the Senate and*
2 *the Committee on Ways and Means of the House of*
3 *Representatives on taxpayer usage of the direct e-file*
4 *program.*

5 **SEC. 311. MODIFICATIONS AND REPORT REGARDING FREE**
6 **FILE PROGRAM.**

7 *(a) MODIFICATIONS.—In providing for the operation*
8 *of the Free File program, the Secretary of the Treasury*
9 *shall—*

10 *(1) provide that intermediaries may not adver-*
11 *tise, market, or offer to sell products or services that*
12 *are not directly related to the preparation of tax re-*
13 *turns, and*

14 *(2) encourage intermediaries to provide access to*
15 *such program to the blind.*

16 *(b) REPORT.—Not later than 270 days after the date*
17 *of the enactment of this Act, the Secretary of the Treasury*
18 *shall report to the Committee on Finance of the Senate and*
19 *the Committee on Ways and Means of the House of Rep-*
20 *resentatives—*

21 *(1) regarding the status of the implementation of*
22 *the modifications described in paragraph (1),*

23 *(2) on the feasibility of ensuring that inter-*
24 *mediaries in the Free File program that have con-*
25 *tracted separately with a State be required to provide*

1 *free Federal and State preparation and electronic fil-*
2 *ing directly through the Internal Revenue Service*
3 *Free File website for those taxpayers who qualify, and*
4 (3) *on the most optimal manner of alerting such*
5 *taxpayers that such taxpayers qualify for both free*
6 *Federal and State preparation and electronic filing*
7 *directly through the Internal Revenue Service Free*
8 *File website.*

9 **SEC. 312. STUDY ON CLARIFYING RECORDKEEPING RE-**
10 **SPONSIBILITIES.**

11 (a) *STUDY.*—*The Secretary of the Treasury shall*
12 *study—*

13 (1) *the scope of the records required to be main-*
14 *tained by taxpayers under section 6001 of the Inter-*
15 *nal Revenue Code of 1986,*

16 (2) *the utility of requiring taxpayers to main-*
17 *tain all records indefinitely, including consideration*
18 *of whether such a requirement would necessitate the*
19 *upgrading of technological storage for outdated*
20 *records,*

21 (3) *the number of negotiated records retention*
22 *agreements requested by taxpayers and the number*
23 *entered into by the Internal Revenue Service, and*

24 (4) *proposals regarding taxpayer record-keeping.*

1 (b) *REPORT.*—Not later than the date which is 1 year
2 after the date of the enactment of this Act, the Secretary
3 of the Treasury shall transmit a report of the study de-
4 scribed in subsection (a), including recommendations, to the
5 Committee on Finance of the Senate and the Committee on
6 Ways and Means of the House of Representatives.

7 **SEC. 313. MODIFICATION OF TIGTA REPORTING REQUIRE-**
8 **MENTS.**

9 (a) *IN GENERAL.*—Paragraph (1) of section 7803(d)
10 (relating to additional duties of the Treasury Inspector
11 General for Tax Administration) is amended—

12 (1) by striking “ANNUAL” in the heading and in-
13 serting “BIENNIAL”,

14 (2) by inserting “filed for an even-numbered
15 year (beginning with 2006)” after “one of the semi-
16 annual reports” in the matter preceding subpara-
17 graph (A),

18 (3) by striking clause (ii) of subparagraph (A),

19 (4) by redesignating clauses (iii), (iv), and (v) of
20 subparagraph (A) as clauses (ii), (iii), and (iv) of
21 subparagraph (A), respectively,

22 (5) by striking subparagraph (B),

23 (6) by striking “and” at the end of subpara-
24 graph (F),

1 (7) by redesignating subparagraphs (C), (D),
2 (E), and (F) as subparagraphs (B), (C), (D), and
3 (E), respectively, and

4 (8) by striking subparagraph (G) and inserting
5 the following new subparagraphs:

6 “(F) the number of employee misconduct
7 and taxpayer abuse allegations received by the
8 Internal Revenue Service or the Inspector Gen-
9 eral during the period from taxpayers, Internal
10 Revenue Service employees, and other sources;
11 and

12 “(G) with respect to allegations of serious
13 employee misconduct—

14 “(i) a summary of the status of such
15 allegations; and

16 “(ii) a summary of the disposition of
17 such allegations, including the outcome of
18 any Department of Justice action and any
19 monies paid as a settlement of such allega-
20 tions.”.

21 (b) *CONFORMING AMENDMENTS.*—Section 7803(d) is
22 amended by striking paragraph (2) and by redesignating
23 paragraph (3) as paragraph (2).

1 **SEC. 314. STREAMLINE REPORTING PROCESS FOR NA-**
2 **TIONAL TAXPAYER ADVOCATE.**

3 (a) *ONE ANNUAL REPORT.*—Subparagraph (B) of sec-
4 tion 7803(c)(2) (relating to functions of Office) is amend-
5 ed—

6 (1) by striking all matter preceding subclause (I)
7 of clause (ii) and inserting the following:

8 “(B) *ANNUAL REPORT.*—

9 “(i) *IN GENERAL.*—Not later than De-
10 cember 31 of each calendar year, the Na-
11 tional Taxpayer Advocate shall report to the
12 Committee on Ways and Means of the
13 House of Representatives and the Committee
14 on Finance of the Senate on the objectives
15 of the Office of the Taxpayer Advocate for
16 the fiscal year beginning in such calendar
17 year and the activities of such Office during
18 the fiscal year ending during such calendar
19 year. Any such report shall contain full and
20 substantive analysis, in addition to statis-
21 tical information, and shall—”,

22 (2) by striking “clause (ii)” in clause (iv) and
23 inserting “clause (i)”, and

24 (3) by redesignating clauses (iii) and (iv) as
25 clauses (ii) and (iii), respectively.

1 (b) *ADDITIONAL REPORTS.*—Section 7803(c)(2)(C)
2 *(relating to other responsibilities)* is amended by striking
3 “and” at the end of clause (iii), by striking the period at
4 the end of clause (iv) and inserting “; and”, and by adding
5 at the end the following new clause:

6 “(v) at the discretion of the National
7 Taxpayer Advocate, report at any time to
8 the Committee on Ways and Means of the
9 House of Representatives and the Committee
10 on Finance of the Senate on significant
11 issues affecting taxpayer rights.”.

12 (c) *EFFECTIVE DATES.*—

13 (1) *ANNUAL REPORTS.*—The amendments made
14 by subsection (a) shall apply to reports in calendar
15 year 2007 and thereafter.

16 (2) *ADDITIONAL REPORTS.*—The amendments
17 made by subsection (b) shall take effect on the date of
18 the enactment of this Act.

19 **SEC. 315. WHISTLEBLOWER REFORMS.**

20 (a) *IN GENERAL.*—Section 7623 *(relating to expenses*
21 *of detection of underpayments and fraud, etc.)* is amend-
22 ed—

23 (1) by striking “The Secretary” and inserting
24 “(a) *IN GENERAL.*—The Secretary”,

1 (2) *by striking “and” at the end of paragraph*
2 *(1) and inserting “or”,*

3 (3) *by striking “(other than interest)”, and*

4 (4) *by adding at the end the following new sub-*
5 *sections:*

6 “(b) *AWARDS TO WHISTLEBLOWERS.—*

7 “(1) *IN GENERAL.—If the Secretary proceeds*
8 *with any administrative or judicial action described*
9 *in paragraph (5) based on information brought to the*
10 *Secretary’s attention by an individual, the Secretary*
11 *shall, as determined by the Whistleblower Office and*
12 *subject to paragraph (2), pay such individual as an*
13 *award at least 15 percent but not more than 30 per-*
14 *cent of the collected proceeds (including penalties, in-*
15 *terest, additions to tax, and additional amounts) re-*
16 *sulting from the action (including any related ac-*
17 *tions) or from any settlement in response to such ac-*
18 *tion. The Whistleblower Office shall determine the*
19 *amount of such award on the basis of the extent to*
20 *which the individual substantially contributed to such*
21 *action.*

22 “(2) *AWARD IN CASE OF LESS SUBSTANTIAL*
23 *CONTRIBUTION.—*

24 “(A) *IN GENERAL.—If the Whistleblower Of-*
25 *fice determines that the action described in para-*

1 *graph (1) is based principally on disclosures of*
2 *specific allegations (other than information pro-*
3 *vided by the individual described in paragraph*
4 *(1)) resulting from a judicial or administrative*
5 *hearing, from a governmental report, hearing,*
6 *audit, or investigation, or from the news media,*
7 *the Whistleblower Office may award such sums*
8 *as it considers appropriate, but in no case more*
9 *than 10 percent of the collected proceeds (includ-*
10 *ing penalties, interest, additions to tax, and ad-*
11 *ditional amounts) resulting from the action (in-*
12 *cluding any related actions) or from any settle-*
13 *ment in response to such action, taking into ac-*
14 *count the significance of the individual's infor-*
15 *mation and the role of such individual and any*
16 *legal representative of such individual in con-*
17 *tributing to such action.*

18 “(B) NONAPPLICATION OF PARAGRAPH
19 WHERE INDIVIDUAL IS ORIGINAL SOURCE OF IN-
20 FORMATION.—Subparagraph (A) shall not apply
21 if the information resulting in the initiation of
22 the action described in paragraph (1) was origi-
23 nally provided by the individual described in
24 paragraph (1).

1 “(3) *REDUCTION IN OR DENIAL OF AWARD.*—If
2 *the Whistleblower Office determines that the claim for*
3 *an award under paragraph (1) or (2) is brought by*
4 *an individual who planned and initiated the actions*
5 *that led to the underpayment of tax or actions de-*
6 *scribed in subsection (a)(2), then the Whistleblower*
7 *Office may appropriately reduce such award. If such*
8 *individual is convicted of criminal conduct arising*
9 *from the role described in the preceding sentence, the*
10 *Whistleblower Office shall deny any award.*

11 “(4) *APPEAL OF AWARD DETERMINATION.*—Any
12 *determination regarding an award under paragraph*
13 *(1), (2), or (3) may, within 30 days of such deter-*
14 *mination, be appealed to the Tax Court (and the Tax*
15 *Court shall have jurisdiction with respect to such*
16 *matter).*

17 “(5) *APPLICATION OF THIS SUBSECTION.*—This
18 *subsection shall apply with respect to any action—*

19 “(A) *against any taxpayer, but in the case*
20 *of any individual, only if such individual’s gross*
21 *income exceeds \$200,000 for any taxable year*
22 *subject to such action, and*

23 “(B) *if the tax, penalties, interest, additions*
24 *to tax, and additional amounts in dispute exceed*
25 *\$20,000.*

1 “(6) *ADDITIONAL RULES.*—

2 “(A) *NO CONTRACT NECESSARY.*—*No con-*
3 *tract with the Internal Revenue Service is nec-*
4 *essary for any individual to receive an award*
5 *under this subsection.*

6 “(B) *REPRESENTATION.*—*Any individual*
7 *described in paragraph (1) or (2) may be rep-*
8 *resented by counsel.*

9 “(C) *SUBMISSION OF INFORMATION.*—*No*
10 *award may be made under this subsection based*
11 *on information submitted to the Secretary unless*
12 *such information is submitted under penalty of*
13 *perjury.*

14 “(c) *WHISTLEBLOWER OFFICE.*—

15 “(1) *IN GENERAL.*—*There is established in the*
16 *Internal Revenue Service an office to be known as the*
17 *‘Whistleblower Office’ which—*

18 “(A) *shall at all times operate at the direc-*
19 *tion of the Commissioner and coordinate and*
20 *consult with other divisions in the Internal Rev-*
21 *enue Service as directed by the Commissioner,*

22 “(B) *shall analyze information received*
23 *from any individual described in subsection (b)*
24 *and either investigate the matter itself or assign*

1 *it to the appropriate Internal Revenue Service*
2 *office,*

3 “(C) shall monitor any action taken with
4 respect to such matter,

5 “(D) shall inform such individual that it
6 has accepted the individual’s information for
7 further review,

8 “(E) may require such individual and any
9 legal representative of such individual to not dis-
10 close any information so provided,

11 “(F) in its sole discretion may ask for addi-
12 tional assistance from such individual or any
13 legal representative of such individual, and

14 “(G) shall determine the amount to be
15 awarded to such individual under subsection (b).

16 “(2) *REQUEST FOR ASSISTANCE.*—

17 “(A) *IN GENERAL.*—Any assistance re-
18 quested under paragraph (1)(F) shall be under
19 the direction and control of the Whistleblower Of-
20 fice or the office assigned to investigate the mat-
21 ter under paragraph (1)(A). No individual or
22 legal representative whose assistance is so re-
23 quested may by reason of such request represent
24 himself or herself as an employee of the Federal
25 Government.

1 “(B) *FUNDING OF ASSISTANCE.*—*From the*
2 *amounts available for expenditure under sub-*
3 *section (b), the Whistleblower Office may, with*
4 *the agreement of the individual described in sub-*
5 *section (b), reimburse the costs incurred by any*
6 *legal representative of such individual in pro-*
7 *viding assistance described in subparagraph (A).*

8 “(d) *REPORT BY SECRETARY.*—*The Secretary shall*
9 *each year conduct a study and report to Congress on the*
10 *use of this section, including—*

11 “(1) *an analysis of the use of this section during*
12 *the preceding year and the results of such use, and*

13 “(2) *any legislative or administrative rec-*
14 *ommendations regarding the provisions of this section*
15 *and its application.”.*

16 (b) *ASSIGNMENT TO SPECIAL TRIAL JUDGES.*—

17 (1) *IN GENERAL.*—*Section 7443A(b) (relating to*
18 *proceedings which may be assigned to special trial*
19 *judges) is amended by striking “and” at the end of*
20 *paragraph (5), by redesignating paragraph (6) as*
21 *paragraph (7), and by inserting after paragraph (5)*
22 *the following new paragraph:*

23 “(6) *any proceeding under section 7623(b)(4),*
24 *and”.*

1 (2) *CONFORMING AMENDMENT.—Section*
2 *7443A(c) is amended by striking “or (5)” and insert-*
3 *ing “(5), or (6)”.*

4 (i) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*
5 *PAYER ITEMIZES.—Subsection (a) of section 62 (relating*
6 *to general rule defining adjusted gross income) is amended*
7 *by inserting after paragraph (20) the following new para-*
8 *graph:*

9 “(21) *ATTORNEYS FEES RELATING TO AWARDS*
10 *TO WHISTLEBLOWERS.—Any deduction allowable*
11 *under this chapter for attorney fees and court costs*
12 *paid by, or on behalf of, the taxpayer in connection*
13 *with any award under section 7623(b) (relating to*
14 *awards to whistleblowers). The preceding sentence*
15 *shall not apply to any deduction in excess of the*
16 *amount includible in the taxpayer’s gross income for*
17 *the taxable year on account of such award.”.*

18 (d) *EFFECTIVE DATE.—The amendments made by this*
19 *section shall apply to information provided on or after the*
20 *date of the enactment of this Act.*

21 **SEC. 316. AUTHORIZATION FOR FINANCIAL MANAGEMENT**
22 **SERVICE RETENTION OF TRANSACTION FEES**
23 **FROM LEVIED AMOUNTS.**

24 *Notwithstanding any other provision of law, the Fi-*
25 *nancial Management Service may charge the Internal Rev-*

1 *enue Service, and the Internal Revenue Service may pay*
2 *the Financial Management Service, a fee sufficient to cover*
3 *the full cost of implementing a continuous levy program*
4 *under subsection (h) of section 6331 of the Internal Revenue*
5 *Code of 1986. Any such fee shall be based on actual levies*
6 *made and shall be collected by the Financial Management*
7 *Service by the retention of a portion of amounts collected*
8 *by levy pursuant to that subsection. Amounts received by*
9 *the Financial Management Service as fees under that sub-*
10 *section shall be deposited into the account of the Depart-*
11 *ment of the Treasury under section 3711(g)(7) of title 31,*
12 *United States Code, and shall be collected and accounted*
13 *for in accordance with the provisions of that section. The*
14 *amount credited against the taxpayer's liability on account*
15 *of the continuous levy shall be the amount levied, without*
16 *reduction for the amount paid to the Financial Manage-*
17 *ment Service as a fee.*

18 **SEC. 317. CLARIFICATION OF DEFINITION OF CHURCH TAX**

19 **INQUIRY.**

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

1 “(6) any inquiry or examination relating to in-
2 formation provided by the Secretary regarding the
3 standards for exemption from tax under this title and
4 the requirements under this title relating to unrelated
5 business taxable income.”.

6 **SEC. 318. TREATMENT OF FUNDS FROM INDIAN TRIBAL**
7 **GOVERNMENTS AS PUBLIC SUPPORT FOR**
8 **PURPOSES OF PUBLIC CHARITY-PRIVATE**
9 **FOUNDATION CLASSIFICATION.**

10 (a) *IN GENERAL.*—Section 7871(a) (relating to Indian
11 tribal governments treated as States for certain purposes)
12 is amended by striking “and” at the end of subparagraph
13 (C) of paragraph (6), by striking the period at the end of
14 subparagraph (B) of paragraph (7) and inserting “; and”,
15 and by adding at the end the following new paragraph:

16 “(8) for purposes of determining support of an
17 organization described in section 170(b)(1)(A)(vi).”.

18 (b) *EFFECTIVE DATE.*—The amendments made by this
19 section shall apply with respect to—

20 (1) support received before, on, or after the date
21 of the enactment of this Act, and

22 (2) the determination of the status of any orga-
23 nization with respect to any taxable year beginning
24 after such date of enactment.

1 **SEC. 319. TAX COURT REVIEW OF REQUESTS FOR EQUI-**
2 **TABLE RELIEF FROM JOINT AND SEVERAL LI-**
3 **ABILITY.**

4 (a) *IN GENERAL.*—Paragraph (1) of section 6015(e)
5 (relating to petition for tax court review) is amended by
6 inserting “, or in the case of an individual who requests
7 equitable relief under subsection (f)” after “who elects to
8 have subsection (b) or (c) apply”.

9 (b) *CONFORMING AMENDMENTS.*—

10 (1) Section 6015(e)(1)(A)(i)(II) is amended by
11 inserting “or request is made” after “election is
12 filed”.

13 (2) Section 6015(e)(1)(B)(i) is amended—

14 (A) by inserting “or requesting equitable re-
15 lief under subsection (f)” after “making an elec-
16 tion under subsection (b) or (c)”, and

17 (B) by inserting “or request” after “to
18 which such election”.

19 (3) Section 6015(e)(1)(B)(ii) is amended by in-
20 sserting “or to which the request under subsection (f)
21 relates” after “to which the election under subsection
22 (b) or (c) relates”.

23 (4) Section 6015(e)(4) is amended by inserting
24 “or the request for equitable relief under subsection
25 (f)” after “the election under subsection (b) or (c)”.

1 (5) *Section 6015(e)(5) is amended by inserting*
2 “*or who requests equitable relief under subsection (f)*”
3 *after “who elects the application of subsection (b) or*
4 *(c)”.*

5 (6) *Section 6015(g)(2) is amended by inserting*
6 “*or of any request for equitable relief under subsection*
7 *(f)*” *after “any election under subsection (b) or (c)”.*

8 (7) *Section 6015(h)(2) is amended by inserting*
9 “*or a request for equitable relief made under sub-*
10 *section (f)*” *after “with respect to an election made*
11 *under subsection (b) or (c)”.*

12 (c) *EFFECTIVE DATE.*—*The amendments made by this*
13 *section shall apply with respect to liability for taxes arising*
14 *or remaining unpaid on or after the date of the enactment*
15 *of this Act.*

16 (d) *REFILINGS PERMITTED.*—*With respect to any case*
17 *the dismissal of which results from or is based on the juris-*
18 *dictional ruling in* *Billings v. Commissioner* *(127 T.C. No.*
19 *2, July 25, 2006)* *and is final on or before the date of the*
20 *enactment of this Act, such case may be refiled in the*
21 *United States Tax Court not later than the date which is*
22 *6 months after such date of enactment (without the imposi-*
23 *tion of any filing fees under Rule 20(b) of the Tax Court*
24 *Rules of Practice and Procedure).*

1 **SEC. 320. AUTHORIZATION OF APPROPRIATIONS FOR TAX**
2 **LAW ENFORCEMENT RELATING TO HUMAN**
3 **SEX TRAFFICKING.**

4 (a) *AUTHORIZATION OF APPROPRIATIONS.—*

5 (1) *IN GENERAL.—There is authorized to be ap-*
6 *propriated \$2,000,000 for fiscal year 2007 for the*
7 *purpose of establishing an office within the Internal*
8 *Revenue Service to focus on violations of the internal*
9 *revenue laws by persons who are under investigation*
10 *by any office of Federal, State, or local law enforce-*
11 *ment for knowingly recruiting, enticing, harboring,*
12 *transporting, or providing by any means a person,*
13 *knowing that—*

14 (A) *force, fraud, or coercion will be used to*
15 *cause the person to engage in a commercial sex*
16 *act, or*

17 (B) *the person has not attained the age of*
18 *18 years and will be caused to engage in a com-*
19 *mercial sex act.*

20 (2) *DEFINITIONS.—For purposes of paragraph*
21 *(1), the terms “commercial sex act” and “coercion”*
22 *shall have the meaning given such terms by section*
23 *1591(c) of title 18, United States Code.*

24 (3) *AVAILABILITY.—Any amounts appropriated*
25 *pursuant to the authority of paragraph (1) shall re-*
26 *main available for fiscal year 2008.*

1 (b) *ADDITIONAL FUNDING FOR OPERATIONS OF OF-*
2 *FICE.*—Unless specifically appropriated otherwise, there is
3 authorized to be appropriated and is appropriated to the
4 office established under subsection (a)(1) for fiscal years
5 2007 and 2008 for the administration of such office an
6 amount equal to the amount of any tax under chapter 1
7 of the Internal Revenue Code of 1986 (including any inter-
8 est) collected during such fiscal years as the result of the
9 actions of such office, plus any civil or criminal monetary
10 penalties imposed under such Code relating to such tax and
11 so collected.

12 (c) *REPORT.*—Not later than 1 year after the date of
13 the enactment of this Act, the Secretary of the Treasury
14 shall report to the Committee of Ways and Means of the
15 House of Representatives and the Committee on Finance
16 of the Senate on the enforcement activities of the office estab-
17 lished under subsection (a)(1) and shall include any rec-
18 ommendations for statutory changes to assist in future
19 prosecutions under this section.

20 (d) *APPLICABILITY OF WHISTLEBLOWER AWARDS TO*
21 *VICTIMS OF HUMAN SEX TRAFFICKING.*—For purposes of
22 making an award under paragraph (1) or (2) of section
23 7623(b) of the Internal Revenue Code of 1986 with respect
24 to information provided by any person caused to engage
25 in a commercial sex act (within the meaning of section

1 1591(c)(1) of title 18, United States Code), the determina-
2 tion whether such person is described in such paragraph
3 shall be made without regard to paragraph (3) of such sec-
4 tion 7623(b).

5 **SEC. 321. REGULATION OF PAYROLL TAX DEPOSIT AGENTS.**

6 (a) *IN GENERAL.*—Chapter 77 (relating to miscella-
7 neous provisions), as amended by this Act, is amended by
8 adding at the end the following new section:

9 **“SEC. 7531. PAYROLL TAX DEPOSIT AGENTS.**

10 “(a) *REGISTRATION.*—

11 “(1) *IN GENERAL.*—The Secretary shall establish
12 a system to require the initial registration and the
13 annual renewal of the registration of persons seeking
14 to act as payroll tax deposit agents authorized to
15 make Federal employment tax deposits on behalf of
16 employer taxpayers. Such system shall also—

17 “(A) establish a registration and renewal
18 fee for each payroll tax deposit agent in an
19 amount not to exceed \$100,

20 “(B) provide the payroll tax deposit agent
21 the option of either submitting a bond as speci-
22 fied in subsection (b) or submitting to an annual
23 audit as specified in subsection (c),

24 “(C) require such disclosures as are speci-
25 fied in subsection (d),

1 “(D) require that such agent ensure the di-
2 rect notification of the employer by any Federal
3 employment tax authority (and State employ-
4 ment tax authority if such agent contracts to
5 make State employment tax deposits for the em-
6 ployer) regarding the nonpayment of such em-
7 ployment taxes, and

8 “(E) provide penalties for unregistered per-
9 sons acting as payroll tax deposit agents with re-
10 spect to Federal tax deposits in an amount not
11 to exceed \$10,000 for each 90 days of noncompli-
12 ance.

13 “(2) *DEFINITION OF PAYROLL TAX DEPOSIT*
14 *AGENT.*—For purposes of this section, the term ‘pay-
15 roll tax deposit agent’ means any person which pro-
16 vides payroll processing or tax filing and deposit
17 services to 1 or more employers (other than an em-
18 ployer acting on its own behalf) if such person has the
19 contractual authority to access such employer’s funds
20 for the purpose of making employment tax deposits.
21 Such term shall not include any person which only
22 transfers such funds (regardless if such person has the
23 authority to determine the amount of such transfer)
24 and does not have the authority to impound such
25 funds for such purpose.

1 “(3) *EMPLOYMENT TAX.*—*For purposes of this*
2 *section, the term ‘employment tax’ includes unem-*
3 *ployment insurance contributions.*

4 “(b) *BONDING.*—

5 “(1) *IN GENERAL.*—*If a payroll tax deposit*
6 *agent elects to submit a bond under subsection*
7 *(a)(1)(B), the amount of such bond shall be not less*
8 *than \$50,000 nor more than \$500,000, and shall be*
9 *determined with respect to each payroll tax deposit*
10 *agent under regulations prescribed by the Secretary.*

11 “(2) *SURETY.*—*Any bond or security furnished*
12 *pursuant to this section shall be in such form and*
13 *with such surety or sureties as may be prescribed by*
14 *regulations issued pursuant to section 7101.*

15 “(c) *ANNUAL AUDITS.*—*If a payroll tax deposit agent*
16 *elects to submit to an annual audit under subsection*
17 *(a)(1)(B), such audit shall be performed by an independent*
18 *third party and shall be based on such audit principles as*
19 *the Secretary determines necessary, including the following:*

20 “(1) *The escrow account of the payroll tax de-*
21 *posit agent in which such agent holds the employers’*
22 *taxes is balanced each year to the total of the quar-*
23 *terly reconciliation statements.*

1 “(2) *The escrow account funds of the payroll tax*
2 *deposit agent are not commingled with such agent’s*
3 *operating funds.*

4 “(3) *No evidence that the payroll tax deposit*
5 *agent used any of the funds in such agent’s escrow ac-*
6 *count to pay such agent’s own operating costs.*

7 “(4) *Receipt evidence that such agent paid the*
8 *required employment taxes on behalf of the employers*
9 *to the proper government employment tax authority.*

10 “(d) *DISCLOSURE.—The Secretary shall require pay-*
11 *roll tax deposit agents to disclose to each potential and ex-*
12 *isting client prior to or at the time of contracting for pay-*
13 *roll services—*

14 “(1) *the client’s continuing liability for payment*
15 *of all Federal and State employment taxes notwith-*
16 *standing any contractual relationship with a payroll*
17 *tax deposit agent,*

18 “(2) *the mechanisms available to the client to*
19 *verify the amount and date of payment of all tax de-*
20 *posits made by the payroll tax deposit agent on behalf*
21 *of such client, including the Internet address, postal*
22 *address, and telephone number of each Federal and*
23 *State employment tax authority related to such depos-*
24 *its, and*

1 “(3) such other information that the Secretary
2 determines is necessary or appropriate to assist em-
3 ployers in the selection and use of payroll tax deposit
4 agents.

5 “(e) *TAX DEPOSITS AND RETURNS.*—Only persons
6 registered under this section may—

7 “(1) make Federal tax deposits on behalf of an
8 employer,

9 “(2) sign and file Federal employment tax re-
10 turns on behalf of a taxpayer, and

11 “(3) have access to confidential tax information
12 relating to such employer.

13 “(f) *REGULATIONS.*—The Secretary shall prescribe
14 such regulations as may be necessary to carry out the provi-
15 sions of this section.”.

16 (b) *PAYROLL TAX DEPOSIT AGENTS SUBJECT TO PEN-*
17 *ALTY FOR FAILURE TO COLLECT AND PAY OVER TAX OR*
18 *ATTEMPT TO EVADE OR DEFEAT TAX.*—

19 (1) *IN GENERAL.*—Section 6672(a) is amended
20 by inserting “, including any payroll tax deposit
21 agent (as defined in section 7531(a)(2)),” after “Any
22 person”.

23 (2) *CONSTRUCTION.*—The amendment made by
24 paragraph (1) shall not be construed to create any in-
25 ference with respect to the interpretation of section

1 6672 of the Internal Revenue Code of 1986 as such
2 section was in effect on the day before the date of the
3 enactment of this Act.

4 (3) *NO DISCHARGE IN BANKRUPTCY.*—In the case
5 of any bankruptcy filed by or behalf of any person
6 after December 31, 2006, under title 11, United States
7 Code, any penalty imposed under section 6672(a) of
8 the Internal Revenue Code of 1986 with respect to
9 such person shall not be subject to discharge under
10 such title.

11 (c) *CLERICAL AMENDMENT.*—The table of sections for
12 such chapter 77, as amended by this Act, is amended by
13 adding at the end the following new item:

 “Sec. 7531. Payroll tax deposit agents.”.

14 (d) *EFFECTIVE DATES.*—

15 (1) *IN GENERAL.*—Except as provided in para-
16 graph (2), the amendments made by this section shall
17 take effect on January 1, 2007.

18 (2) *PENALTY.*—The amendments made by sub-
19 section (b) shall apply to failures occurring after De-
20 cember 31, 2006.

1 **SEC. 322. SPECIAL PERIOD OF LIMITATION WHEN UNI-**
2 **FORMED SERVICES RETIRED PAY IS RE-**
3 **DUCTION AS A RESULT OF AWARD OF DIS-**
4 **ABILITY COMPENSATION.**

5 (a) *IN GENERAL.*—Subsection (d) of section 6511 (re-
6 lating to special rules applicable to income taxes) is amend-
7 ed by adding at the end the following new paragraph:

8 “(8) *SPECIAL RULES WHEN UNIFORMED SERV-*
9 *ICES RETIRED PAY IS REDUCED AS A RESULT OF*
10 *AWARD OF DISABILITY COMPENSATION.*—

11 “(A) *PERIOD OF LIMITATION ON FILING*
12 *CLAIM.*—If the claim for credit or refund relates
13 to an overpayment of tax imposed by subtitle A
14 on account of—

15 “(i) *the reduction of uniformed services*
16 *retired pay computed under section 1406 or*
17 *1407 of title 10, United States Code, or*

18 “(ii) *the waiver of such pay under sec-*
19 *tion 5305 of title 38 of such Code,*
20 *as a result of an award of compensation under*
21 *title 38 of such Code pursuant to a determina-*
22 *tion by the Secretary of Veterans Affairs, the 3-*
23 *year period of limitation prescribed in subsection*
24 *(a) shall be extended, for purposes of permitting*
25 *a credit or refund based upon the amount of such*
26 *reduction or waiver, until the end of the 1-year*

1 *period beginning on the date of such determina-*
2 *tion.*

3 “(B) *LIMITATION TO 5 TAXABLE YEARS.*—
4 *Subparagraph (A) shall not apply with respect*
5 *to any taxable year which began more than 5*
6 *years before the date of such determination.”.*

7 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
8 *section (a) shall apply to claims for credit or refund filed*
9 *after the date of the enactment of this Act.*

10 (c) *TRANSITION RULES.*—*In the case of a determina-*
11 *tion described in paragraph (8) of section 6511(d) of the*
12 *Internal Revenue Code of 1986 (as added by this section)*
13 *which is made by the Secretary of Veterans Affairs after*
14 *December 31, 2000, and before the date of the enactment*
15 *of this Act, such paragraph—*

16 (1) *shall not apply with respect to any taxable*
17 *year which began before January 1, 2001, and*

18 (2) *shall be applied by substituting “the date of*
19 *the enactment of the Telephone Excise Tax Repeal*
20 *and Taxpayer Protection and Assistance Act of 2006”*
21 *for “the date of such determination” in subparagraph*
22 *(A) thereof.*

1 **TITLE IV—REFORM OF PENALTY**
2 **AND INTEREST**

3 **SEC. 401. INDIVIDUAL ESTIMATED TAX.**

4 (a) *INCREASE IN EXCEPTION FOR INDIVIDUALS OWING*
5 *SMALL AMOUNT OF TAX.—Section 6654(e)(1) (relating to*
6 *exception where tax is small amount) is amended by strik-*
7 *ing “\$1,000” and inserting “\$2,000”.*

8 (b) *COMPUTATION OF ADDITION TO TAX.—Subsections*
9 *(a) and (b) of section 6654 (relating to failure by individual*
10 *to pay estimated taxes) are amended to read as follows:*

11 “(a) *ADDITION TO THE TAX.—*

12 “(1) *IN GENERAL.—Except as otherwise provided*
13 *in this section, in the case of any underpayment of*
14 *estimated tax by an individual for a taxable year,*
15 *there shall be added to the tax under chapters 1 and*
16 *2 for such taxable year the sum of the amounts deter-*
17 *mined under paragraph (2) for each day for which*
18 *there is an underpayment.*

19 “(2) *AMOUNT OF ADDITION TO TAX.—The*
20 *amount determined under this paragraph for any day*
21 *shall be the product of—*

22 “(A) *the underpayment rate established*
23 *under subsection (b)(2) for such day, multiplied*
24 *by*

1 “(B) *the amount of the underpayment for*
2 *such day.*

3 “(b) *AMOUNT OF UNDERPAYMENT; UNDERPAYMENT*
4 *RATE.—For purposes of subsection (a)—*

5 “(1) *AMOUNT.—The amount of underpayment on*
6 *any day shall be the excess (if any) of—*

7 “(A) *the sum of the required installments*
8 *for the taxable year the due dates for which are*
9 *on or before such day, over*

10 “(B) *the sum of the amounts of estimated*
11 *tax payments made for such taxable year on or*
12 *before such day.*

13 “(2) *DETERMINATION OF UNDERPAYMENT*
14 *RATE.—*

15 “(A) *IN GENERAL.—The underpayment rate*
16 *with respect to any day in an installment under-*
17 *payment period shall be the underpayment rate*
18 *established under section 6621 for the first day*
19 *of the calendar quarter in which such install-*
20 *ment underpayment period begins.*

21 “(B) *INSTALLMENT UNDERPAYMENT PE-*
22 *RIOD.—For purposes of subparagraph (A), the*
23 *term ‘installment underpayment period’ means*
24 *the period beginning on the day after the due*
25 *date for a required installment and ending on*

1 *the due date for the subsequent required install-*
2 *ment (or in the case of the 4th required install-*
3 *ment, the 15th day of the 4th month following*
4 *the close of a taxable year).*

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

9 “(3) *TERMINATION OF ESTIMATED TAX UNDER-*
10 *PAYMENT.*—*No day after the end of the installment*
11 *underpayment period for the 4th required installment*
12 *specified in paragraph (2)(B) for a taxable year shall*
13 *be treated as a day of underpayment with respect to*
14 *such taxable year.”.*

15 (c) *EFFECTIVE DATE.*—*The amendments made by this*
16 *section shall apply to taxable years beginning after Decem-*
17 *ber 31, 2006.*

18 **SEC. 402. CORPORATE ESTIMATED TAX.**

19 (a) *INCREASE IN SMALL TAX AMOUNT EXCEPTION.*—
20 *Section 6655(f) (relating to exception where tax is small*
21 *amount) is amended by striking “\$500” and inserting*
22 *“\$1,000”.*

23 (b) *EFFECTIVE DATE.*—*The amendment made by this*
24 *section shall apply to taxable years beginning after Decem-*
25 *ber 31, 2006.*

1 **SEC. 403. INCREASE IN LARGE CORPORATION THRESHOLD**
2 **FOR ESTIMATED TAX PAYMENTS.**

3 (a) *IN GENERAL.*—Section 6655(g)(2) (defining large
4 corporation) is amended—

5 (1) by striking “\$1,000,000” in subparagraph
6 (A) and inserting “the applicable amount”,

7 (2) by striking “the \$1,000,000 amount specified
8 in subparagraph (A)” in subparagraph (B)(ii) and
9 inserting “the applicable amount”,

10 (3) by redesignating subparagraph (B) as sub-
11 paragraph (C), and

12 (4) by inserting after subparagraph (A) the fol-
13 lowing new subparagraph:

14 “(B) *APPLICABLE AMOUNT.*—For purposes
15 of this paragraph, the applicable amount is
16 \$1,000,000 increased (but not above \$1,500,000)
17 by \$50,000 for each taxable year beginning after
18 2006.”.

19 (b) *EFFECTIVE DATE.*—The amendments made by this
20 section shall apply to taxable years beginning after Decem-
21 ber 31, 2006.

22 **SEC. 404. EXPANSION OF INTEREST NETTING.**

23 (a) *IN GENERAL.*—Subsection (d) of section 6621 (re-
24 lating to elimination of interest on overlapping periods of
25 tax overpayments and underpayments) is amended by add-
26 ing at the end the following new sentence: “Solely for pur-

1 *poses of the preceding sentence, section 6611(e) shall not*
2 *apply.”.*

3 *(b) EFFECTIVE DATE.—The amendment made by this*
4 *section shall apply to interest accrued after December 31,*
5 *2010.*

6 **SEC. 405. CLARIFICATION OF APPLICATION OF FEDERAL**
7 **TAX DEPOSIT PENALTY.**

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

12 **SEC. 406. FRIVOLOUS TAX SUBMISSIONS.**

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

15 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

16 **“(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-**
17 **TURNS.—A person shall pay a penalty of \$5,000 if—**

18 **“(1) such person files what purports to be a re-**
19 **turn of a tax imposed by this title but which—**

20 **“(A) does not contain information on which**
21 **the substantial correctness of the self-assessment**
22 **may be judged, or**

23 **“(B) contains information that on its face**
24 **indicates that the self-assessment is substantially**
25 **incorrect, and**

1 “(2) *the conduct referred to in paragraph (1)—*

2 “(A) *is based on a position which the Sec-*
3 *retary has identified as frivolous under sub-*
4 *section (c), or*

5 “(B) *reflects a desire to delay or impede the*
6 *administration of Federal tax laws.*

7 “(b) *CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUB-*
8 *MISSIONS.—*

9 “(1) *IMPOSITION OF PENALTY.—Except as pro-*
10 *vided in paragraph (3), any person who submits a*
11 *specified frivolous submission shall pay a penalty of*
12 *\$5,000.*

13 “(2) *SPECIFIED FRIVOLOUS SUBMISSION.—For*
14 *purposes of this section—*

15 “(A) *SPECIFIED FRIVOLOUS SUBMISSION.—*
16 *The term ‘specified frivolous submission’ means*
17 *a specified submission if any portion of such*
18 *submission—*

19 “(i) *is based on a position which the*
20 *Secretary has identified as frivolous under*
21 *subsection (c), or*

22 “(ii) *reflects a desire to delay or im-*
23 *pede the administration of Federal tax*
24 *laws.*

1 “(B) *SPECIFIED SUBMISSION.*—*The term*
2 *‘specified submission’ means—*

3 “(i) *a request for a hearing under—*

4 “(I) *section 6320 (relating to no-*
5 *tice and opportunity for hearing upon*
6 *filing of notice of lien), or*

7 “(II) *section 6330 (relating to no-*
8 *tice and opportunity for hearing before*
9 *levy), and*

10 “(ii) *an application under—*

11 “(I) *section 6159 (relating to*
12 *agreements for payment of tax liability*
13 *in installments),*

14 “(II) *section 7122 (relating to*
15 *compromises), or*

16 “(III) *section 7811 (relating to*
17 *taxpayer assistance orders).*

18 “(3) *OPPORTUNITY TO WITHDRAW SUBMIS-*
19 *SION.*—*If the Secretary provides a person with notice*
20 *that a submission is a specified frivolous submission*
21 *and such person withdraws such submission within*
22 *30 days after such notice, the penalty imposed under*
23 *paragraph (1) shall not apply with respect to such*
24 *submission.*

1 “(c) *LISTING OF FRIVOLOUS POSITIONS.*—The Sec-
2 retary shall prescribe (and periodically revise) a list of posi-
3 tions which the Secretary has identified as being frivolous
4 for purposes of this subsection. The Secretary shall not in-
5 clude in such list any position that the Secretary deter-
6 mines meets the requirement of section
7 6662(d)(2)(B)(ii)(II).

8 “(d) *REDUCTION OF PENALTY.*—The Secretary may
9 reduce the amount of any penalty imposed under this sec-
10 tion if the Secretary determines that such reduction would
11 promote compliance with and administration of the Federal
12 tax laws.

13 “(e) *PENALTIES IN ADDITION TO OTHER PEN-*
14 *ALTIES.*—The penalties imposed by this section shall be in
15 addition to any other penalty provided by law.”.

16 (b) *TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-*
17 *INGS BEFORE LEVY.*—

18 (1) *FRIVOLOUS REQUESTS DISREGARDED.*—Sec-
19 tion 6330 (relating to notice and opportunity for
20 hearing before levy) is amended by adding at the end
21 the following new subsection:

22 “(g) *FRIVOLOUS REQUESTS FOR HEARING, ETC.*—
23 Notwithstanding any other provision of this section, if the
24 Secretary determines that any portion of a request for a
25 hearing under this section or section 6320 meets the require-

1 *ment of clause (i) or (ii) of section 6702(b)(2)(A), then the*
2 *Secretary may treat such portion as if it were never sub-*
3 *mitted and such portion shall not be subject to any further*
4 *administrative or judicial review.”.*

5 (2) *PRECLUSION FROM RAISING FRIVOLOUS*
6 *ISSUES AT HEARING.—Section 6330(c)(4) is amend-*
7 *ed—*

8 (A) *by striking “(A)” and inserting*
9 *“(A)(i)”;*

10 (B) *by striking “(B)” and inserting “(i)”;*

11 (C) *by striking the period at the end of the*
12 *first sentence and inserting “; or”; and*

13 (D) *by inserting after subparagraph (A)(ii)*
14 *(as so redesignated) the following new subpara-*
15 *graph:*

16 “(B) *the issue meets the requirement of*
17 *clause (i) or (ii) of section 6702(b)(2)(A).”.*

18 (3) *STATEMENT OF GROUNDS.—Section*
19 *6330(b)(1) is amended by striking “under subsection*
20 *(a)(3)(B)” and inserting “in writing under subsection*
21 *(a)(3)(B) and states the grounds for the requested*
22 *hearing”.*

23 (c) *TREATMENT OF FRIVOLOUS REQUESTS FOR HEAR-*
24 *INGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is*
25 *amended—*

1 (1) *in subsection (b)(1), by striking “under sub-*
2 *section (a)(3)(B)” and inserting “in writing under*
3 *subsection (a)(3)(B) and states the grounds for the re-*
4 *quested hearing”, and*

5 (2) *in subsection (c), by striking “and (e)” and*
6 *inserting “(e), and (g)”.*

7 (d) *TREATMENT OF FRIVOLOUS APPLICATIONS FOR*
8 *OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-*
9 *MENTS.—*

10 (1) *IN GENERAL.—Section 7122 is amended by*
11 *adding at the end the following new subsection:*

12 “(g) *FRIVOLOUS SUBMISSIONS, ETC.—Notwith-*
13 *standing any other provision of this section, if the Secretary*
14 *determines that any portion of an application for an offer-*
15 *in-compromise or installment agreement submitted under*
16 *this section or section 6159 meets the requirement of clause*
17 *(i) or (ii) of section 6702(b)(2)(A), then the Secretary may*
18 *treat such portion as if it were never submitted and such*
19 *portion shall not be subject to any further administrative*
20 *or judicial review.”.*

21 (2) *CROSS REFERENCE.—Section 6159(f) is*
22 *amended by adding at the end the following new item:*

“For treatment of frivolous applications for installment agreements, see section 7122(g).”.

1 (e) *TREATMENT OF FRIVOLOUS APPLICATIONS FOR*
2 *TAXPAYER ASSISTANCE ORDERS.—Section 7811 is amend-*
3 *ed by adding at the end the following new subsection:*

4 “(h) *FRIVOLOUS SUBMISSIONS, ETC.—Notwith-*
5 *standing any other provision of this section, if the Secretary*
6 *determines that any portion of an application for a Tax-*
7 *payer Assistance Order submitted under this section meets*
8 *the requirement of clause (i) or (ii) of section 6702(b)(2)(A),*
9 *then the Secretary may treat such portion as if it were*
10 *never submitted and such portion shall not be subject to*
11 *any further administrative or judicial review.”.*

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

“Sec. 6702. Frivolous tax submissions.”.

16 (g) *EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply to filings and submissions made and*
18 *issues raised after the date on which the Secretary first pre-*
19 *scribes a list under section 6702(c) of the Internal Revenue*
20 *Code of 1986, as amended by subsection (a).*

1 **SEC. 407. UNDERSTATEMENT OF TAXPAYER LIABILITY BY**
2 **RETURN PREPARERS.**

3 (a) *APPLICATION OF RETURN PREPARER PENALTIES*
4 *TO ALL TAX RETURNS.—*

5 (1) *DEFINITION OF TAX RETURN PREPARER.—*

6 *Paragraph (36) of section 7701(a) (relating to income*
7 *tax preparer) is amended—*

8 (A) *by striking “income” each place it ap-*
9 *pears in the heading and the text, and*

10 (B) *in subparagraph (A), by striking “sub-*
11 *title A” each place it appears and inserting “this*
12 *title”.*

13 (2) *CONFORMING AMENDMENTS.—*

14 (A)(i) *Section 6060 is amended by striking*
15 *“INCOME TAX RETURN PREPARERS” in the*
16 *heading and inserting “TAX RETURN PRE-*
17 *PARERS”.*

18 (ii) *Section 6060(a) is amended—*

19 (I) *by striking “an income tax return*
20 *preparer” each place it appears and insert-*
21 *ing “a tax return preparer”,*

22 (II) *by striking “each income tax re-*
23 *turn preparer” and inserting “each tax re-*
24 *turn preparer”, and*

1 (III) by striking “another income tax
2 return preparer” and inserting “another
3 tax return preparer”.

4 (iii) The item relating to section 6060 in
5 the table of sections for subpart F of part III of
6 subchapter A of chapter 61 is amended by strik-
7 ing “income tax return preparers” and inserting
8 “tax return preparers”.

9 (iv) Subpart F of part III of subchapter A
10 of chapter 61 is amended by striking “**Income**
11 **Tax Return Preparers**” in the heading and
12 inserting “**Tax Return Preparers**”.

13 (v) The item relating to subpart F in the
14 table of subparts for part III of subchapter A of
15 chapter 61 is amended by striking “income tax
16 return preparers” and inserting “tax return pre-
17 parers”.

18 (B) Section 6103(k)(5) is amended—

19 (i) by striking “income tax return pre-
20 parer” each place it appears and inserting
21 “tax return preparer”, and

22 (ii) by striking “income tax return
23 preparers” each place it appears and insert-
24 ing “tax return preparers”.

25 (C)(i) Section 6107 is amended—

1 (I) by striking “**INCOME TAX RE-**
2 **TURN PREPARER**” in the heading and in-
3 serting “**TAX RETURN PREPARER**”,

4 (II) by striking “an income tax return
5 preparer” each place it appears in sub-
6 sections (a) and (b) and inserting “a tax re-
7 turn preparer”,

8 (III) by striking “**INCOME TAX RE-**
9 **TURN PREPARER**” in the heading for sub-
10 section (b) and inserting “**TAX RETURN**
11 **PREPARER**”, and

12 (IV) in subsection (c), by striking “in-
13 come tax return preparers” and inserting
14 “tax return preparers”.

15 (ii) The item relating to section 6107 in the
16 table of sections for subchapter B of chapter 61
17 is amended by striking “Income tax return pre-
18 parer” and inserting “Tax return preparer”.

19 (D) Section 6109(a)(4) is amended—

20 (i) by striking “an income tax return
21 preparer” and inserting “a tax return pre-
22 parer”, and

23 (ii) by striking “**INCOME TAX RETURN**
24 **PREPARER**” in the heading and inserting
25 “**TAX RETURN PREPARER**”.

1 (E) Section 6503(k)(4) is amended by strik-
2 ing “Income tax return preparers” and inserting
3 “Tax return preparers”.

4 (F)(i) Section 6694 is amended—

5 (I) by striking “**INCOME TAX RE-**
6 **TURN PREPARER**” in the heading and in-
7 serting “**TAX RETURN PREPARER**”,

8 (II) by striking “an income tax return
9 preparer” each place it appears and insert-
10 ing “a tax return preparer”,

11 (III) in subsection (c)(2), by striking
12 “the income tax return preparer” and in-
13 serting “the tax return preparer”,

14 (IV) in subsection (e), by striking
15 “subtitle A” and inserting “this title”, and

16 (V) in subsection (f), by striking “in-
17 come tax return preparer” and inserting
18 “tax return preparer”.

19 (ii) The item relating to section 6694 in the
20 table of sections for part I of subchapter B of
21 chapter 68 is amended by striking “income tax
22 return preparer” and inserting “tax return pre-
23 parer”.

24 (G)(i) Section 6695 is amended—

1 (I) by striking “**INCOME**” in the head-
2 ing, and

3 (II) by striking “an income tax return
4 preparer” each place it appears and insert-
5 ing “a tax return preparer”.

6 (ii) Section 6695(f) is amended—

7 (I) by striking “subtitle A” and insert-
8 ing “this title”, and

9 (II) by striking “the income tax return
10 preparer” and inserting “the tax return
11 preparer”.

12 (iii) The item relating to section 6695 in
13 the table of sections for part I of subchapter B
14 of chapter 68 is amended by striking “income”.

15 (H) Section 6696(e) is amended by striking
16 “subtitle A” each place it appears and inserting
17 “this title”.

18 (I)(i) Section 7407 is amended—

19 (I) by striking “**INCOME TAX RE-**
20 **TURN PREPARERS**” in the heading and
21 inserting “**TAX RETURN PREPARERS**”,

22 (II) by striking “an income tax return
23 preparer” each place it appears and insert-
24 ing “a tax return preparer”,

1 (III) by striking “income tax pre-
2 parer” both places it appears in subsection
3 (a) and inserting “tax return preparer”,
4 and

5 (IV) by striking “income tax return”
6 in subsection (a) and inserting “tax re-
7 turn”.

8 (ii) The item relating to section 7407 in the
9 table of sections for subchapter A of chapter 76
10 is amended by striking “income tax return pre-
11 parers” and inserting “tax return preparers”.

12 (J)(i) Section 7427 is amended—

13 (I) by striking “**INCOME TAX RE-**
14 **TURN PREPARERS**” in the heading and
15 inserting “**TAX RETURN PREPARERS**”,
16 and

17 (II) by striking “an income tax return
18 preparer” and inserting “a tax return pre-
19 parer”.

20 (ii) The item relating to section 7427 in the
21 table of sections for subchapter B of chapter 76
22 is amended to read as follows:

“Sec. 7427. Tax return preparers.”.

23 (b) *MODIFICATION OF PENALTY FOR UNDERSTATE-*
24 *MENT OF TAXPAYER’S LIABILITY BY TAX RETURN PRE-*

1 *PARER.—Subsections (a) and (b) of section 6694 are*
2 *amended to read as follows:*

3 “(a) *UNDERSTATEMENT DUE TO UNREASONABLE PO-*
4 *SITIONS.—*

5 “(1) *IN GENERAL.—Any tax return preparer*
6 *who prepares any return or claim for refund with re-*
7 *spect to which any part of an understatement of li-*
8 *ability is due to a position described in paragraph*
9 *(2) shall pay a penalty with respect to each such re-*
10 *turn or claim in an amount equal to the greater of—*

11 “(A) *\$1,000, or*

12 “(B) *50 percent of the income derived (or to*
13 *be derived) by the tax return preparer with re-*
14 *spect to the return or claim.*

15 “(2) *UNREASONABLE POSITION.—A position is*
16 *described in this paragraph if—*

17 “(A) *the tax return preparer knew (or rea-*
18 *sonably should have known) of the position,*

19 “(B) *there was not a reasonable belief that*
20 *the position would more likely than not be sus-*
21 *tained on its merits, and*

22 “(C)(i) *the position was not disclosed as*
23 *provided in section 6662(d)(2)(B)(ii), or*

24 “(ii) *there was no reasonable basis for the*
25 *position.*

1 “(3) *REASONABLE CAUSE EXCEPTION.*—No pen-
2 *alty shall be imposed under this subsection if it is*
3 *shown that there is reasonable cause for the under-*
4 *statement and the tax return preparer acted in good*
5 *faith.*

6 “(b) *UNDERSTATEMENT DUE TO WILLFUL OR RECK-*
7 *LESS CONDUCT.*—

8 “(1) *IN GENERAL.*—Any tax return preparer
9 *who prepares any return or claim for refund with re-*
10 *spect to which any part of an understatement of li-*
11 *ability is due to a conduct described in paragraph (2)*
12 *shall pay a penalty with respect to each such return*
13 *or claim in an amount equal to the greater of—*

14 “(A) \$5,000, or

15 “(B) 50 percent of the income derived (or to
16 *be derived) by the tax return preparer with re-*
17 *spect to the return or claim.*

18 “(2) *WILLFUL OR RECKLESS CONDUCT.*—Con-
19 *duct described in this paragraph is conduct by the tax*
20 *return preparer which is—*

21 “(A) a willful attempt in any manner to
22 *understate the liability for tax on the return or*
23 *claim, or*

24 “(B) a reckless or intentional disregard of
25 *rules or regulations.*

1 “(3) *REDUCTION IN PENALTY.*—*The amount of*
2 *any penalty payable by any person by reason of this*
3 *subsection for any return or claim for refund shall be*
4 *reduced by the amount of the penalty paid by such*
5 *person by reason of subsection (a).”.*

6 (c) *EFFECTIVE DATE.*—*The amendments made by this*
7 *section shall apply to returns prepared after the date of the*
8 *enactment of this Act.*

9 **SEC. 408. PENALTY FOR AIDING AND ABETTING THE UN-**
10 **DERSTATEMENT OF TAX LIABILITY.**

11 (a) *IN GENERAL.*—*Section 6701(a) (relating to impo-*
12 *sition of penalty) is amended—*

13 (1) *by inserting “, or tax liability reflected in,”*
14 *after “the preparation or presentation of” in para-*
15 *graph (1),*

16 (2) *by inserting “aid, assistance, procurement,*
17 *or advice with respect to such” before “portion” both*
18 *places it appears in paragraphs (2) and (3), and*

19 (3) *by inserting “instance of aid, assistance, pro-*
20 *curement, or advice or each such” before “document”*
21 *in the matter following paragraph (3).*

22 (b) *AMOUNT OF PENALTY.*—*Subsection (b) of section*
23 *6701 (relating to penalties for aiding and abetting under-*
24 *statement of tax liability) is amended to read as follows:*

1 “(b) *AMOUNT OF PENALTY; CALCULATION OF PEN-*
2 *ALTY; LIABILITY FOR PENALTY.*—

3 “(1) *AMOUNT OF PENALTY.*—*The amount of the*
4 *penalty imposed by subsection (a) shall be 100 per-*
5 *cent of the gross income derived (or to be derived)*
6 *from such aid, assistance, procurement, or advice pro-*
7 *vided by the person or persons subject to such penalty.*

8 “(2) *CALCULATION OF PENALTY.*—*The penalty*
9 *amount determined under paragraph (1) shall be cal-*
10 *culated with respect to each instance of aid, assist-*
11 *ance, procurement, or advice described in subsection*
12 *(a), each instance in which income was derived by the*
13 *person or persons subject to such penalty, and each*
14 *person who made such an understatement of the li-*
15 *ability for tax.*

16 “(3) *LIABILITY FOR PENALTY.*—*If more than 1*
17 *person is liable under subsection (a) with respect to*
18 *providing such aid, assistance, procurement, or ad-*
19 *vice, all such persons shall be jointly and severally*
20 *liable for the penalty under such subsection.”.*

21 “(c) *PENALTY NOT DEDUCTIBLE.*—*Section 6701 is*
22 *amended by adding at the end the following new subsection:*

23 “(g) *PENALTY NOT DEDUCTIBLE.*—*The payment of*
24 *any penalty imposed under this section or the payment of*
25 *any amount to settle or avoid the imposition of such pen-*

1 *alty shall not be considered an ordinary and necessary ex-*
2 *pense in carrying on a trade or business for purposes of*
3 *this title and shall not be deductible by the person who is*
4 *subject to such penalty or who makes such payment.”.*

5 *(d) EFFECTIVE DATE.—The amendments made by this*
6 *section shall apply to the activities described in section*
7 *6701(a) of the Internal Revenue Code of 1986 after the date*
8 *of the enactment of this Act.*

9 **SEC. 409. INCREASE IN CRIMINAL MONETARY PENALTY LIM-**
10 **ITATION FOR THE UNDERPAYMENT OR OVER-**
11 **PAYMENT OF TAX DUE TO FRAUD.**

12 *(a) IN GENERAL.—*

13 *(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Sec-*
14 *tion 7201 (relating to attempt to evade or defeat tax)*
15 *is amended—*

16 *(A) by striking “\$100,000” and inserting*
17 *“\$500,000”,*

18 *(B) by striking “\$500,000” and inserting*
19 *“\$1,000,000”, and*

20 *(C) by striking “5 years” and inserting “10*
21 *years”.*

22 *(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY*
23 *INFORMATION, OR PAY TAX.—*

1 (A) *IN GENERAL.*—Section 7203 (relating to
2 willful failure to file return, supply information,
3 or pay tax) is amended—

4 (i) in the first sentence—

5 (I) by striking “Any person” and
6 inserting the following:

7 “(a) *IN GENERAL.*—Any person”, and

8 (II) by striking “\$25,000” and in-
9 serting “\$50,000”,

10 (ii) in the third sentence, by striking
11 “section” and inserting “subsection”, and

12 (iii) by adding at the end the following
13 new subsection:

14 “(b) *AGGRAVATED FAILURE TO FILE.*—

15 “(1) *IN GENERAL.*—In the case of any failure de-
16 scribed in paragraph (2), the first sentence of sub-
17 section (a) shall be applied by substituting—

18 “(A) ‘felony’ for ‘misdemeanor’,

19 “(B) ‘\$500,000 (\$1,000,000’ for ‘\$50,000
20 (\$100,000’, and

21 “(C) ‘10 years’ for ‘1 year’.

22 “(2) *FAILURE DESCRIBED.*—A failure described
23 in this paragraph is—

24 “(A) a failure to make a return described in
25 subsection (a) for a period of 3 or more consec-

1 *tive taxable years if the aggregate tax liability*
2 *for such period is not less than \$100,000, or*

3 *“(B) a failure to make a return if the tax*
4 *liability giving rise to the requirement to make*
5 *such return is attributable to an activity which*
6 *is a felony under any State or Federal law.”.*

7 *(B) PENALTY MAY BE APPLIED IN ADDITION*
8 *TO OTHER PENALTIES.—Section 7204 (relating*
9 *to fraudulent statement or failure to make state-*
10 *ment to employees) is amended by striking “the*
11 *penalty provided in section 6674” and inserting*
12 *“the penalties provided in sections 6674 and*
13 *7203(b)”.*

14 *(3) FRAUD AND FALSE STATEMENTS.—Section*
15 *7206 (relating to fraud and false statements) is*
16 *amended—*

17 *(A) by striking “\$100,000” and inserting*
18 *“\$500,000”,*

19 *(B) by striking “\$500,000” and inserting*
20 *“\$1,000,000”, and*

21 *(C) by striking “3 years” and inserting “5*
22 *years”.*

23 *(b) INCREASE IN MONETARY LIMITATION FOR UNDER-*
24 *PAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—Sec-*

1 *tion 7206 (relating to fraud and false statements), as*
2 *amended by subsection (a)(3), is amended—*

3 *(1) by striking “Any person who—” and insert-*
4 *ing “(a) IN GENERAL.—Any person who—”, and*

5 *(2) by adding at the end the following new sub-*
6 *section:*

7 *“(b) INCREASE IN MONETARY LIMITATION FOR UN-*
8 *DERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—*
9 *If any portion of any underpayment (as defined in section*
10 *6664(a)) or overpayment (as defined in section 6401(a)) of*
11 *tax required to be shown on a return is attributable to*
12 *fraudulent action described in subsection (a), the applicable*
13 *dollar amount under subsection (a) shall in no event be less*
14 *than an amount equal to such portion. A rule similar to*
15 *the rule under section 6663(b) shall apply for purposes of*
16 *determining the portion so attributable.”.*

17 *(c) EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to actions, and failures to act, occurring*
19 *after the date of the enactment of this Act.*

20 **SEC. 410. DOUBLING OF CERTAIN PENALTIES, FINES, AND**
21 **INTEREST ON UNDERPAYMENTS RELATED TO**
22 **CERTAIN OFFSHORE FINANCIAL ARRANGE-**
23 **MENTS.**

24 *(a) DETERMINATION OF PENALTY.—*

1 (1) *IN GENERAL.*—*Notwithstanding any other*
2 *provision of law, in the case of an applicable tax-*
3 *payer—*

4 (A) *the determination as to whether any in-*
5 *terest or applicable penalty is to be imposed with*
6 *respect to any arrangement described in para-*
7 *graph (2), or to any underpayment of Federal*
8 *income tax attributable to items arising in con-*
9 *nection with any such arrangement, shall be*
10 *made without regard to the rules of subsections*
11 *(b), (c), and (d) of section 6664 of the Internal*
12 *Revenue Code of 1986, and*

13 (B) *if any such interest or applicable pen-*
14 *alty is imposed, the amount of such interest or*
15 *penalty shall be equal to twice that determined*
16 *without regard to this section.*

17 (2) *APPLICABLE TAXPAYER.*—*For purposes of*
18 *this subsection—*

19 (A) *IN GENERAL.*—*The term “applicable*
20 *taxpayer” means a taxpayer which—*

21 (i) *has underreported its United States*
22 *income tax liability with respect to any*
23 *item which directly or indirectly involves—*

24 (I) *any financial arrangement*
25 *which in any manner relies on the use*

1 of offshore payment mechanisms (in-
2 cluding credit, debit, or charge cards)
3 issued by banks or other entities in for-
4 eign jurisdictions, or

5 (II) any offshore financial ar-
6 rangement (including any arrange-
7 ment with foreign banks, financial in-
8 stitutions, corporations, partnerships,
9 trusts, or other entities), and

10 (ii) has neither signed a closing agree-
11 ment pursuant to the Voluntary Offshore
12 Compliance Initiative established by the De-
13 partment of the Treasury under Revenue
14 Procedure 2003–11 nor voluntarily dis-
15 closed its participation in such arrange-
16 ment by notifying the Internal Revenue
17 Service of such arrangement prior to the
18 issue being raised by the Internal Revenue
19 Service during an examination.

20 (B) *AUTHORITY TO WAIVE.*—The Secretary
21 of the Treasury or the Secretary’s delegate may
22 waive the application of paragraph (1) to any
23 taxpayer if the Secretary or the Secretary’s dele-
24 gate determines that the use of such offshore pay-
25 ment mechanisms is incidental to the trans-

1 *action and, in addition, in the case of a trade*
2 *or business, such use is conducted in the ordi-*
3 *nary course of the type of trade or business of the*
4 *taxpayer.*

5 (C) *ISSUES RAISED.*—*For purposes of sub-*
6 *paragraph (A)(ii), an item shall be treated as an*
7 *issue raised during an examination if the indi-*
8 *vidual examining the return—*

9 (i) *communicates to the taxpayer*
10 *knowledge about the specific item, or*

11 (ii) *has made a request to the taxpayer*
12 *for information and the taxpayer could not*
13 *make a complete response to that request*
14 *without giving the examiner knowledge of*
15 *the specific item.*

16 (b) *APPLICABLE PENALTY.*—*For purposes of this sec-*
17 *tion, the term “applicable penalty” means any penalty, ad-*
18 *dition to tax, or fine imposed under chapter 68 of the Inter-*
19 *nal Revenue Code of 1986.*

20 (c) *EFFECTIVE DATE.*—*The provisions of this section*
21 *shall apply to interest, penalties, additions to tax, and fines*
22 *with respect to any taxable year if, as of the date of the*
23 *enactment of this Act, the assessment of any tax, penalty,*
24 *or interest with respect to such taxable year is not prevented*
25 *by the operation of any law or rule of law.*

1 **SEC. 411. INCREASE IN PENALTY FOR BAD CHECKS AND**
2 **MONEY ORDERS.**

3 (a) *IN GENERAL.*—Section 6657 (relating to bad
4 checks) is amended—

5 (1) by striking “\$750” and inserting “\$1,250”,
6 and

7 (2) by striking “\$15” and inserting “\$25”.

8 (b) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to checks or money orders received after
10 the date of the enactment of this Act.

11 **SEC. 412. INCREASE IN PENALTY EXCISE TAXES ON THE PO-**
12 **LITICAL AND EXCESS LOBBYING ACTIVITIES**
13 **OF SECTION 501(c)(3) ORGANIZATIONS.**

14 (a) *TAXES ON DISQUALIFYING LOBBYING EXPENDI-*
15 *TURES OF CERTAIN ORGANIZATIONS.*—

16 (1) *IN GENERAL.*—Section 4912(a) (relating to
17 tax on organization) is amended by striking “5 per-
18 cent” and inserting “10 percent”.

19 (2) *TAX ON MANAGEMENT.*—Section 4912(b) is
20 amended by striking “5 percent” and inserting “10
21 percent”.

22 (b) *TAXES ON POLITICAL EXPENDITURES OF SECTION*
23 *501(c)(3) ORGANIZATIONS.*—

24 (1) *IN GENERAL.*—Section 4955(a) (relating to
25 initial taxes) is amended—

1 (A) in paragraph (1), by striking “10 per-
2 cent” and inserting “20 percent”, and

3 (B) in paragraph (2), by striking “2¹/₂ per-
4 cent” and inserting “5 percent”.

5 (2) *INCREASED LIMITATION FOR MANAGERS.*—
6 Section 4955(c)(2) is amended—

7 (A) by striking “\$5,000” and inserting
8 “\$10,000”, and

9 (B) by striking “\$10,000” and inserting
10 “\$20,000”.

11 (c) *EFFECTIVE DATE.*—The amendments made by this
12 section shall apply to taxable years beginning after the date
13 of the enactment of this Act.

14 **SEC. 413. PENALTY FOR FILING ERRONEOUS REFUND**
15 **CLAIMS.**

16 (a) *IN GENERAL.*—Part I of subchapter B of chapter
17 68 (relating to assessable penalties) is amended by inserting
18 after section 6675 the following new section:

19 **“SEC. 6676. ERRONEOUS CLAIM FOR REFUND OR CREDIT.**

20 “(a) *CIVIL PENALTY.*—If a claim for refund or credit
21 with respect to income tax is made for an excessive amount,
22 unless it is shown that the claim for such excessive amount
23 has a reasonable basis, the person making such claim shall
24 be liable for a penalty in an amount equal to 20 percent
25 of the excessive amount.

1 “(b) *EXCESSIVE AMOUNT.*—*For purposes of this sec-*
2 *tion, the term ‘excessive amount’ means in the case of any*
3 *person the amount by which the amount of the claim for*
4 *refund or credit for any taxable year exceeds the amount*
5 *of such claim allowable under this title for such taxable*
6 *year.*

7 “(c) *COORDINATION WITH OTHER PENALTIES.*—*This*
8 *section shall not apply to any portion of the excessive*
9 *amount of a claim for refund or credit on which a penalty*
10 *is imposed under part II of subchapter A of chapter 68.”.*

11 (b) *CONFORMING AMENDMENT.*—*The table of sections*
12 *for part I of subchapter B of chapter 68 is amended by*
13 *inserting after the item relating to section 6675 the fol-*
14 *lowing new item:*

 “Sec. 6676. *Erroneous claim for refund or credit.*”.

15 (c) *EFFECTIVE DATE.*—*The amendments made by this*
16 *section shall apply to any claim—*

17 (1) *filed or submitted after the date of the enact-*
18 *ment of this Act, or*

19 (2) *filed or submitted prior to such date but not*
20 *withdrawn before the date which is 30 days after such*
21 *date of enactment.*

1 **TITLE V—CONFIDENTIALITY AND**
2 **DISCLOSURE**

3 **SEC. 501. COLLECTION ACTIVITIES WITH RESPECT TO**
4 **JOINT RETURN DISCLOSABLE TO EITHER**
5 **SPOUSE BASED ON ORAL REQUEST.**

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

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

13 **SEC. 502. PROHIBITION OF DISCLOSURE OF TAXPAYER**
14 **IDENTIFICATION INFORMATION WITH RE-**
15 **SPECT TO DISCLOSURE OF ACCEPTED OF-**
16 **FERS-IN-COMPROMISE.**

17 (a) *IN GENERAL.*—Paragraph (1) of section 6103(k)
18 (relating to disclosure of certain returns and return infor-
19 mation for tax administrative purposes) is amended by in-
20 serting “(other than the taxpayer’s TIN)” after “Return in-
21 formation”.

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

1 **SEC. 503. COMPLIANCE BY CONTRACTORS WITH CONFIDEN-**
2 **TIALITY SAFEGUARDS.**

3 (a) *IN GENERAL.*—Section 6103(p) (relating to State
4 law requirements) is amended by adding at the end the fol-
5 lowing new paragraph:

6 “(9) *DISCLOSURE TO CONTRACTORS AND OTHER*
7 *AGENTS.*—Notwithstanding any other provision of
8 this section, no return or return information shall be
9 disclosed to any contractor or other agent of a Fed-
10 eral, State, or local agency unless such agency, to the
11 satisfaction of the Secretary—

12 “(A) has requirements in effect which re-
13 quire each such contractor or other agent which
14 would have access to returns or return informa-
15 tion to provide safeguards (within the meaning
16 of paragraph (4)) to protect the confidentiality
17 of such returns or return information,

18 “(B) agrees to conduct an on-site review
19 every 3 years (or a mid-point review in the case
20 of contracts or agreements of less than 3 years in
21 duration) of each contractor or other agent to de-
22 termine compliance with such requirements,

23 “(C) submits the findings of the most recent
24 review conducted under subparagraph (B) to the
25 Secretary as part of the report required by para-
26 graph (4)(E), and

1 “(D) certifies to the Secretary for the most
2 recent annual period that such contractor or
3 other agent is in compliance with all such re-
4 quirements.

5 *The certification required by subparagraph (D) shall*
6 *include the name and address of each contractor and*
7 *other agent, a description of the contract or agreement*
8 *with such contractor or other agent, and the duration*
9 *of such contract or agreement. The requirements of*
10 *this paragraph shall not apply to disclosures pursu-*
11 *ant to subsection (n) for purposes of Federal tax ad-*
12 *ministration.”.*

13 **(b) CONFORMING AMENDMENT.**—*Subparagraph (B) of*
14 *section 6103(p)(8) is amended by inserting “or paragraph*
15 *(9)” after “subparagraph (A)”.*

16 **(c) EFFECTIVE DATE.**—

17 **(1) IN GENERAL.**—*The amendments made by*
18 *this section shall apply to disclosures made after the*
19 *date of the enactment of this Act.*

20 **(2) CERTIFICATIONS.**—*The first certification*
21 *under section 6103(p)(9)(D) of the Internal Revenue*
22 *Code of 1986, as added by subsection (a), shall be*
23 *made with respect to the portion of calendar year*
24 *2006 following the date of the enactment of this Act.*

1 **SEC. 504. HIGHER STANDARDS FOR REQUESTS FOR AND**
2 **CONSENTS TO DISCLOSURE.**

3 (a) *IN GENERAL.*—Subsection (c) of section 6103 (re-
4 lating to disclosure of returns and return information to
5 designee of taxpayer) is amended—

6 (1) by striking “TAXPAYER.—The Secretary”
7 and inserting “TAXPAYER.—

8 “(1) *IN GENERAL.*—The Secretary”, and

9 (2) by adding at the end the following new para-
10 graphs:

11 “(2) *RESTRICTIONS ON PERSONS OBTAINING IN-*
12 *FORMATION.*—The return of any taxpayer, or return
13 information with respect to such taxpayer, disclosed
14 to a person or persons under paragraph (1) for a
15 purpose specified in writing, electronically, or orally
16 may be disclosed or used by such person or persons
17 only for the purpose of, and to the extent necessary
18 in, accomplishing the purpose for disclosure specified
19 and shall not be disclosed or used for any other pur-
20 pose.

21 “(3) *REQUIREMENTS FOR FORM PRESCRIBED BY*
22 *SECRETARY.*—For purposes of this subsection, the Sec-
23 retary shall prescribe a form for written requests and
24 consents which shall—

1 “(A) contain a warning, prominently dis-
2 played, informing the taxpayer that the form
3 should not be signed unless it is completed,

4 “(B) state that if the taxpayer believes there
5 is an attempt to coerce him to sign an incom-
6 plete or blank form, the taxpayer should report
7 the matter to the Treasury Inspector General for
8 Tax Administration, and

9 “(C) contain the address and telephone
10 number of the Treasury Inspector General for
11 Tax Administration.

12 “(4) CROSS REFERENCE.—

 “*For provision providing for civil damages for violation of paragraph (2), see sec-
 tion 7431(i).*”.

13 (b) CIVIL DAMAGES.—Section 7431 (relating to civil
14 damages for unauthorized inspection or disclosure of re-
15 turns and return information) is amended by adding at
16 the end the following new subsection:

17 “(i) DISCLOSURE OR USE OF RETURNS AND RETURN
18 INFORMATION OBTAINED UNDER SUBSECTION 6103(c).—
19 Disclosure or use of returns or return information obtained
20 under section 6103(c) other than for the purpose of, and
21 to the extent necessary in, accomplishing the purpose for
22 disclosure specified in writing, electronically, or orally,
23 shall be treated as a violation of section 6103(a).”.

1 (c) *REPORT.*—Not later than 18 months after the date
2 of the enactment of this Act, the Secretary of the Treasury
3 shall submit a report to the Congress on compliance with
4 the requirements applicable to requests for or consent to dis-
5 closure of returns and return information under section
6 6103(c) of the Internal Revenue Code of 1986, as amended
7 by subsection (a). Such report shall—

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

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

12 (B) requesters and submitters for such dis-
13 closure are continuing to evade the purposes of
14 this section and, if so, how; and

15 (C) the sanctions for violations of such re-
16 quirements are adequate; and

17 (2) include such recommendations that the Sec-
18 retary of the Treasury considers necessary or appro-
19 priate to better achieve the purposes of this section.

20 (d) *SUNSET OF EXISTING CONSENTS.*—Notwith-
21 standing any other provision of law, any request for or con-
22 sent to disclose any return or return information under sec-
23 tion 6103(c) of the Internal Revenue Code of 1986 made
24 before the date of the enactment of this Act shall remain
25 in effect until the earlier of the date such request or consent

1 *is otherwise terminated or the date which is 3 years after*
2 *such date of enactment.*

3 *(e) EFFECTIVE DATE.—The amendments made by this*
4 *section shall apply to requests and consents made after the*
5 *date which is 3 months after the date of the enactment of*
6 *this Act.*

7 **SEC. 505. CIVIL DAMAGES FOR UNAUTHORIZED DISCLO-**
8 **SURE OR INSPECTION.**

9 *(a) NOTICE TO TAXPAYER.—Subsection (e) of section*
10 *7431 (relating to notification of unlawful inspection and*
11 *disclosure) is amended by adding at the end the following*
12 *new sentences: “The Secretary shall also notify such tax-*
13 *payer if the Internal Revenue Service or, upon notice to*
14 *the Secretary by a Federal or State agency, if such Federal*
15 *or State agency, proposes an administrative determination*
16 *as to disciplinary or adverse action against an employee*
17 *arising from the employee’s unauthorized inspection or dis-*
18 *closure of the taxpayer’s return or return information. The*
19 *notice described in this subsection shall include the date of*
20 *the inspection or disclosure and the rights of the taxpayer*
21 *under such administrative determination.”.*

22 *(b) EXHAUSTION OF ADMINISTRATIVE REMEDIES RE-*
23 *QUIRED.—Section 7431, as amended by this Act, is amend-*
24 *ed by adding at the end the following new subsection:*

1 “(j) *EXHAUSTION OF ADMINISTRATIVE REMEDIES RE-*
2 *QUIRED.—A judgment for damages shall not be awarded*
3 *under subsection (c) unless the court determines that the*
4 *plaintiff has exhausted the administrative remedies avail-*
5 *able to such plaintiff.”.*

6 (c) *PAYMENT AUTHORITY CLARIFIED.—*

7 (1) *IN GENERAL.—Section 7431, as amended by*
8 *subsection (b), is amended by adding at the end the*
9 *following new subsection:*

10 “(k) *PAYMENT AUTHORITY.—Claims pursuant to sub-*
11 *section (a)(1) shall be payable out of funds appropriated*
12 *under section 1304 of title 31, United States Code.”.*

13 (2) *ANNUAL REPORTS OF PAYMENTS.—The Sec-*
14 *retary of the Treasury shall annually report to the*
15 *Committee on Finance of the Senate and the Com-*
16 *mittee on Ways and Means of the House of Represent-*
17 *atives regarding payments made from the United*
18 *States Judgment Fund under section 7431(k) of the*
19 *Internal Revenue Code of 1986.*

20 (d) *BURDEN OF PROOF FOR GOOD FAITH EXCEPTION*
21 *RESTS WITH PERSON MAKING INSPECTION OR DISCLO-*
22 *SURE.—Section 7431(b) (relating to exceptions) is amended*
23 *by adding at the end the following new flush sentence:*

24 *“In any proceeding involving the issue of the existence of*
25 *good faith, the burden of proof with respect to such issue*

1 *shall be on the person who made the inspection or disclo-*
2 *sure.”.*

3 *(e) REPORTS.—Subsection (p) of section 6103 (relat-*
4 *ing to procedure and recordkeeping), as amended by this*
5 *Act, is amended by adding at the end the following new*
6 *paragraph:*

7 *“(10) REPORT ON WILLFUL UNAUTHORIZED DIS-*
8 *CLOSURE AND INSPECTION.—As part of the report re-*
9 *quired by paragraph (3)(C) for each calendar year,*
10 *the Secretary shall furnish information regarding the*
11 *willful unauthorized disclosure and inspection of re-*
12 *turns and return information, including the number,*
13 *status, and results of—*

14 *“(A) administrative investigations,*

15 *“(B) civil lawsuits brought under section*
16 *7431 (including the amounts for which such law-*
17 *suits were settled and the amounts of damages*
18 *awarded), and*

19 *“(C) criminal prosecutions.”.*

20 *(f) EFFECTIVE DATES.—*

21 *(1) NOTICE.—The amendment made by sub-*
22 *section (a) shall apply to determinations made after*
23 *the date which is 180 days after the date of the enact-*
24 *ment of this Act.*

1 (2) *EXHAUSTION OF REMEDIES AND BURDEN OF*
2 *PROOF.*—*The amendments made by subsections (b)*
3 *and (d) shall apply to inspections and disclosures oc-*
4 *curing on and after the date which is 180 days after*
5 *the date of the enactment of this Act.*

6 (3) *PAYMENT AUTHORITY.*—*The amendment*
7 *made by subsection (c)(1) shall take effect on the date*
8 *which is 180 days after the date of the enactment of*
9 *this Act.*

10 (4) *REPORTS.*—*Subsection (c)(2) and the*
11 *amendment made by subsection (e) shall apply to cal-*
12 *endar years ending after the date which is 180 days*
13 *after the date of the enactment of this Act.*

14 **SEC. 506. EXPANSION OF DISCLOSURE IN EMERGENCY CIR-**
15 **CUMSTANCES.**

16 (a) *IN GENERAL.*—*Section 6103(i)(3)(B)(i) (relating*
17 *to danger of death or physical injury) is amended by strik-*
18 *ing “or State law enforcement agency” and inserting “,*
19 *State, or local law enforcement agency”.*

20 (b) *CONFORMING AMENDMENTS.*—*Section 6103(p)(4)*
21 *is amended—*

22 (1) *by striking “(i)(3)(B)(i) or (7)(A)(ii)” and*
23 *inserting “(i)(7)(A)(ii)”, and*

24 (2) *by striking “, (i)(3)(B)(i),”.*

1 **SEC. 507. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX**
2 **REFUND PURPOSES.**

3 *Section 6103(m)(1) (relating to tax refunds) is amend-*
4 *ed by striking “taxpayer identity information to the press*
5 *and other media” and by inserting “a person’s name and*
6 *the city, State, and zip code of the person’s mailing address*
7 *to the press, other media, and through any other means of*
8 *mass communication.”.*

9 **SEC. 508. TREATMENT OF PUBLIC RECORDS.**

10 *(a) IN GENERAL.—Section 6103(b) (relating to defini-*
11 *tions) is amended by adding at the end the following new*
12 *paragraph:*

13 *“(12) TREATMENT OF PUBLIC RECORDS.—Re-*
14 *turns and return information shall not be subject to*
15 *subsection (a) if disclosed—*

16 *“(A) in the course of any judicial or admin-*
17 *istrative proceeding or pursuant to tax adminis-*
18 *tration activities, and*

19 *“(B) properly made part of the public*
20 *record.”.*

21 *(b) EFFECTIVE DATE.—The amendment made by this*
22 *section shall take effect before, on, and after the date of the*
23 *enactment of this Act.*

24 **SEC. 509. TAXPAYER IDENTIFICATION NUMBER MATCHING.**

25 *Section 6103(k) (relating to disclosure of certain re-*
26 *turns and return information for tax administration pur-*

1 poses), as amended by this Act, is amended by adding at
2 the end the following new paragraph:

3 “(11) *TIN MATCHING.*—The Secretary may dis-
4 close to any person required to provide a TIN (as de-
5 fined in section 7701(a)(41)) to the Secretary whether
6 such information matches records maintained by the
7 Secretary.”.

8 **SEC. 510. FORM 8300 DISCLOSURES.**

9 Section 6103(p)(4) (relating to safeguards) is amended
10 by striking “(15),” both places it appears.

11 **SEC. 511. EXPANSION OF PENALTY FOR DISCLOSURE OR**
12 **USE OF INFORMATION BY TAX RETURN PRE-**
13 **PARER.**

14 (a) *IN GENERAL.*—Section 7216 is amended by adding
15 at the end the following new subsection:

16 “(c) *DEFINITIONS.*—For purposes of this section—

17 “(1) *IN GENERAL.*—The term ‘tax return pre-
18 parer’ means—

19 “(A) any person who—

20 “(i) is engaged in the business of pre-
21 paring tax returns,

22 “(ii) is engaged in the business of pro-
23 viding services in connection with the prep-
24 aration of tax returns,

1 “(iii) prepares, or assists in preparing,
2 a tax return for compensation, or holds
3 himself out as such a person,

4 “(iv) develops software used to prepare
5 or file tax returns, or

6 “(v) is an electronic return originator,
7 and

8 “(B) any individual who, as part of his du-
9 ties or employment with any person described in
10 subparagraph (A), performs services relating
11 to—

12 “(i) the preparation or filing of, or in
13 providing services in connection with the
14 preparation or filing of, a tax return, or

15 “(ii) the development of software used
16 to prepare or file tax returns.

17 “(2) *TAX RETURN.*—The term ‘tax return’ means
18 a return of any tax imposed under this title.”.

19 (b) *CONFORMING AMENDMENTS.*—

20 (1) *CRIMINAL PENALTY.*—Section 7216(a) is
21 amended—

22 (A) by striking “Any person” through “who
23 knowingly or recklessly” and inserting “Any tax
24 return preparer who knowingly or recklessly”,
25 and

1 (B) by striking “any such return” in para-
2 graph (1) and inserting “any tax return”.

3 (2) *ASSESSABLE PENALTY.*—Section 6713 is
4 amended—

5 (A) in subsection (a)—

6 (i) by striking “If any person” through
7 “and who” and inserting “If any tax return
8 preparer”, and

9 (ii) by striking “any such return” in
10 paragraph (1) and inserting “any tax re-
11 turn”, and

12 (B) by adding at the end the following new
13 subsection:

14 “(d) *DEFINITIONS.*—For purposes of this section, the
15 terms ‘tax return preparer’ and ‘tax return’ shall have the
16 meanings given to such terms under section 7216.”.

17 (c) *EFFECTIVE DATE.*—The amendments made by this
18 section shall apply to returns prepared after the date of the
19 enactment of this Act.

20 **SEC. 512. RESTRICTIONS ON DISCLOSURE AND USE OF TAX**
21 **RETURN INFORMATION.**

22 (a) *IN GENERAL.*—Paragraph (3) of section 7216(b)
23 (relating to regulations) is amended to read as follows:

24 “(3) *REGULATIONS.*—

1 “(A) *IN GENERAL.*—*Subsection (a) shall not*
2 *apply to a disclosure or use of information which*
3 *is permitted by regulations prescribed by the*
4 *Secretary under this section.*

5 “(B) *PEER REVIEWS.*—*The regulations*
6 *under this section shall permit (subject to such*
7 *conditions as such regulations shall provide) the*
8 *disclosure or use of information for quality or*
9 *peer reviews.*

10 “(C) *RESTRICTIONS ON CERTAIN DISCLO-*
11 *SURES AND USES.*—

12 “(i) *PROHIBITION ON CERTAIN CON-*
13 *SENSUAL DISCLOSURES AND USES.*—*The*
14 *regulations under this section shall not per-*
15 *mit the disclosure or use of information to*
16 *or for any person with the consent of the*
17 *taxpayer unless such disclosure or use is in*
18 *connection with preparing or filing, or pro-*
19 *viding services in connection with the prep-*
20 *aration or filing of, a tax return.*

21 “(ii) *RETURN PREPARERS LOCATED*
22 *OUTSIDE THE UNITED STATES.*—*The regu-*
23 *lations under this section shall not permit*
24 *the disclosure or use of information to or by*
25 *any tax return preparer located outside of*

1 *the United States unless the taxpayer has*
2 *granted consent to such disclosure or use.”.*

3 **(b) CONFORMING AMENDMENTS.—**

4 **(1) CRIMINAL PENALTY.—***Paragraph (2) of sec-*
5 *tion 7216(a) is amended by inserting “within the*
6 *United States” after “any such return”.*

7 **(2) ASSESSABLE PENALTY.—***Paragraph (2) of*
8 *section 6713(a) is amended by inserting “within the*
9 *United States” after “any such return”.*

10 **(c) CONSENT FORM.—***The Secretary of the Treasury*
11 *shall prescribe a form to be used for obtaining consent to*
12 *disclose or use information described in section 7216(a)(1)*
13 *of the Internal Revenue Code of 1986 to or by a tax return*
14 *preparer (as defined under section 7216(c) of such Code,*
15 *as added by section 512) located outside of the United*
16 *States. Such form shall contain a conspicuous statement no-*
17 *tifying the taxpayer that—*

18 **(1)** *the information will be disclosed to a tax re-*
19 *turn preparer (as so defined) located outside of the*
20 *United States; and*

21 **(2)** *Federal law may not protect the taxpayer*
22 *from unauthorized use or disclosure by such tax re-*
23 *turn preparer.*

24 **(d) EFFECTIVE DATE.—**

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to disclosures and uses made*
3 *after the date of the enactment of this Act.*

4 (2) *APPLICATION TO REGULATIONS.*—*The provi-*
5 *sions of clause (i) of section 7216(b)(3)(C) of the In-*
6 *ternal Revenue Code of 1986, as added by subsection*
7 *(a), shall apply to regulations issued before, on, or*
8 *after the date of the enactment of this Act.*

9 **TITLE VI—UNITED STATES TAX**
10 **COURT EMPLOYEE APPOINT-**
11 **MENT MODERNIZATION**

12 **SEC. 601. AMENDMENTS TO APPOINT EMPLOYEES.**

13 (a) *IN GENERAL.*—*Subsection (a) of section 7471 (re-*
14 *lating to Tax Court employees) is amended to read as fol-*
15 *lows:*

16 “(a) *APPOINTMENT AND COMPENSATION.*—

17 “(1) *CLERK.*—*The Tax Court may appoint a*
18 *clerk without regard to the provisions of title 5,*
19 *United States Code, governing appointments in the*
20 *competitive service. The clerk shall serve at the pleas-*
21 *ure of the Tax Court.*

22 “(2) *LAW CLERKS AND SECRETARIES.*—

23 “(A) *IN GENERAL.*—*The judges and special*
24 *trial judges of the Tax Court may appoint law*
25 *clerks and secretaries, in such numbers as the*

1 *Tax Court may approve, without regard to the*
2 *provisions of title 5, United States Code, gov-*
3 *erning appointments in the competitive service.*
4 *Any such law clerk or secretary shall serve at the*
5 *pleasure of the appointing judge.*

6 “(B) *EXEMPTION FROM FEDERAL LEAVE*
7 *PROVISIONS.—A law clerk appointed under this*
8 *subsection shall be exempt from the provisions of*
9 *subchapter I of chapter 63 of title 5, United*
10 *States Code. Any unused sick leave or annual*
11 *leave standing to the employee’s credit as of the*
12 *effective date of this subsection shall remain*
13 *credited to the employee and shall be available to*
14 *the employee upon separation from the Federal*
15 *Government.*

16 “(3) *OTHER EMPLOYEES.—The Tax Court may*
17 *appoint necessary employees without regard to the*
18 *provisions of title 5, United States Code, governing*
19 *appointments in the competitive service. Such em-*
20 *ployees shall be subject to removal by the Tax Court.*

21 “(4) *PAY.—The Tax Court may fix and adjust*
22 *the compensation for the clerk and other employees of*
23 *the Tax Court without regard to the provisions of*
24 *chapter 51, subchapter III of chapter 53, or section*
25 *5373 of title 5, United States Code. To the maximum*

1 *extent feasible, the Tax Court shall compensate em-*
2 *ployees at rates consistent with those for employees*
3 *holding comparable positions in the judicial branch.*

4 “(5) *PROGRAMS.*—*The Tax Court may establish*
5 *programs for employee evaluations, incentive awards,*
6 *flexible work schedules, premium pay, and resolution*
7 *of employee grievances.*

8 “(6) *DISCRIMINATION PROHIBITED.*—*The Tax*
9 *Court shall—*

10 “(A) *prohibit discrimination on the basis of*
11 *race, color, religion, age, sex, national origin, po-*
12 *litical affiliation, marital status, or handi-*
13 *capping condition; and*

14 “(B) *promulgate procedures for resolving*
15 *complaints of discrimination by employees and*
16 *applicants for employment.*

17 “(7) *EXPERTS AND CONSULTANTS.*—*The Tax*
18 *Court may procure the services of experts and consult-*
19 *ants under section 3109 of title 5, United States Code.*

20 “(8) *RIGHTS TO CERTAIN APPEALS RESERVED.*—
21 *Notwithstanding any other provision of law, an indi-*
22 *vidual who is an employee of the Tax Court on the*
23 *day before the effective date of this subsection and*
24 *who, as of that day, was entitled to—*

1 “(A) appeal a reduction in grade or re-
2 removal to the Merit Systems Protection Board
3 under chapter 43 of title 5, United States Code,

4 “(B) appeal an adverse action to the Merit
5 Systems Protection Board under chapter 75 of
6 title 5, United States Code,

7 “(C) appeal a prohibited personnel practice
8 described under section 2302(b) of title 5, United
9 States Code, to the Merit Systems Protection
10 Board under chapter 77 of that title,

11 “(D) make an allegation of a prohibited
12 personnel practice described under section
13 2302(b) of title 5, United States Code, with the
14 Office of Special Counsel under chapter 12 of
15 that title for action in accordance with that
16 chapter, or

17 “(E) file an appeal with the Equal Employ-
18 ment Opportunity Commission under part 1614
19 of title 29 of the Code of Federal Regulations,
20 shall be entitled to file such appeal or make such an
21 allegation so long as the individual remains an em-
22 ployee of the Tax Court.

23 “(9) *COMPETITIVE STATUS*.—Notwithstanding
24 any other provision of law, any employee of the Tax
25 Court who has completed at least 1 year of continuous

1 *service under a non-temporary appointment with the*
2 *Tax Court acquires a competitive status for appoint-*
3 *ment to any position in the competitive service for*
4 *which the employee possesses the required qualifica-*
5 *tions.*

6 “(10) *MERIT SYSTEM PRINCIPLES; PROHIBITED*
7 *PERSONNEL PRACTICES; AND PREFERENCE ELIGI-*
8 *BLES.—Any personnel management system of the Tax*
9 *Court shall—*

10 “(A) *include the principles set forth in sec-*
11 *tion 2301(b) of title 5, United States Code;*

12 “(B) *prohibit personnel practices prohibited*
13 *under section 2302(b) of title 5, United States*
14 *Code; and*

15 “(C) *in the case of any individual who*
16 *would be a preference eligible in the executive*
17 *branch, the Tax Court will provide preference for*
18 *that individual in a manner and to an extent*
19 *consistent with preference accorded to preference*
20 *eligibles in the executive branch.”.*

21 “(b) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall take effect on the date the United States Tax*
23 *Court adopts a personnel management system after the date*
24 *of the enactment of this Act.*

1 **TITLE VII—MISCELLANEOUS**
2 **PROVISIONS**

3 **SEC. 701. EXPENSING OF BROADBAND INTERNET ACCESS**
4 **EXPENDITURES.**

5 (a) *IN GENERAL.*—Part VI of subchapter B of chapter
6 1 (relating to itemized deductions for individuals and cor-
7 porations) is amended by inserting after section 190 the fol-
8 lowing new section:

9 **“SEC. 191. BROADBAND EXPENDITURES.**

10 “(a) *TREATMENT OF EXPENDITURES.*—

11 “(1) *IN GENERAL.*—A taxpayer may elect to
12 treat any qualified broadband expenditure which is
13 paid or incurred by the taxpayer as an expense which
14 is not chargeable to capital account. Any expenditure
15 which is so treated shall be allowed as a deduction.

16 “(2) *ELECTION.*—An election under paragraph
17 (1) shall be made at such time and in such manner
18 as the Secretary may prescribe by regulation.

19 “(b) *QUALIFIED BROADBAND EXPENDITURES.*—For
20 purposes of this section—

21 “(1) *IN GENERAL.*—The term ‘qualified
22 broadband expenditure’ means, with respect to any
23 taxable year, any direct or indirect costs incurred
24 after June 30, 2006, and before January 1, 2011, and
25 properly taken into account with respect to—

1 “(A) *the purchase or installation of quali-*
2 *fied equipment (including any upgrades thereto),*
3 *and*

4 “(B) *the connection of such qualified equip-*
5 *ment to any qualified subscriber.*

6 “(2) *CERTAIN SATELLITE EXPENDITURES EX-*
7 *CLUDED.—Such term shall not include any costs in-*
8 *curring with respect to the launching of any satellite*
9 *equipment.*

10 “(3) *LEASED EQUIPMENT.—Such term shall in-*
11 *clude so much of the purchase price paid by the lessor*
12 *of qualified equipment subject to a lease described in*
13 *subsection (c)(2)(B) as is attributable to expenditures*
14 *incurred by the lessee which would otherwise be de-*
15 *scribed in paragraph (1).*

16 “(c) *WHEN EXPENDITURES TAKEN INTO ACCOUNT.—*
17 *For purposes of this section—*

18 “(1) *IN GENERAL.—Qualified broadband expend-*
19 *itures with respect to qualified equipment shall be*
20 *taken into account with respect to the first taxable*
21 *year in which—*

22 “(A) *current generation broadband services*
23 *are provided through such equipment to qualified*
24 *subscribers, or*

1 “(B) next generation broadband services are
2 provided through such equipment to qualified
3 subscribers.

4 “(2) *LIMITATION.*—

5 “(A) *IN GENERAL.*—Qualified expenditures
6 shall be taken into account under paragraph (1)
7 only with respect to qualified equipment—

8 “(i) the original use of which com-
9 mences with the taxpayer, and

10 “(ii) which is placed in service, after
11 the date of the enactment of this Act.

12 “(B) *SALE-LEASEBACKS.*—For purposes of
13 subparagraph (A), if property—

14 “(i) is originally placed in service
15 after the date of the enactment of this Act
16 by any person, and

17 “(ii) sold and leased back by such per-
18 son within 3 months after the date such
19 property was originally placed in service,
20 such property shall be treated as originally
21 placed in service not earlier than the date on
22 which such property is used under the leaseback
23 referred to in clause (ii).

24 “(d) *SPECIAL ALLOCATION RULES.*—

1 “(1) *CURRENT GENERATION BROADBAND SERV-*
2 *ICES.—For purposes of determining the amount of*
3 *qualified broadband expenditures under subsection*
4 *(a)(1) with respect to qualified equipment through*
5 *which current generation broadband services are pro-*
6 *vided, if the qualified equipment is capable of serving*
7 *both qualified subscribers and other subscribers, the*
8 *qualified broadband expenditures shall be multiplied*
9 *by a fraction—*

10 “(A) *the numerator of which is the sum of*
11 *the number of potential qualified subscribers*
12 *within the rural areas and the underserved areas*
13 *which the equipment is capable of serving with*
14 *current generation broadband services, and*

15 “(B) *the denominator of which is the total*
16 *potential subscriber population of the area which*
17 *the equipment is capable of serving with current*
18 *generation broadband services.*

19 “(2) *NEXT GENERATION BROADBAND SERV-*
20 *ICES.—For purposes of determining the amount of*
21 *qualified broadband expenditures under subsection*
22 *(a)(1) with respect to qualified equipment through*
23 *which next generation broadband services are pro-*
24 *vided, if the qualified equipment is capable of serving*
25 *both qualified subscribers and other subscribers, the*

1 *qualified broadband expenditures shall be multiplied*
2 *by a fraction—*

3 *“(A) the numerator of which is the sum*
4 *of—*

5 *“(i) the number of potential qualified*
6 *subscribers within the rural areas and un-*
7 *derserved areas, plus*

8 *“(ii) the number of potential qualified*
9 *subscribers within the area consisting only*
10 *of residential subscribers not described in*
11 *clause (i),*

12 *which the equipment is capable of serving with*
13 *next generation broadband services, and*

14 *“(B) the denominator of which is the total*
15 *potential subscriber population of the area which*
16 *the equipment is capable of serving with next*
17 *generation broadband services.*

18 *“(e) DEFINITIONS.—For purposes of this section—*

19 *“(1) ANTENNA.—The term ‘antenna’ means any*
20 *device used to transmit or receive signals through the*
21 *electromagnetic spectrum, including satellite equip-*
22 *ment.*

23 *“(2) CABLE OPERATOR.—The term ‘cable oper-*
24 *ator’ has the meaning given such term by section*

1 602(5) of the Communications Act of 1934 (47 U.S.C.
2 522(5)).

3 “(3) *COMMERCIAL MOBILE SERVICE CARRIER.*—
4 *The term ‘commercial mobile service carrier’ means*
5 *any person authorized to provide commercial mobile*
6 *radio service as defined in section 20.3 of title 47,*
7 *Code of Federal Regulations.*

8 “(4) *CURRENT GENERATION BROADBAND SERV-*
9 *ICE.*—*The term ‘current generation broadband serv-*
10 *ice’ means the transmission of signals at a rate of at*
11 *least 5,000,000 bits per second to the subscriber and*
12 *at least 1,000,000 bits per second from the subscriber.*

13 “(5) *MULTIPLEXING OR DEMULTIPLEXING.*—*The*
14 *term ‘multiplexing’ means the transmission of 2 or*
15 *more signals over a single channel, and the term*
16 *‘demultiplexing’ means the separation of 2 or more*
17 *signals previously combined by compatible multi-*
18 *plexing equipment.*

19 “(6) *NEXT GENERATION BROADBAND SERVICE.*—
20 *The term ‘next generation broadband service’ means*
21 *the transmission of signals at a rate of at least*
22 *50,000,000 bits per second to the subscriber and at*
23 *least 10,000,000 bits per second from the subscriber.*

24 “(7) *NONRESIDENTIAL SUBSCRIBER.*—*The term*
25 *‘nonresidential subscriber’ means any person who*

1 *purchases broadband services which are delivered to*
2 *the permanent place of business of such person.*

3 “(8) *OPEN VIDEO SYSTEM OPERATOR.*—*The term*
4 *‘open video system operator’ means any person au-*
5 *thorized to provide service under section 653 of the*
6 *Communications Act of 1934 (47 U.S.C. 573).*

7 “(9) *OTHER WIRELESS CARRIER.*—*The term*
8 *‘other wireless carrier’ means any person (other than*
9 *a telecommunications carrier, commercial mobile*
10 *service carrier, cable operator, open video system op-*
11 *erator, or satellite carrier) providing current genera-*
12 *tion broadband services or next generation broadband*
13 *service to subscribers through the radio transmission*
14 *of energy.*

15 “(10) *PACKET SWITCHING.*—*The term ‘packet*
16 *switching’ means controlling or routing the path of*
17 *any digitized transmission signal which is assembled*
18 *into packets or cells.*

19 “(11) *PROVIDER.*—*The term ‘provider’ means,*
20 *with respect to any qualified equipment—*

21 “(A) *a cable operator,*

22 “(B) *a commercial mobile service carrier,*

23 “(C) *an open video system operator,*

24 “(D) *a satellite carrier,*

25 “(E) *a telecommunications carrier, or*

1 “(F) any other wireless carrier,
2 *providing current generation broadband services or*
3 *next generation broadband services to subscribers*
4 *through such qualified equipment.*

5 “(12) *PROVISION OF SERVICES.*—A provider
6 *shall be treated as providing services to 1 or more*
7 *subscribers if—*

8 “(A) *such a subscriber has been passed by*
9 *the provider’s equipment and can be connected to*
10 *such equipment for a standard connection fee,*

11 “(B) *the provider is physically able to de-*
12 *liver current generation broadband services or*
13 *next generation broadband services, as applica-*
14 *ble, to such a subscriber without making more*
15 *than an insignificant investment with respect to*
16 *such subscriber,*

17 “(C) *the provider has made reasonable ef-*
18 *forts to make such subscribers aware of the avail-*
19 *ability of such services,*

20 “(D) *such services have been purchased by*
21 *1 or more such subscribers, and*

22 “(E) *such services are made available to*
23 *such subscribers at average prices comparable to*
24 *those at which the provider makes available*

1 *similar services in any areas in which the pro-*
2 *vider makes available such services.*

3 “(13) *QUALIFIED EQUIPMENT.*—

4 “(A) *IN GENERAL.*—*The term ‘qualified*
5 *equipment’ means equipment which provides*
6 *current generation broadband services or next*
7 *generation broadband services—*

8 “(i) *at least a majority of the time*
9 *during periods of maximum demand to*
10 *each subscriber who is utilizing such serv-*
11 *ices, and*

12 “(ii) *in a manner substantially the*
13 *same as such services are provided by the*
14 *provider to subscribers through equipment*
15 *with respect to which no deduction is al-*
16 *lowed under subsection (a)(1).*

17 “(B) *ONLY CERTAIN INVESTMENT TAKEN*
18 *INTO ACCOUNT.*—*Except as provided in subpara-*
19 *graph (C) or (D), equipment shall be taken into*
20 *account under subparagraph (A) only to the ex-*
21 *tent it—*

22 “(i) *extends from the last point of*
23 *switching to the outside of the unit, build-*
24 *ing, dwelling, or office owned or leased by*
25 *a subscriber in the case of a telecommuni-*

1 *cations carrier or broadband-over-powerline*
2 *operator,*

3 *“(ii) extends from the customer side of*
4 *the mobile telephone switching office to a*
5 *transmission/receive antenna (including*
6 *such antenna) owned or leased by a sub-*
7 *scriber in the case of a commercial mobile*
8 *service carrier,*

9 *“(iii) extends from the customer side of*
10 *the headend to the outside of the unit, build-*
11 *ing, dwelling, or office owned or leased by*
12 *a subscriber in the case of a cable operator*
13 *or open video system operator, or*

14 *“(iv) extends from a transmission/re-*
15 *ceive antenna (including such antenna)*
16 *which transmits and receives signals to or*
17 *from multiple subscribers, to a trans-*
18 *mission/receive antenna (including such an-*
19 *tenna) on the outside of the unit, building,*
20 *dwelling, or office owned or leased by a sub-*
21 *scriber in the case of a satellite carrier or*
22 *other wireless carrier, unless such other*
23 *wireless carrier is also a telecommuni-*
24 *cations carrier.*

1 “(C) *PACKET SWITCHING EQUIPMENT.*—
2 *Packet switching equipment, regardless of loca-*
3 *tion, shall be taken into account under subpara-*
4 *graph (A) only if it is deployed in connection*
5 *with equipment described in subparagraph (B)*
6 *and is uniquely designed to perform the function*
7 *of packet switching for current generation*
8 *broadband services or next generation broadband*
9 *services, but only if such packet switching is the*
10 *last in a series of such functions performed in*
11 *the transmission of a signal to a subscriber or*
12 *the first in a series of such functions performed*
13 *in the transmission of a signal from a sub-*
14 *scriber.*

15 “(D) *MULTIPLEXING AND DEMULTIPLEXING*
16 *EQUIPMENT.*—*Multiplexing and demultiplexing*
17 *equipment shall be taken into account under sub-*
18 *paragraph (A) only to the extent it is deployed*
19 *in connection with equipment described in sub-*
20 *paragraph (B) and is uniquely designed to per-*
21 *form the function of multiplexing and*
22 *demultiplexing packets or cells of data and mak-*
23 *ing associated application adaptations, but only if*
24 *such multiplexing or demultiplexing equipment*
25 *is located between packet switching equipment*

1 *described in subparagraph (C) and the sub-*
2 *scriber's premises.*

3 “(14) *QUALIFIED SUBSCRIBER.*—*The term*
4 *‘qualified subscriber’ means—*

5 “(A) *with respect to the provision of current*
6 *generation broadband services—*

7 “(i) *any nonresidential subscriber*
8 *maintaining a permanent place of business*
9 *in a rural area or underserved area, or*

10 “(ii) *any residential subscriber resid-*
11 *ing in a dwelling located in a rural area or*
12 *underserved area which is not a saturated*
13 *market, and*

14 “(B) *with respect to the provision of next*
15 *generation broadband services—*

16 “(i) *any nonresidential subscriber*
17 *maintaining a permanent place of business*
18 *in a rural area or underserved area, or*

19 “(ii) *any residential subscriber.*

20 “(15) *RESIDENTIAL SUBSCRIBER.*—*The term*
21 *‘residential subscriber’ means any individual who*
22 *purchases broadband services which are delivered to*
23 *such individual's dwelling.*

24 “(16) *RURAL AREA.*—*The term ‘rural area’*
25 *means any census tract which—*

1 “(A) is not within 10 miles of any incor-
2 porated or census designated place containing
3 more than 25,000 people, and

4 “(B) is not within a county or county
5 equivalent which has an overall population den-
6 sity of more than 500 people per square mile of
7 land.

8 “(17) *RURAL SUBSCRIBER*.—The term ‘rural
9 subscriber’ means any residential subscriber residing
10 in a dwelling located in a rural area or nonresiden-
11 tial subscriber maintaining a permanent place of
12 business located in a rural area.

13 “(18) *SATELLITE CARRIER*.—The term ‘satellite
14 carrier’ means any person using the facilities of a
15 satellite or satellite service licensed by the Federal
16 Communications Commission and operating in the
17 Fixed-Satellite Service under part 25 of title 47 of the
18 Code of Federal Regulations or the Direct Broadcast
19 Satellite Service under part 100 of title 47 of such
20 Code to establish and operate a channel of commu-
21 nications for distribution of signals, and owning or
22 leasing a capacity or service on a satellite in order
23 to provide such point-to-multipoint distribution.

1 “(19) *SATURATED MARKET.*—*The term ‘satu-*
2 *rated market’ means any census tract in which, as of*
3 *the date of the enactment of this section—*

4 “(A) *current generation broadband services*
5 *have been provided by a single provider to 85*
6 *percent or more of the total number of potential*
7 *residential subscribers residing in dwellings lo-*
8 *cated within such census tract, and*

9 “(B) *such services can be utilized—*

10 “(i) *at least a majority of the time*
11 *during periods of maximum demand by*
12 *each such subscriber who is utilizing such*
13 *services, and*

14 “(ii) *in a manner substantially the*
15 *same as such services are provided by the*
16 *provider to subscribers through equipment*
17 *with respect to which no deduction is al-*
18 *lowed under subsection (a)(1).*

19 “(20) *SUBSCRIBER.*—*The term ‘subscriber’*
20 *means any person who purchases current generation*
21 *broadband services or next generation broadband serv-*
22 *ices.*

23 “(21) *TELECOMMUNICATIONS CARRIER.*—*The*
24 *term ‘telecommunications carrier’ has the meaning*

1 *given such term by section 3(44) of the Communica-*
2 *tions Act of 1934 (47 U.S.C. 153(44)), but—*

3 “(A) *includes all members of an affiliated*
4 *group of which a telecommunications carrier is*
5 *a member, and*

6 “(B) *does not include a commercial mobile*
7 *service carrier.*

8 “(22) *TOTAL POTENTIAL SUBSCRIBER POPU-*
9 *LATION.—The term ‘total potential subscriber popu-*
10 *lation’ means, with respect to any area and based on*
11 *the most recent census data, the total number of po-*
12 *tential residential subscribers residing in dwellings*
13 *located in such area and potential nonresidential sub-*
14 *scribers maintaining permanent places of business lo-*
15 *cated in such area.*

16 “(23) *UNDERSERVED AREA.—The term ‘under-*
17 *served area’ means—*

18 “(A) *any census tract which is located in—*

19 “(i) *an empowerment zone or enter-*
20 *prise community designated under section*
21 *1391, or*

22 “(ii) *the District of Columbia Enter-*
23 *prise Zone established under section 1400,*
24 *or*

25 “(B) *any census tract—*

1 “(i) the poverty level of which is at
2 least 30 percent (based on the most recent
3 census data), and

4 “(ii) the median family income of
5 which does not exceed—

6 “(I) in the case of a census tract
7 located in a metropolitan statistical
8 area, 70 percent of the greater of the
9 metropolitan area median family in-
10 come or the statewide median family
11 income, and

12 “(II) in the case of a census tract
13 located in a nonmetropolitan statis-
14 tical area, 70 percent of the nonmetro-
15 politan statewide median family in-
16 come.

17 “(24) *UNDERSERVED SUBSCRIBER.*—The term
18 ‘underserved subscriber’ means any residential sub-
19 scriber residing in a dwelling located in an under-
20 served area or nonresidential subscriber maintaining
21 a permanent place of business located in an under-
22 served area.

23 “(f) *SPECIAL RULES.*—

24 “(1) *PROPERTY USED OUTSIDE THE UNITED*
25 *STATES, ETC., NOT QUALIFIED.*—No expenditures

1 *shall be taken into account under subsection (a)(1)*
2 *with respect to the portion of the cost of any property*
3 *referred to in section 50(b) or with respect to the por-*
4 *tion of the cost of any property specified in an elec-*
5 *tion under section 179.*

6 “(2) *BASIS REDUCTION.*—

7 “(A) *IN GENERAL.*—*For purposes of this*
8 *title, the basis of any property shall be reduced*
9 *by the portion of the cost of such property taken*
10 *into account under subsection (a)(1).*

11 “(B) *ORDINARY INCOME RECAPTURE.*—*For*
12 *purposes of section 1245, the amount of the de-*
13 *duction allowable under subsection (a)(1) with*
14 *respect to any property which is of a character*
15 *subject to the allowance for depreciation shall be*
16 *treated as a deduction allowed for depreciation*
17 *under section 167.*

18 “(3) *COORDINATION WITH SECTION 38.*—*No*
19 *credit shall be allowed under section 38 with respect*
20 *to any amount for which a deduction is allowed*
21 *under subsection (a)(1).”.*

22 “(b) *SPECIAL RULE FOR MUTUAL OR COOPERATIVE*
23 *TELEPHONE COMPANIES.*—*Section 512(b) (relating to*
24 *modifications) is amended by adding at the end the fol-*
25 *lowing new paragraph:*

1 “(20) *SPECIAL RULE FOR MUTUAL OR COOPERA-*
2 *TIVE TELEPHONE COMPANIES.*—*A mutual or coopera-*
3 *tive telephone company which for the taxable year*
4 *satisfies the requirements of section 501(c)(12)(A)*
5 *may elect to reduce its unrelated business taxable in-*
6 *come for such year, if any, by an amount that does*
7 *not exceed the qualified broadband expenditures which*
8 *would be taken into account under section 191 for*
9 *such year by such company if such company was not*
10 *exempt from taxation. Any amount which is allowed*
11 *as a deduction under this paragraph shall not be al-*
12 *lowed as a deduction under section 191 and the basis*
13 *of any property to which this paragraph applies shall*
14 *be reduced under section 1016(a)(38).”.*

15 (c) *CONFORMING AMENDMENTS.*—

16 (1) *Section 263(a)(1) (relating to capital ex-*
17 *penditures) is amended by striking “or” at the end of*
18 *subparagraph (J), by striking the period at the end*
19 *of subparagraph (K) and inserting “, or”, and by*
20 *adding at the end the following new subparagraph:*

21 “(L) *expenditures for which a deduction is*
22 *allowed under section 191.”.*

23 (2) *Section 1016(a) is amended by striking*
24 *“and” at the end of paragraph (36), by striking the*
25 *period at the end of paragraph (37) and inserting “,*

1 *and*”, and by adding at the end the following new
2 *paragraph*:

3 “(38) to the extent provided in section
4 191(f)(2).”.

5 (3) *The table of sections for part VI of sub-*
6 *chapter A of chapter 1 is amended by inserting after*
7 *the item relating to section 190 the following new*
8 *item:*

 “*Sec. 191. Broadband expenditures.*”.

9 (d) *DESIGNATION OF CENSUS TRACTS.—*

10 (1) *IN GENERAL.—The Secretary of the Treasury*
11 *shall, not later than 90 days after the date of the en-*
12 *actment of this Act, designate and publish those cen-*
13 *sus tracts meeting the criteria described in para-*
14 *graphs (16), (22), and (23) of section 191(e) of the In-*
15 *ternal Revenue Code of 1986 (as added by this sec-*
16 *tion). In making such designations, the Secretary of*
17 *the Treasury shall consult with such other depart-*
18 *ments and agencies as the Secretary determines ap-*
19 *propriate.*

20 (2) *SATURATED MARKET.—*

21 (A) *IN GENERAL.—For purposes of desig-*
22 *nating and publishing those census tracts meet-*
23 *ing the criteria described in subsection (e)(19) of*
24 *such section 191—*

1 *(i) the Secretary of the Treasury shall*
2 *prescribe not later than 30 days after the*
3 *date of the enactment of this Act the form*
4 *upon which any provider which takes the*
5 *position that it meets such criteria with re-*
6 *spect to any census tract shall submit a list*
7 *of such census tracts (and any other infor-*
8 *mation required by the Secretary) not later*
9 *than 60 days after the date of the publica-*
10 *tion of such form, and*

11 *(ii) the Secretary of the Treasury shall*
12 *publish an aggregate list of such census*
13 *tracts and the applicable providers not later*
14 *than 30 days after the last date such sub-*
15 *missions are allowed under clause (i).*

16 *(B) NO SUBSEQUENT LISTS REQUIRED.—*
17 *The Secretary of the Treasury shall not be re-*
18 *quired to publish any list of census tracts meet-*
19 *ing such criteria subsequent to the list described*
20 *in subparagraph (A)(i).*

21 *(e) OTHER REGULATORY MATTERS.—*

22 *(1) PROHIBITION.—No Federal or State agency*
23 *or instrumentality shall adopt regulations or rate-*
24 *making procedures that would have the effect of elimi-*
25 *nating or reducing any deduction or portion thereof*

1 *allowed under section 191 of the Internal Revenue*
2 *Code of 1986 (as added by this section) or otherwise*
3 *subverting the purpose of this section.*

4 (2) *TREASURY REGULATORY AUTHORITY.—It is*
5 *the intent of Congress in providing the election to de-*
6 *duct qualified broadband expenditures under section*
7 *191 of the Internal Revenue Code of 1986 (as added*
8 *by this section) to provide incentives for the purchase,*
9 *installation, and connection of equipment and facili-*
10 *ties offering expanded broadband access to the Inter-*
11 *net for users in certain low income and rural areas*
12 *of the United States, as well as to residential users*
13 *nationwide, in a manner that maintains competitive*
14 *neutrality among the various classes of providers of*
15 *broadband services. Accordingly, the Secretary of the*
16 *Treasury shall prescribe such regulations as may be*
17 *necessary or appropriate to carry out the purposes of*
18 *section 191 of such Code, including—*

19 (A) *regulations to determine how and when*
20 *a taxpayer that incurs qualified broadband ex-*
21 *penditures satisfies the requirements of section*
22 *191 of such Code to provide broadband services,*
23 *and*

24 (B) *regulations describing the information,*
25 *records, and data taxpayers are required to pro-*

1 *vide the Secretary to substantiate compliance*
2 *with the requirements of section 191 of such*
3 *Code.*

4 **SEC. 702. MODIFICATION OF REFUNDS FOR KEROSENE**
5 **USED IN AVIATION.**

6 *(a) IN GENERAL.—Paragraph (4) of section 6427(l)*
7 *(relating to nontaxable uses of diesel fuel and kerosene) is*
8 *amended to read as follows:*

9 *“(4) REFUNDS FOR KEROSENE USED IN AVIA-*
10 *TION.—*

11 *“(A) KEROSENE USED IN COMMERCIAL*
12 *AVIATION.—In the case of kerosene used in com-*
13 *mercial aviation (as defined in section 4083(b))*
14 *(other than supplies for vessels or aircraft within*
15 *the meaning of section 4221(d)(3)), paragraph*
16 *(1) shall not apply to so much of the tax imposed*
17 *by section 4081 as is attributable to—*

18 *“(i) the Leaking Underground Storage*
19 *Tank Trust Fund financing rate imposed*
20 *by such section, and*

21 *“(ii) so much of the rate of tax speci-*
22 *fied in section 4081(a)(2)(A)(iii) as does*
23 *not exceed 4.3 cents per gallon.*

24 *“(B) KEROSENE USED IN NONCOMMERCIAL*
25 *AVIATION.—In the case of kerosene used in avia-*

1 *tion that is not commercial aviation (as so de-*
2 *fined) (other than any use which is exempt from*
3 *the tax imposed by section 4041(c) other than by*
4 *reason of a prior imposition of tax), paragraph*
5 *(1) shall not apply to so much of the tax imposed*
6 *by section 4081 as is attributable to—*

7 *“(i) the Leaking Underground Storage*
8 *Tank Trust Fund financing rate imposed*
9 *by such section, and*

10 *“(ii) so much of the rate of tax speci-*
11 *fied in section 4081(a)(2)(A)(iii) as does*
12 *not exceed the rate specified in section*
13 *4081(a)(2)(C)(ii).*

14 *“(C) PAYMENTS TO ULTIMATE, REGISTERED*
15 *VENDOR.—*

16 *“(i) IN GENERAL.—With respect to any*
17 *kerosene used in aviation (other than ker-*
18 *osene described in clause (ii) or kerosene to*
19 *which paragraph (5) applies), if the ulti-*
20 *mate purchaser of such kerosene waives (at*
21 *such time and in such form and manner as*
22 *the Secretary shall prescribe) the right to*
23 *payment under paragraph (1) and assigns*
24 *such right to the ultimate vendor, then the*
25 *Secretary shall pay the amount which*

1 *would be paid under paragraph (1) to such*
2 *ultimate vendor, but only if such ultimate*
3 *vendor—*

4 *“(I) is registered under section*
5 *4101, and*

6 *“(II) meets the requirements of*
7 *subparagraph (A), (B), or (D) of sec-*
8 *tion 6416(a)(1).*

9 *“(ii) PAYMENTS FOR KEROSENE USED*
10 *IN NONCOMMERCIAL AVIATION.—The*
11 *amount which would be paid under para-*
12 *graph (1) with respect to any kerosene to*
13 *which subparagraph (B) applies shall be*
14 *paid only to the ultimate vendor of such*
15 *kerosene. A payment shall be made to such*
16 *vendor if such vendor—*

17 *“(I) is registered under section*
18 *4101, and*

19 *“(II) meets the requirements of*
20 *subparagraph (A), (B), or (D) of sec-*
21 *tion 6416(a)(1).”.*

22 ***(b) CONFORMING AMENDMENTS.—***

23 *(1) Section 6427(l) is amended by striking para-*
24 *graph (5) and by redesignating paragraph (6) as*
25 *paragraph (5).*

1 (2) Section 4082(d)(2)(B) is amended by strik-
2 ing “section 6427(l)(6)(B)” and inserting “section
3 6427(l)(5)(B)”.

4 (3) Section 6427(i)(4)(A) is amended—

5 (A) by striking “paragraph (4)(B), (5), or
6 (6)” each place it appears and inserting “para-
7 graph (4)(C) or (5)”, and

8 (B) by striking “(l)(5), and (l)(6)” and in-
9 serting “(l)(4)(C)(ii), and (l)(5)”.

10 (4) Section 6427(l)(1) is amended by striking
11 “paragraph (4)(B)” and inserting “paragraph
12 (4)(C)(i)”.

13 (5) Section 9502(d) is amended—

14 (A) in paragraph (2), by striking “and
15 (l)(5)”, and

16 (B) in paragraph (3), by striking “or (5)”.

17 (6) Section 9503(c)(7) is amended—

18 (A) in subparagraph (A), by striking “sec-
19 tion 6427(l)(4)” and inserting “section
20 6427(l)(4)(A)”,

21 (B) in subparagraph (B), by striking “sec-
22 tion 6427(l)(5)” and inserting “section
23 6427(l)(4)(B)”, and

24 (C) in the matter following subparagraph
25 (B), by striking “or (5)”.

1 (7)(A) *Section 9503(c), as amended by para-*
2 *graph (6), is amended by redesignating paragraph*
3 *(7) as paragraph (6).*

4 (B) *Section 9502(a) is amended by striking “sec-*
5 *tion 9503(c)(7)” and inserting “section 9503(c)(6)”.*

6 (c) *EFFECTIVE DATE.—*

7 (1) *IN GENERAL.—The amendments made by*
8 *this section shall apply to kerosene sold after Sep-*
9 *tember 30, 2005.*

10 (2) *SPECIAL RULE FOR PENDING CLAIMS.—In*
11 *the case of kerosene sold for use in aviation (other*
12 *than kerosene to which section 6427(l)(4)(C)(ii) of the*
13 *Internal Revenue Code of 1986 (as added by sub-*
14 *section (a)) applies or kerosene to which section*
15 *6427(l)(5) of such Code (as redesignated by subsection*
16 *(b)) applies) after September 30, 2005, and before the*
17 *date of the enactment of this Act, the ultimate pur-*
18 *chaser shall be treated as having waived the right to*
19 *payment under section 6427(l)(1) of such Code and as*
20 *having assigned such right to the ultimate vendor if*
21 *such ultimate vendor has met the requirements of sub-*
22 *paragraph (A), (B), or (D) of section 6416(a)(1) of*
23 *such Code.*

24 (d) *SPECIAL RULE FOR KEROSENE USED IN AVIATION*
25 *ON A FARM FOR FARMING PURPOSES.—*

1 (1) *REFUNDS FOR PURCHASES AFTER DECEMBER*
2 *31, 2004, AND BEFORE OCTOBER 1, 2005.—The Sec-*
3 *retary of the Treasury shall pay to the ultimate pur-*
4 *chaser of any kerosene which is used in aviation on*
5 *a farm for farming purposes and which was pur-*
6 *chased after December 31, 2004, and before October 1,*
7 *2005, an amount equal to the aggregate amount of*
8 *tax imposed on such fuel under section 4041 or 4081*
9 *of the Internal Revenue Code of 1986, as the case may*
10 *be, reduced by any payment to the ultimate vendor*
11 *under section 6427(l)(5)(C) of such Code (as in effect*
12 *on the day before the date of the enactment of the*
13 *Safe, Accountable, Flexible, Efficient Transportation*
14 *Equity Act: a Legacy for Users).*

15 (2) *USE ON A FARM FOR FARMING PURPOSES.—*
16 *For purposes of paragraph (1), kerosene shall be*
17 *treated as used on a farm for farming purposes if*
18 *such kerosene is used for farming purposes (within*
19 *the meaning of section 6420(c)(3) of the Internal Rev-*
20 *enue Code of 1986) in carrying on a trade or business*
21 *on a farm situated in the United States. For purposes*
22 *of the preceding sentence, rules similar to the rules of*
23 *section 6420(c)(4) of such Code shall apply.*

24 (3) *TIME FOR FILING CLAIMS.—No claim shall*
25 *be allowed under paragraph (1) unless the ultimate*

1 *corporation with respect to income for taxable years ending*
2 *after the date of the enactment of this Act.*

3 **SEC. 704. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZA-**
4 **TIONS.**

5 *(a) EMPLOYMENT TAXES.—Chapter 25 (relating to*
6 *general provisions relating to employment taxes) is amend-*
7 *ed by adding at the end the following new section:*

8 **“SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
9 **ZATIONS.**

10 *“(a) GENERAL RULES.—For purposes of the taxes, and*
11 *other obligations, imposed by this subtitle—*

12 *“(1) a certified professional employer organiza-*
13 *tion shall be treated as the employer (and no other*
14 *person shall be treated as the employer) of any work*
15 *site employee performing services for any customer of*
16 *such organization, but only with respect to remunera-*
17 *tion remitted by such organization to such work site*
18 *employee, and*

19 *“(2) exclusions, definitions, and other rules*
20 *which are based on the type of employer and which*
21 *would (but for paragraph (1)) apply shall apply with*
22 *respect to such taxes imposed on such remuneration.*

23 *“(b) SUCCESSOR EMPLOYER STATUS.—For purposes*
24 *of sections 3121(a)(1), 3231(e)(2)(C), and 3306(b)(1)—*

1 “(1) a certified professional employer organiza-
2 tion entering into a service contract with a customer
3 with respect to a work site employee shall be treated
4 as a successor employer and the customer shall be
5 treated as a predecessor employer during the term of
6 such service contract, and

7 “(2) a customer whose service contract with a
8 certified professional employer organization is termi-
9 nated with respect to a work site employee shall be
10 treated as a successor employer and the certified pro-
11 fessional employer organization shall be treated as a
12 predecessor employer.

13 “(c) *LIABILITY OF CERTIFIED PROFESSIONAL EM-*
14 *PLOYER ORGANIZATION.*—Solely for purposes of its liability
15 for the taxes, and other obligations, imposed by this sub-
16 title—

17 “(1) a certified professional employer organiza-
18 tion shall be treated as the employer of any indi-
19 vidual (other than a work site employee or a person
20 described in subsection (f)) who is performing services
21 covered by a contract meeting the requirements of sec-
22 tion 7705(e)(2), but only with respect to remunera-
23 tion remitted by such organization to such individual,
24 and

1 “(2) *exclusions, definitions, and other rules*
2 *which are based on the type of employer and which*
3 *would (but for paragraph (1)) apply shall apply with*
4 *respect to such taxes imposed on such remuneration.*

5 “(d) *TREATMENT OF CREDITS.—*

6 “(1) *IN GENERAL.—For purposes of any credit*
7 *specified in paragraph (2)—*

8 “(A) *such credit with respect to a work site*
9 *employee performing services for the customer*
10 *applies to the customer, not the certified profes-*
11 *sional employer organization,*

12 “(B) *the customer, and not the certified pro-*
13 *fessional employer organization, shall take into*
14 *account wages and employment taxes—*

15 “(i) *paid by the certified professional*
16 *employer organization with respect to the*
17 *work site employee, and*

18 “(ii) *for which the certified profes-*
19 *sional employer organization receives pay-*
20 *ment from the customer, and*

21 “(C) *the certified professional employer or-*
22 *ganization shall furnish the customer with any*
23 *information necessary for the customer to claim*
24 *such credit.*

1 “(2) *CREDITS SPECIFIED.*—A credit is specified
2 in this paragraph if such credit is allowed under—

3 “(A) section 41 (credit for increasing re-
4 search activity),

5 “(B) section 45A (Indian employment cred-
6 it),

7 “(C) section 45B (credit for portion of em-
8 ployer social security taxes paid with respect to
9 employee cash tips).

10 “(D) section 45C (clinical testing expenses
11 for certain drugs for rare diseases or conditions),

12 “(E) section 51 (work opportunity credit),

13 “(F) section 51A (temporary incentives for
14 employing long-term family assistance recipi-
15 ents),

16 “(G) section 1396 (empowerment zone em-
17 ployment credit),

18 “(H) 1400(d) (DC Zone employment cred-
19 it),

20 “(I) Section 1400H (renewal community
21 employment credit), and

22 “(J) any other section as provided by the
23 Secretary.

24 “(e) *SPECIAL RULE FOR RELATED PARTY.*—This sec-
25 tion shall not apply in the case of a customer which bears

1 *a relationship to a certified professional employer organiza-*
2 *tion described in section 267(b) or 707(b). For purposes of*
3 *the preceding sentence, such sections shall be applied by sub-*
4 *stituting ‘10 percent’ for ‘50 percent’.*

5 “(f) *SPECIAL RULE FOR CERTAIN INDIVIDUALS.*—For
6 *purposes of the taxes imposed under this subtitle, an indi-*
7 *vidual with net earnings from self-employment derived from*
8 *the customer’s trade or business is not a work site employee*
9 *with respect to remuneration paid by a certified profes-*
10 *sional employer organization.*

11 “(g) *REGULATIONS.*—The Secretary shall prescribe
12 *such regulations as may be necessary or appropriate to*
13 *carry out the purposes of this section.”.*

14 (b) *CERTIFIED PROFESSIONAL EMPLOYER ORGANIZA-*
15 *TION DEFINED.*—Chapter 79 (relating to definitions) is
16 *amended by adding at the end the following new section:*

17 **“SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANI-**
18 **ZATIONS.**

19 “(a) *IN GENERAL.*—For purposes of this title, the term
20 *‘certified professional employer organization’ means a per-*
21 *son who has been certified by the Secretary for purposes*
22 *of section 3511 as meeting the requirements of subsection*
23 *(b).*

24 “(b) *GENERAL REQUIREMENTS.*—A person meets the
25 *requirements of this subsection if such person—*

1 “(1) demonstrates that such person (and any
2 owner, officer, and such other persons as may be spec-
3 ified in regulations) meets such requirements as the
4 Secretary shall establish with respect to tax status,
5 background, experience, business location, and annual
6 financial audits,

7 “(2) computes its taxable income using an ac-
8 crual method of accounting unless the Secretary ap-
9 proves another method,

10 “(3) agrees that it will satisfy the bond and
11 independent financial review requirements of sub-
12 section (c) on an ongoing basis,

13 “(4) agrees that it will satisfy such reporting ob-
14 ligations as may be imposed by the Secretary,

15 “(5) agrees to verify on such periodic basis as the
16 Secretary may prescribe that it continues to meet the
17 requirements of this subsection, and

18 “(6) agrees to notify the Secretary in writing
19 within such time as the Secretary may prescribe of
20 any change that materially affects whether it con-
21 tinues to meet the requirements of this subsection.

22 “(c) BOND AND INDEPENDENT FINANCIAL REVIEW RE-
23 QUIREMENTS.—

24 “(1) IN GENERAL.—An organization meets the
25 requirements of this paragraph if such organization—

1 “(A) meets the bond requirements of para-
2 graph (2), and

3 “(B) meets the independent financial review
4 requirements of paragraph (3).

5 “(2) BOND.—

6 “(A) IN GENERAL.—A certified professional
7 employer organization meets the requirements of
8 this paragraph if the organization has posted a
9 bond for the payment of taxes under subtitle C
10 (in a form acceptable to the Secretary) in an
11 amount at least equal to the amount specified in
12 subparagraph (B).

13 “(B) AMOUNT OF BOND.—For the period
14 April 1 of any calendar year through March 31
15 of the following calendar year, the amount of the
16 bond required is equal to the greater of—

17 “(i) 5 percent of the organization’s li-
18 ability under section 3511 for taxes imposed
19 by subtitle C during the preceding calendar
20 year (but not to exceed \$1,000,000), or

21 “(ii) \$50,000.

22 “(3) INDEPENDENT FINANCIAL REVIEW REQUIRE-
23 MENTS.—A certified professional employer organiza-
24 tion meets the requirements of this paragraph if such
25 organization—

1 “(A) has, as of the most recent review date,
2 caused to be prepared and provided to the Sec-
3 retary (in such manner as the Secretary may
4 prescribe) an opinion of an independent certified
5 public accountant that the certified professional
6 employer organization’s financial statements are
7 presented fairly in accordance with generally ac-
8 cepted accounting principles, and

9 “(B) provides, not later than the last day of
10 the second month beginning after the end of each
11 calendar quarter, to the Secretary from an inde-
12 pendent certified public accountant an assertion
13 regarding Federal employment tax payments
14 and an examination level attestation on such as-
15 sertion.

16 Such assertion shall state that the organization has
17 withheld and made deposits of all taxes imposed by
18 chapters 21, 22, and 24 of the Internal Revenue Code
19 in accordance with regulations imposed by the Sec-
20 retary for such calendar quarter and such examina-
21 tion level attestation shall state that such assertion is
22 fairly stated, in all material respects.

23 “(4) CONTROLLED GROUP RULES.—For purposes
24 of the requirements of paragraphs (2) and (3), all
25 professional employer organizations that are members

1 of a controlled group within the meaning of sections
2 414(b) and (c) shall be treated as a single organiza-
3 tion.

4 “(5) *FAILURE TO FILE ASSERTION AND ATTESTA-*
5 *TION.*—If the certified professional employer organi-
6 zation fails to file the assertion and attestation re-
7 quired by paragraph (3) with respect to any calendar
8 quarter, then the requirements of paragraph (3) with
9 respect to such failure shall be treated as not satisfied
10 for the period beginning on the due date for such at-
11 testation.

12 “(6) *REVIEW DATE.*—For purposes of paragraph
13 (3)(A), the review date shall be 6 months after the
14 completion of the organization’s fiscal year.

15 “(d) *SUSPENSION AND REVOCATION AUTHORITY.*—The
16 Secretary may suspend or revoke a certification of any per-
17 son under subsection (b) for purposes of section 3511 if the
18 Secretary determines that such person is not satisfying the
19 representations or requirements of subsections (b) or (c), or
20 fails to satisfy applicable accounting, reporting, payment,
21 or deposit requirements.

22 “(e) *WORK SITE EMPLOYEE.*—For purposes of this
23 title—

1 “(1) *IN GENERAL.*—*The term ‘work site em-*
2 *ployee’ means, with respect to a certified professional*
3 *employer organization, an individual who—*

4 “(A) *performs services for a customer pur-*
5 *suant to a contract which is between such cus-*
6 *tomer and the certified professional employer or-*
7 *ganization and which meets the requirements of*
8 *paragraph (2), and*

9 “(B) *performs services at a work site meet-*
10 *ing the requirements of paragraph (3).*

11 “(2) *SERVICE CONTRACT REQUIREMENTS.*—*A*
12 *contract meets the requirements of this paragraph*
13 *with respect to an individual performing services for*
14 *a customer if such contract is in writing and provides*
15 *that the certified professional employer organization*
16 *shall—*

17 “(A) *assume responsibility for payment of*
18 *wages to such individual, without regard to the*
19 *receipt or adequacy of payment from the cus-*
20 *tomer for such services,*

21 “(B) *assume responsibility for reporting,*
22 *withholding, and paying any applicable taxes*
23 *under subtitle C, with respect to such individ-*
24 *ual’s wages, without regard to the receipt or ade-*

1 *quacy of payment from the customer for such*
2 *services,*

3 “(C) *assume responsibility for any employee*
4 *benefits which the service contract may require*
5 *the organization to provide, without regard to*
6 *the receipt or adequacy of payment from the cus-*
7 *tomers for such services,*

8 “(D) *assume responsibility for hiring, fir-*
9 *ing, and recruiting workers in addition to the*
10 *customer’s responsibility for hiring, firing and*
11 *recruiting workers,*

12 “(E) *maintain employee records relating to*
13 *such individual, and*

14 “(F) *agree to be treated as a certified pro-*
15 *fessional employer organization for purposes of*
16 *section 3511 with respect to such individual.*

17 “(3) *WORK SITE COVERAGE REQUIREMENT.—The*
18 *requirements of this paragraph are met with respect*
19 *to an individual if at least 85 percent of the individ-*
20 *uals performing services for the customer at the work*
21 *site where such individual performs services are sub-*
22 *ject to 1 or more contracts with the certified profes-*
23 *sional employer organization which meet the require-*
24 *ments of paragraph (2) (but not taking into account*

1 *those individuals who are excluded employees within*
2 *the meaning of section 414(q)(5)).*

3 “(f) *DETERMINATION OF EMPLOYMENT STATUS.—Ex-*
4 *cept to the extent necessary for purposes of section 3511,*
5 *nothing in this section shall be construed to affect the deter-*
6 *mination of who is an employee or employer for purposes*
7 *of this title.*

8 “(g) *REGULATIONS.—The Secretary shall prescribe*
9 *such regulations as may be necessary or appropriate to*
10 *carry out the purposes of this section.”.*

11 (c) *CONFORMING AMENDMENTS.—*

12 (1) *Section 3302 is amended by adding at the*
13 *end the following new subsection:*

14 “(h) *TREATMENT OF CERTIFIED PROFESSIONAL EM-*
15 *PLOYER ORGANIZATIONS.—If a certified professional em-*
16 *ployer organization (as defined in section 7705), or a cus-*
17 *tommer of such organization, makes a contribution to the*
18 *State’s unemployment fund with respect to a work site em-*
19 *ployee, such organization shall be eligible for the credits*
20 *available under this section with respect to such contribu-*
21 *tion.”.*

22 (2) *Section 3303(a) is amended—*

23 (A) *by striking the period at the end of*
24 *paragraph (3) and inserting “; and” and by in-*

1 *serting after paragraph (3) the following new*
2 *paragraph:*

3 *“(4) if the taxpayer is a certified professional*
4 *employer organization (as defined in section 7705)*
5 *that is treated as the employer under section 3511,*
6 *such certified professional employer organization is*
7 *permitted to collect and remit, in accordance with*
8 *paragraphs (1), (2), and (3), contributions during the*
9 *taxable year to the State unemployment fund with re-*
10 *spect to a work site employee.”, and*

11 *(B) in the last sentence—*

12 *(i) by striking “paragraphs (1), (2),*
13 *and (3)” and inserting “paragraphs (1),*
14 *(2), (3), and (4)”, and*

15 *(ii) by striking “paragraph (1), (2), or*
16 *(3)” and inserting “paragraph (1), (2), (3),*
17 *or (4)”.*

18 *(3) Section 6053(c) (relating to reporting of tips)*
19 *is amended by adding at the end the following new*
20 *paragraph:*

21 *“(8) CERTIFIED PROFESSIONAL EMPLOYER OR-*
22 *GANIZATIONS.—For purposes of any report required*
23 *by this subsection, in the case of a certified profes-*
24 *sional employer organization that is treated under*
25 *section 3511 as the employer of a work site employee,*

1 *the customer with respect to whom a work site em-*
2 *ployee performs services shall be the employer for pur-*
3 *poses of reporting under this section and the certified*
4 *professional employer organization shall furnish to*
5 *the customer any information necessary to complete*
6 *such reporting no later than such time as the Sec-*
7 *retary shall prescribe.”.*

8 *(d) CLERICAL AMENDMENTS.—*

9 *(1) The table of sections for chapter 25 is amend-*
10 *ed by adding at the end the following new item:*

“Sec. 3511. Certified professional employer organizations.”.

11 *(2) The table of sections for chapter 79 is amend-*
12 *ed by inserting after the item relating to section 7704*
13 *the following new item:*

“Sec. 7705. Certified professional employer organizations.”.

14 *(e) REPORTING REQUIREMENTS AND OBLIGATIONS.—*

15 *The Secretary of the Treasury shall develop such reporting*
16 *and recordkeeping rules, regulations, and procedures as the*
17 *Secretary determines necessary or appropriate to ensure*
18 *compliance with the amendments made by this section with*
19 *respect to entities applying for certification as certified pro-*
20 *fessional employer organizations or entities that have been*
21 *so certified. Such rules shall be designed in a manner which*
22 *streamlines, to the extent possible, the application of re-*
23 *quirements of such amendments, the exchange of informa-*
24 *tion between a certified professional employer organization*

1 *and its customers, and the reporting and recordkeeping ob-*
2 *ligations of the certified professional employer organization.*

3 (f) *USER FEES.*—Subsection (b) of section 7528 (relat-
4 *ing to Internal Revenue Service user fees) is amended by*
5 *adding at the end the following new paragraph:*

6 “(4) *CERTIFIED PROFESSIONAL EMPLOYER OR-*
7 *GANIZATIONS.*—The fee charged under the program in
8 *connection with the certification by the Secretary of*
9 *a professional employer organization under section*
10 *7705 shall not exceed \$500.”*

11 (g) *EFFECTIVE DATES.*—

12 (1) *IN GENERAL.*—The amendments made by
13 *this section shall apply with respect to wages for serv-*
14 *ices performed on or after January 1 of the first cal-*
15 *endar year beginning more than 12 months after the*
16 *date of the enactment of this Act.*

17 (2) *CERTIFICATION PROGRAM.*—The Secretary of
18 *the Treasury shall establish the certification program*
19 *described in section 7705(b) of the Internal Revenue*
20 *Code of 1986, as added by subsection (b), not later*
21 *than 6 months before the effective date determined*
22 *under paragraph (1).*

23 (h) *NO INFERENCE.*—Nothing contained in this section
24 *or the amendments made by this section shall be construed*

1 *to create any inference with respect to the determination*
2 *of who is an employee or employer—*

3 *(1) for Federal tax purposes (other than the pur-*
4 *poses set forth in the amendments made by this sec-*
5 *tion), or*

6 *(2) for purposes of any other provision of law.*

7 **SEC. 705. STUDY ON COLLECTING ESTIMATED TAX PAY-**
8 **MENTS THROUGH THE ELECTRONIC FUND**
9 **TRANSFER SYSTEM.**

10 *(a) STUDY.—The Secretary of the Treasury, in con-*
11 *sultation with the National Taxpayer Advocate, shall un-*
12 *dertake a study on increasing collection of estimated tax*
13 *payments under the electronic fund transfer system imple-*
14 *mented under section 6302(h) of the Internal Revenue Code*
15 *of 1986.*

16 *(b) REPORT.—Not later than 1 year after the date of*
17 *the enactment of this Act, the Secretary of the Treasury*
18 *shall prepare and submit to Congress a report on the study*
19 *conducted pursuant to subsection (a).*

20 **SEC. 706. STUDY ON USE OF VOLUNTARY WITHHOLDING**
21 **AGREEMENTS.**

22 *(a) STUDY.—The Secretary of the Treasury, in con-*
23 *sultation with the National Taxpayer Advocate, shall un-*
24 *dertake a study on the use of voluntary agreements between*

1 *independent contractors and service recipients regarding*
2 *the withholding of income and employment taxes.*

3 (b) *REPORT.*—*Not later than 1 year after the date of*
4 *the enactment of this Act, the Secretary of the Treasury*
5 *shall prepare and submit to Congress a report on the study*
6 *conducted pursuant to subsection (a). Such report shall in-*
7 *clude any statutory changes necessary to implement any*
8 *recommendations resulting from the study.*

9 **SEC. 707. OFFSET OF STATE JUDICIAL DEBTS AGAINST IN-**
10 **COME TAX REFUND.**

11 (a) *IN GENERAL.*—*Section 6402 (relating to authority*
12 *to make credits or refunds) is amended by redesignating*
13 *subsections (f) through (k) as subsections (g) through (l),*
14 *respectively, and by inserting after subsection (e) the fol-*
15 *lowing new subsection:*

16 “(f) *COLLECTION OF PAST-DUE, LEGALLY ENFORCE-*
17 *ABLE STATE JUDICIAL DEBTS.*—

18 “(1) *IN GENERAL.*—*Upon receiving notice from*
19 *any State judicial branch or State agency designated*
20 *by the chief justice of the State’s highest court that a*
21 *named person owes a past-due, legally enforceable*
22 *State judicial debt to or in such State, the Secretary*
23 *shall, under such conditions as may be prescribed by*
24 *the Secretary—*

1 “(A) reduce the amount of any overpayment
2 payable to such person by the amount of such
3 State judicial debt;

4 “(B) pay the amount by which such over-
5 payment is reduced under subparagraph (A) to
6 such State judicial branch or State agency and
7 notify such State judicial branch or State agency
8 of such person’s name, taxpayer identification
9 number, address, and the amount collected; and

10 “(C) notify the person making such over-
11 payment that the overpayment has been reduced
12 by an amount necessary to satisfy a past-due, le-
13 gally enforceable State judicial debt.

14 If an offset is made pursuant to a joint return, the
15 notice under subparagraph (B) shall include the
16 names, taxpayer identification numbers, and address-
17 es of each person filing such return.

18 “(2) *OFFSET PERMITTED ONLY AGAINST RESI-*
19 *DENTS OF STATE SEEKING OFFSET.—Paragraph (1)*
20 *shall apply to an overpayment by any person for a*
21 *taxable year only if the address shown on the Federal*
22 *return for such taxable year is an address within the*
23 *State of the State judicial branch or State agency*
24 *seeking the offset.*

1 “(3) *PRIORITIES FOR OFFSET.*—*Any overpay-*
2 *ment by a person shall be reduced pursuant to this*
3 *subsection—*

4 “(A) *after such overpayment is reduced pur-*
5 *suant to—*

6 “(i) *subsection (a) with respect to any*
7 *liability for any internal revenue tax on the*
8 *part of the person who made the overpay-*
9 *ment;*

10 “(ii) *subsection (c) with respect to*
11 *past-due support;*

12 “(iii) *subsection (d) with respect to*
13 *any past-due, legally enforceable debt owed*
14 *to a Federal agency; and*

15 “(iv) *subsection (e) with respect to any*
16 *past-due, legally enforceable State income*
17 *tax obligations; and*

18 “(B) *before such overpayment is credited to*
19 *the future liability for any Federal internal rev-*
20 *enue tax of such person pursuant to subsection*
21 *(b).*

22 *If the Secretary receives notice from 1 or more State*
23 *agencies, or from 1 or more State agencies and the*
24 *State judicial branch, of more than 1 debt subject to*
25 *paragraph (1) that is owed by such person to such*

1 *State agency or State judicial branch, any overpay-*
2 *ment by such person shall be applied against such*
3 *debts in the order in which such debts accrued.*

4 *“(4) NOTICE; CONSIDERATION OF EVIDENCE.—*
5 *Rules similar to the rules of subsection (e)(4) shall*
6 *apply with respect to debts under this subsection.*

7 *“(5) PAST-DUE, LEGALLY ENFORCEABLE STATE*
8 *JUDICIAL DEBT.—*

9 *“(A) IN GENERAL.—For purposes of this*
10 *subsection, the term ‘past-due, legally enforceable*
11 *State judicial debt’ means a debt—*

12 *“(i) which resulted from a judgment or*
13 *sentence rendered by any court or tribunal*
14 *of competent jurisdiction which—*

15 *“(I) handles criminal or traffic*
16 *cases in the State; and*

17 *“(II) has determined an amount*
18 *of State judicial debt to be due; and*

19 *“(ii) which resulted from a State judi-*
20 *cial debt which has been assessed and is*
21 *past-due but not collected.*

22 *“(B) STATE JUDICIAL DEBT.—For purposes*
23 *of this paragraph, the term ‘State judicial debt’*
24 *includes court costs, fees, fines, assessments, res-*
25 *titution to victims of crime, and other monies re-*

1 *sulting from a judgment or sentence rendered by*
2 *any court or tribunal of competent jurisdiction*
3 *handling criminal or traffic cases in the State.*

4 “(6) *REGULATIONS.*—*The Secretary shall issue*
5 *regulations prescribing the time and manner in*
6 *which State judicial branches and State agencies*
7 *must submit notices of past-due, legally enforceable*
8 *State judicial debts and the necessary information*
9 *that must be contained in or accompany such notices.*
10 *The regulations shall specify the types of State judi-*
11 *cial monies and the minimum amount of debt to*
12 *which the reduction procedure established by para-*
13 *graph (1) may be applied. The regulations may re-*
14 *quire State judicial branches and State agencies to*
15 *pay a fee to reimburse the Secretary for the cost of*
16 *applying such procedure. Any fee paid to the Sec-*
17 *retary pursuant to the preceding sentence shall be*
18 *used to reimburse appropriations which bore all or*
19 *part of the cost of applying such procedure.*

20 “(7) *ERRONEOUS PAYMENT TO STATE.*—*Any*
21 *State judicial branch or State agency receiving notice*
22 *from the Secretary that an erroneous payment has*
23 *been made to such State judicial branch or State*
24 *agency under paragraph (1) shall pay promptly to*
25 *the Secretary, in accordance with such regulations as*

1 “(ii) credited to the future liability for
2 any Federal internal revenue tax of such
3 person pursuant to subsection (b).”.

4 (4) Section 6402(g), as so redesignated, is
5 amended by striking “or (e)” and inserting “(e), or
6 (f)”.

7 (5) Section 6402(i), as so redesignated, is
8 amended by striking “or (e)” and inserting “, (e), or
9 (f)”.

10 (d) *EFFECTIVE DATE.*—The amendments made by this
11 section shall apply to refunds payable for taxable years end-
12 ing after the date of the enactment of this Act.

13 **SEC. 708. CLARIFICATION OF RESPONSIBILITIES OF**
14 **UNITED STATES MARSHALS ATTENDING THE**
15 **TAX COURT.**

16 (a) *IN GENERAL.*—Subsection (c) of section 7456 is
17 amended by inserting “, and shall provide for the security
18 of the Tax Court, including the personal protection of Tax
19 Court judges, court officers, witnesses, and other threatened
20 persons in the interests of justice where criminal intima-
21 tion impedes on the functioning of the judicial process or
22 any other official proceeding of the Tax Court.”.

23 (b) *CONFORMING AMENDMENT.*—Subsection (a) of sec-
24 tion 566 of title 28, United States Code, is amended by
25 striking “and the Court of International Trade” and insert-

1 *ing “, the Court of International Trade, and any other*
2 *court as provided by law.”.*

3 **SEC. 709. AUTHORIZATION OF APPROPRIATIONS TO COM-**
4 **BAT THE TAX GAP AND FOR TAX LAW EN-**
5 **FORCEMENT.**

6 *There is authorized to be appropriated \$732,000,000*
7 *for fiscal year 2007 for the purpose of combating the tax*
8 *gap (as defined in section 710(b)), of which \$300,000,000*
9 *is authorized for the purpose of carrying out tax law en-*
10 *forcement to combat tax avoidance transactions and other*
11 *tax shelters, including the use of offshore financial accounts*
12 *to conceal taxable income. Any amounts so appropriated*
13 *shall remain available until expended.*

14 **SEC. 710. ANNUAL TAX GAP REPORT.**

15 *(a) REPORT.—*

16 *(1) IN GENERAL.—Not later than September 30*
17 *of each year, the Secretary of the Treasury shall issue*
18 *a report to the Committee on Finance of the Senate*
19 *and the Committee on Ways and Means of the House*
20 *of Representatives on activities undertaken to reduce*
21 *the tax gap for the fiscal year.*

22 *(2) CONTENTS OF REPORT.—The report under*
23 *paragraph (1) shall include—*

24 *(A) specific administrative actions taken by*
25 *the Secretary of the Treasury to reduce the tax*

1 *gap during the fiscal year and the results of any*
2 *such actions;*

3 *(B) a plan for reducing the tax gap for the*
4 *succeeding fiscal year, including—*

5 *(i) a detailed analysis of the elements*
6 *of the tax gap;*

7 *(ii) a list of measures designed to re-*
8 *duce the tax gap;*

9 *(iii) goals for reducing the tax gap;*
10 *and*

11 *(iv) a time line for achieving the goals*
12 *set forth under clause (iii);*

13 *(C) strategies to—*

14 *(i) simplify the administration of the*
15 *tax laws;*

16 *(ii) increase income reporting;*

17 *(iii) improve tax law enforcement; and*

18 *(iv) improve Internal Revenue Service*
19 *customer service; and*

20 *(D) legislative recommendations for improv-*
21 *ing taxpayer compliance.*

22 *(b) TAX GAP.—For purposes of this section, the term*
23 *“tax gap” means, with respect to any fiscal year, the excess*
24 *of—*

1 (1) *the amount of taxes owed by taxpayers under*
2 *the Internal Revenue Code of 1986 for such fiscal*
3 *year, over*

4 (2) *the amount of revenue collected by the Inter-*
5 *nal Revenue Service under such Code for such fiscal*
6 *year.*

7 **SEC. 711. OPERATIONS FOR THE ENFORCEMENT OF TAX**
8 **LAWS RELATING TO HIRING AND CONTINUED**
9 **EMPLOYMENT OF UNDOCUMENTED WORK-**
10 **ERS.**

11 *(a) AUTHORIZATION OF APPROPRIATIONS.—*

12 (1) *IN GENERAL.—There is authorized to be ap-*
13 *propriated \$2,000,000 for fiscal year 2007 for the*
14 *purpose of establishing an office within the Internal*
15 *Revenue Service to prosecute employers who violate*
16 *tax laws relating to the hiring and continued employ-*
17 *ment of undocumented workers.*

18 (2) *AVAILABILITY.—Any amounts appropriated*
19 *pursuant to the authority of paragraph (1) shall re-*
20 *main available for fiscal year 2008.*

21 *(b) ADDITIONAL FUNDING FOR OPERATIONS OF OF-*
22 *FICE.—Unless specifically appropriated otherwise, there is*
23 *authorized to be appropriated and is appropriated to the*
24 *office established under subsection (a)(1) for fiscal years*
25 *2007 and 2008 for the administration of such office an*

1 *amount equal to the amount of any tax under chapter 1*
2 *of the Internal Revenue Code of 1986 (including any inter-*
3 *est) collected during such fiscal years as the result of the*
4 *actions of such office, plus any civil or criminal monetary*
5 *penalties imposed under such Code relating to such tax and*
6 *so collected.*

7 *(c) REPORT.—Not later than 1 year after the date of*
8 *the enactment of this Act, the Secretary of the Treasury*
9 *shall report to the Committee of Ways and Means of the*
10 *House of Representatives and the Committee on Finance*
11 *of the Senate on the enforcement activities of the office estab-*
12 *lished under subsection (a)(1) and shall include any rec-*
13 *ommendations for statutory changes to assist in future*
14 *prosecutions under this section.*

15 **SEC. 712. REPEAL OF DOLLAR LIMITATION ON CONTRIBU-**
16 **TIONS TO FUNERAL TRUSTS.**

17 *(a) IN GENERAL.—Subsection (c) of section 685 (relat-*
18 *ing to treatment of funeral trusts) is repealed.*

19 *(b) CONFORMING AMENDMENT.—Subsections (d), (e),*
20 *and (f) of such section are redesignated as subsections (c),*
21 *(d), and (e), respectively.*

22 *(c) EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply to contributions made after December*
24 *31, 2006.*

1 **SEC. 713. ADMINISTRATIVE RELIEF FOR CERTAIN LATE**
2 **QUALIFIED TERMINABLE INTEREST PROP-**
3 **ERTY ELECTIONS.**

4 (a) *EXTENSION OF TIME TO MAKE ELECTIONS.*—Sec-
5 *tion 2523(f)(4)(A) (relating to time and manner of election*
6 *with respect to life estate for donee spouse) is amended by*
7 *adding at the end the following new sentence: “Such regula-*
8 *tions shall provide circumstances and procedures under*
9 *which extensions of time will be granted to make the election*
10 *under this subparagraph. For purposes of the preceding sen-*
11 *tence, the time for making the election shall be treated as*
12 *if not prescribed by statute.”.*

13 (b) *EFFECTIVE DATE.*—*The modifications to the regu-*
14 *lations required by the amendment made by subsection (a)*
15 *shall apply to requests for extension of time pending on or*
16 *after the date of the enactment of this Act with respect to*
17 *transfers made before, on, or after such date.*

18 **SEC. 714. DISCLOSURE OF WRITTEN DETERMINATIONS.**

19 (a) *IN GENERAL.*—*Section 6110(l) (relating to section*
20 *not to apply) is amended by striking all matter before sub-*
21 *paragraph (A) of paragraph (2) and inserting the fol-*
22 *lowing:*

23 “(l) *SECTION NOT TO APPLY.*—

24 “(1) *IN GENERAL.*—*This section shall not apply*
25 *to any matter to which section 6104 or 6105 applies,*
26 *except that this section shall apply to any written de-*

1 *termination and related background file document re-*
2 *lating to an organization described under subsection*
3 *(c) or (d) of section 501 (including any written deter-*
4 *mination denying an organization tax-exempt status*
5 *under such subsection) or a political organization de-*
6 *scribed in section 527 which is not required to be dis-*
7 *closed by section 6104(a)(1)(A).*

8 *“(2) ADDITIONAL MATTERS.—This section shall*
9 *not apply to any—”.*

10 *(b) EFFECTIVE DATE.—The amendment made by this*
11 *section shall apply to written determinations issued after*
12 *the date of the enactment of this Act.*

13 **SEC. 715. DISCLOSURE OF INTERNET WEB SITE AND NAME**
14 **UNDER WHICH ORGANIZATION DOES BUSI-**
15 **NESS.**

16 *(a) IN GENERAL.—Section 6033 (relating to returns*
17 *by exempt organizations) is amended by redesignating sub-*
18 *section (k) as subsection (l) and by inserting after sub-*
19 *section (j) the following new subsection:*

20 *“(k) DISCLOSURE OF NAME UNDER WHICH ORGANI-*
21 *ZATION DOES BUSINESS AND ITS INTERNET WEB SITE.—*
22 *Any organization which is subject to the requirements of*
23 *subsection (a) shall include on the return required under*
24 *subsection (a)—*

1 “(1) any name under which such organization
2 operates or does business, and

3 “(2) the Internet web site address (if any) of
4 such organization.”.

5 **(b) EFFECTIVE DATE.**—*The amendments made by this*
6 *section shall apply to returns filed after December 31, 2006.*

7 **SEC. 716. MODIFICATION TO REPORTING CAPITAL TRANS-**
8 **ACTIONS.**

9 **(a) REQUIREMENT OF SUMMARY REPORT.**—*Section*
10 *6033(c) (relating to additional provisions relating to pri-*
11 *vate foundations) is amended by adding at the end the fol-*
12 *lowing new sentence: “Any information included in an an-*
13 *nual return regarding the gain or loss from the sale or other*
14 *disposition of stock or securities which are listed on an es-*
15 *tablished securities market which is required to be furnished*
16 *in order to calculate the tax on net investment income shall*
17 *also be reported in summary form with a notice that de-*
18 *tailed information is available upon request by the public.”.*

19 **(b) DISCLOSURE REQUIREMENT.**—*Section 6104(b)*
20 *(relating to inspection of annual information returns), as*
21 *amended by this Act, is amended by adding at the end the*
22 *following new sentence: “With respect to any private foun-*
23 *dation (as defined in section 509(a)), any information re-*
24 *garding the gain or loss from the sale or other disposition*
25 *of stock or securities which are listed on an established secu-*

1 *rities market which is required to be furnished in order to*
2 *calculate the tax on net investment income but which is*
3 *not in summary form is not required to be made available*
4 *to the public under this subsection except upon the explicit*
5 *request by a member of the public to the Secretary.”.*

6 (c) *PUBLIC INSPECTION REQUIREMENT.—Section*
7 *6104(d) (relating to public inspection of certain annual re-*
8 *turns, applications for exemptions, and notices of status)*
9 *is amended—*

10 (1) *by redesignating paragraph (6) (relating to*
11 *disclosure of reports by Internal Revenue Service) as*
12 *paragraph (7),*

13 (2) *by redesignating paragraph (6) (relating to*
14 *application to nonexempt charitable trusts and non-*
15 *exempt private foundations) as paragraph (8), and*

16 (3) *by adding at the end the following new para-*
17 *graph:*

18 “(9) *APPLICATION TO PRIVATE FOUNDATION CAP-*
19 *ITAL TRANSACTION INFORMATION.—With respect to*
20 *any private foundation (as defined in section 509(a)),*
21 *any information regarding the gain or loss from the*
22 *sale or other disposition of stock or securities which*
23 *are listed on an established securities market which is*
24 *required to be furnished in order to calculate the tax*
25 *on net investment income but which is not in sum-*

1 (1) *is organized and operated for the primary*
2 *purpose of providing social services;*

3 (2) *is seeking a contract or grant under a Fed-*
4 *eral, State, or local program that provides funding*
5 *for social services programs;*

6 (3) *establishes that, under the terms and condi-*
7 *tions of the contract or grant program, an organiza-*
8 *tion is required to obtain such exempt status before*
9 *the organization is eligible to apply for a contract or*
10 *grant;*

11 (4) *includes with its exemption application a*
12 *copy of its completed Federal, State, or local contract*
13 *or grant application; and*

14 (5) *meets such other criteria as the Secretary*
15 *deems appropriate for expedited consideration.*

16 *The Secretary may prescribe other similar circumstances*
17 *in which such organizations may be entitled to expedited*
18 *consideration.*

19 (b) *WAIVER OF APPLICATION FEE FOR EXEMPT STA-*
20 *TUS.—Any organization that meets the conditions described*
21 *in subsection (a) (without regard to paragraph (3) of that*
22 *subsection) is entitled to a waiver of any fee for an applica-*
23 *tion for exempt status under section 501(c)(3) of the Inter-*
24 *nal Revenue Code of 1986 if the organization certifies that*
25 *the organization has had (or expects to have) average an-*

1 *nual gross receipts of not more than \$50,000 during the*
2 *preceding 4 years (or, in the case of an organization not*
3 *in existence throughout the preceding 4 years, during such*
4 *organization's first 4 years).*

5 *(c) SOCIAL SERVICES DEFINED.—For purposes of this*
6 *section—*

7 *(1) IN GENERAL.—The term “social services”*
8 *means services directed at helping people in need, re-*
9 *ducing poverty, improving outcomes of low-income*
10 *children, revitalizing low-income communities, and*
11 *empowering low-income families and low-income in-*
12 *dividuals to become self-sufficient, including—*

13 *(A) child care services, protective services*
14 *for children and adults, services for children and*
15 *adults in foster care, adoption services, services*
16 *related to the management and maintenance of*
17 *the home, day care services for adults, and serv-*
18 *ices to meet the special needs of children, older*
19 *individuals, and individuals with disabilities*
20 *(including physical, mental, or emotional dis-*
21 *abilities);*

22 *(B) transportation services;*

23 *(C) job training and related services, and*
24 *employment services;*

1 (D) information, referral, and counseling
2 services;

3 (E) the preparation and delivery of meals,
4 and services related to soup kitchens or food
5 banks;

6 (F) health support services;

7 (G) literacy and mentoring programs;

8 (H) services for the prevention and treat-
9 ment of juvenile delinquency and substance
10 abuse, services for the prevention of crime and
11 the provision of assistance to the victims and the
12 families of criminal offenders, and services re-
13 lated to the intervention in, and prevention of,
14 domestic violence; and

15 (I) services related to the provision of assist-
16 ance for housing under Federal law.

17 (2) EXCLUSIONS.—The term does not include a
18 program having the purpose of delivering educational
19 assistance under the Elementary and Secondary Edu-
20 cation Act of 1965 (20 U.S.C. 6301 et seq.) or under
21 the Higher Education Act of 1965 (20 U.S.C. 1001 et
22 seq.).

1 **SEC. 719. EXPANSION OF DECLARATORY JUDGMENT REM-**
2 **EDY TO TAX-EXEMPT ORGANIZATIONS.**

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

5 (1) in subparagraph (B) by inserting after
6 “509(a)” the following: “or as a private operating
7 foundation (as defined in section 4942(j)(3))”; and

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

10 “(C) with respect to the initial qualification
11 or continuing qualification of an organization as
12 an organization described in section 501(c)
13 (other than paragraph (3)) or 501(d) which is
14 exempt from tax under section 501(a), or”.

15 (b) *COURT JURISDICTION.*—Subsection (a) of section
16 7428 is amended in the material following paragraph (2)
17 by striking “United States Tax Court, the United States
18 Claims Court, or the district court of the United States for
19 the District of Columbia” and inserting the following:
20 “United States Tax Court (in the case of any such deter-
21 mination or failure) or the United States Claims Court or
22 the district court of the United States for the District of
23 Columbia (in the case of a determination or failure with
24 respect to an issue referred to in subparagraph (A) or (B)
25 of paragraph (1)),”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to pleadings filed with respect to deter-*
3 *minations (or requests for determinations) made after De-*
4 *cember 31, 2006.*

5 **SEC. 720. WIRELESS TELECOMMUNICATIONS EQUIPMENT.**

6 (a) *IN GENERAL.*—*Subparagraph (A) of section*
7 *168(i)(2) (defining qualified technological equipment) is*
8 *amended by striking “and” at the end of clause (ii), by*
9 *striking the period at the end of clause (iii) and inserting*
10 *“, and”, and by inserting after clause (iii) the following*
11 *new clause:*

12 *“(iv) any wireless telecommunications*
13 *equipment placed in service before January*
14 *1, 2011.”.*

15 (b) *WIRELESS TELECOMMUNICATIONS EQUIPMENT.*—
16 *Section 168(i)(2) is amended by inserting after subpara-*
17 *graph (C) the following new subparagraph:*

18 *“(D) WIRELESS TELECOMMUNICATIONS*
19 *EQUIPMENT.—For purposes of this paragraph,*
20 *the term ‘wireless telecommunications equipment’*
21 *means all equipment used in the transmission,*
22 *reception, coordination, or switching of wireless*
23 *telecommunications service, other than cell tow-*
24 *ers, buildings, and T-1 lines or other cabling*
25 *connecting cell sites to mobile switching centers.*

1 (3) *ITEMS OF TAX PREFERENCE; DEPLETION.—*
2 *Paragraph (1) of section 57(a) is amended by striking*
3 *“Effective with respect to taxable years beginning*
4 *after December 31, 1992, this” and inserting “This”.*

5 (4) *INTANGIBLE DRILLING COSTS.—*

6 (A) *Clause (i) of section 57(a)(2)(E) is*
7 *amended by striking “In the case of any taxable*
8 *year beginning after December 31, 1992, this”*
9 *and inserting “This”.*

10 (B) *Clause (ii) of section 57(a)(2)(E) is*
11 *amended by striking “(30 percent in the case of*
12 *taxable years beginning in 1993)”.*

13 (5) *GREAT PLAINS CONSERVATION PROGRAM.—*

14 (A) *Section 126(a) is amended by striking*
15 *paragraph (6) and by redesignating paragraphs*
16 *(7), (8), (9), and (10) as paragraphs (6), (7),*
17 *(8), and (9), respectively.*

18 (B) *Section 126(a)(8), as redesignated by*
19 *subparagraph (A), is amended by striking*
20 *“paragraphs (1) through (8)” and inserting*
21 *“paragraphs (1) through (7)”.*

22 (6) *TREBLE DAMAGE PAYMENTS UNDER THE*
23 *ANTITRUST LAW.—Section 162(g) is amended by*
24 *striking the last sentence.*

1 (7) *CHARITABLE, ETC., CONTRIBUTIONS AND*
2 *GIFTS.—*

3 (A) *Section 170 is amended by striking sub-*
4 *section (k) and by redesignating subsections (l),*
5 *(m), (n), (o), and (p) as subsections (k), (l), (m),*
6 *(n), and (o), respectively.*

7 (B) *Paragraphs (1)(D) and (2)(A) of sec-*
8 *tion 6050L(b) are each amended by striking*
9 *“section 170(m)” and inserting “170(l)”.*

10 (8) *NET OPERATING LOSS CARRYBACKS AND*
11 *CARRYOVERS.—*

12 (A) *Section 172 is amended—*

13 (i) *by striking subparagraph (D) of*
14 *subsection (b)(1) and by redesignating sub-*
15 *paragraphs (E), (F), (G), (H), and (I) as*
16 *subparagraphs (D), (E), (F), (G), and (H),*
17 *respectively,*

18 (ii) *by striking “ending after August 2,*
19 *1989” in subsection (b)(1)(D)(i)(II) (as re-*
20 *designated by clause (i)),*

21 (iii) *by striking “subparagraph (F)”*
22 *in subsection (b)(1)(G) (as redesignated by*
23 *clause (i)) and inserting “subparagraph*
24 *(E)”,*

25 (iv) *by striking subsection (g), and*

1 (v) by striking subparagraph (F) of
2 subsection (h)(2).

3 (B) Section 172(h)(4) is amended by strik-
4 ing “subsection (b)(1)(E)” each place it appears
5 and inserting “subsection (b)(1)(D)”.

6 (C) Section 172(i)(3) is amended by strik-
7 ing “subsection (b)(1)(G)” each place it appears
8 and inserting “subsection (b)(1)(F)”.

9 (D) Section 172(j) is amended by striking
10 “subsection (b)(1)(H)” each place it appears and
11 inserting “subsection (b)(1)(G)”.

12 (E) Section 172, as amended by subpara-
13 graphs (A) through (D) of this paragraph, is
14 amended—

15 (i) by redesignating subsections (h),
16 (i), (j), and (k) as subsections (g), (h), (i),
17 and (j), respectively,

18 (ii) by striking “subsection (h)” each
19 place it appears and inserting “subsection
20 (g)”, and

21 (iii) by striking “subsection (i)” each
22 place it appears and inserting “subsection
23 (h)”.

1 (9) *RESEARCH AND EXPERIMENTAL EXPENDI-*
2 *TURES.—Subparagraph (A) of section 174(a)(2) is*
3 *amended to read as follows:*

4 “(A) *WITHOUT CONSENT.—A taxpayer*
5 *may, without the consent of the Secretary, adopt*
6 *the method provided in this subsection for his*
7 *first taxable year for which expenditures de-*
8 *scribed in paragraph (1) are paid or incurred.”.*

9 (10) *AMORTIZATION OF CERTAIN RESEARCH AND*
10 *EXPERIMENTAL EXPENDITURES.—Paragraph (2) of*
11 *section 174(b) is amended by striking “beginning*
12 *after December 31, 1953”.*

13 (11) *SOIL AND WATER CONSERVATION EXPENDI-*
14 *TURES.—Paragraph (1) of section 175(d) is amended*
15 *to read as follows:*

16 “(1) *WITHOUT CONSENT.—A taxpayer may,*
17 *without the consent of the Secretary, adopt the method*
18 *provided in this section for the taxpayer’s first tax-*
19 *able year for which expenditures described in sub-*
20 *section (a) are paid or incurred.”.*

21 (12) *ACTIVITIES NOT ENGAGED IN FOR PROF-*
22 *IT.—Section 183(e)(1) is amended by striking the last*
23 *sentence.*

1 (13) *DIVIDENDS RECEIVED ON CERTAIN PRE-*
2 *FERRED STOCK; AND DIVIDENDS PAID ON CERTAIN*
3 *PREFERRED STOCK OF PUBLIC UTILITIES.—*

4 (A) *Sections 244 and 247 are hereby re-*
5 *pealed, and the table of sections for part VIII of*
6 *subchapter B of chapter 1 is amended by strik-*
7 *ing the items relating to sections 244 and 247.*

8 (B) *Paragraph (5) of section 172(d) is*
9 *amended to read as follows:*

10 “(5) *COMPUTATION OF DEDUCTION FOR DIVI-*
11 *DENDS RECEIVED.—The deductions allowed by section*
12 *243 (relating to dividends received by corporations)*
13 *and 245 (relating to dividends received from certain*
14 *foreign corporations) shall be computed without re-*
15 *gard to section 246(b) (relating to limitation on ag-*
16 *gregate amount of deductions).”.*

17 (C) *Paragraph (1) of section 243(c) is*
18 *amended to read as follows:*

19 “(1) *IN GENERAL.—In the case of any dividend*
20 *received from a 20-percent owned corporation, sub-*
21 *section (a)(1) shall be applied by substituting ‘80 per-*
22 *cent’ for ‘70 percent’.”.*

23 (D) *Section 243(d) is amended by striking*
24 *paragraph (4).*

25 (E) *Section 246 is amended—*

1 (i) by striking “, 244,” in subsection
2 (a)(1),

3 (ii) in subsection (b)(1)—

4 (I) by striking “sections
5 243(a)(1), and 244(a),” the first place
6 it appears and inserting “section
7 243(a)(1),”

8 (II) by striking “244(a),” the sec-
9 ond place it appears, and

10 (III) by striking “subsection (a)
11 or (b) of section 245, and 247,” and
12 inserting “and subsection (a) or (b) of
13 section 245,” and

14 (iii) by striking “, 244,” in subsection
15 (c)(1).

16 (F) Section 246A is amended by striking “,
17 244,” both places it appears in subsections (a)
18 and (e).

19 (G) Sections 263(g)(2)(B)(iii), 277(a),
20 301(e)(2), 469(e)(4), 512(a)(3)(A), subpara-
21 graphs (A), (C), and (D) of section 805(a)(4),
22 805(b)(5), 812(e)(2)(A), 815(c)(2)(A)(iii),
23 832(b)(5), 833(b)(3)(E), and 1059(b)(2)(B) are
24 each amended by striking “, 244,” each place it
25 appears.

1 (H) Section 1244(c)(2)(C) is amended by
2 striking “244,”.

3 (I) Section 805(a)(4)(B) is amended by
4 striking “, 244(a),” each place it appears.

5 (J) Section 810(c)(2)(B) is amended by
6 striking “244 (relating to dividends on certain
7 preferred stock of public utilities),”.

8 (14) ORGANIZATION EXPENSES.—Section 248(c)
9 is amended by striking “beginning after December 31,
10 1953,” and by striking the last sentence.

11 (15) AMOUNT OF GAIN WHERE LOSS PREVIOUSLY
12 DISALLOWED.—Section 267(d) is amended by striking
13 “(or by reason of section 24(b) of the Internal Rev-
14 enue Code of 1939)” in paragraph (1), by striking
15 “after December 31, 1953,” in paragraph (2), by
16 striking the second sentence, and by striking “or by
17 reason of section 118 of the Internal Revenue Code of
18 1939” in the last sentence.

19 (16) ACQUISITIONS MADE TO EVADE OR AVOID
20 INCOME TAX.—Paragraphs (1) and (2) of section
21 269(a) are each amended by striking “or acquired on
22 or after October 8, 1940,”.

23 (17) INTEREST ON INDEBTEDNESS INCURRED BY
24 CORPORATIONS TO ACQUIRE STOCK OR ASSETS OF AN-
25 OTHER CORPORATION.—Section 279 is amended—

- 1 (A) by striking “after December 31, 1967,”
2 in subsection (a)(2),
3 (B) by striking “after October 9, 1969,” in
4 subsection (b), and
5 (C) by striking “after October 9, 1969, and”
6 in subsection (d)(5).

7 (18) *SPECIAL RULES RELATING TO CORPORATE*
8 *PREFERENCE ITEMS.*—Paragraph (4) of section
9 291(a) is amended by striking “In the case of taxable
10 years beginning after December 31, 1984, section”
11 and inserting “Section”.

12 (19) *TAX CREDIT EMPLOYEE STOCK OWNERSHIP*
13 *PLANS.*—Section 409 is amended by striking sub-
14 section (q).

15 (20) *RETIREE HEALTH ACCOUNTS.*—Section 420
16 is amended—

17 (A) by striking paragraph (4) of subsection
18 (b) and by redesignating paragraph (5) as para-
19 graph (4), and

20 (B) by amending paragraph (2) of sub-
21 section (c) to read as follows:

22 “(2) *REQUIREMENTS RELATING TO PENSION*
23 *BENEFITS ACCRUING BEFORE TRANSFER.*—The re-
24 quirements of this paragraph are met if the plan pro-
25 vides that the accrued pension benefits of any partici-

1 *part or beneficiary under the plan become nonforfeit-*
2 *able in the same manner which would be required if*
3 *the plan had terminated immediately before the quali-*
4 *fied transfer (or in the case of a participant who sep-*
5 *arated during the 1-year period ending on the date of*
6 *the transfer, immediately before such separation).”.*

7 (21) *EMPLOYEE STOCK PURCHASE PLANS.—Sec-*
8 *tion 423(a) is amended by striking “after December*
9 *31, 1963,”.*

10 (22) *LIMITATION ON DEDUCTIONS FOR CERTAIN*
11 *FARMING.—*

12 (A) *Section 464 is amended by striking*
13 *“any farming syndicate (as defined in subsection*
14 *(c))” both places it appears in subsections (a)*
15 *and (b) and inserting “any taxpayer to whom*
16 *subsection (d) applies”.*

17 (B)(i) *Subsection (c) of section 464 is here-*
18 *by moved to the end of section 461 and redesign-*
19 *ated as subsection (j).*

20 (ii) *Such subsection (j) is amended—*

21 (I) *by striking “For purposes of this*
22 *section” in paragraph (1) and inserting*
23 *“For purposes of subsection (i)(4)”, and*

24 (II) *by adding at the end the following*
25 *new paragraphs:*

1 “(3) *FARMING*.—For purposes of this subsection,
2 the term ‘farming’ has the meaning given to such
3 term by section 464(e).

4 “(4) *LIMITED ENTREPRENEUR*.—For purposes of
5 this subsection, the term ‘limited entrepreneur’ means
6 a person who—

7 “(A) has an interest in an enterprise other
8 than as a limited partner, and

9 “(B) does not actively participate in the
10 management of such enterprise.”.

11 (iii) Paragraph (4) of section 461(i) is
12 amended by striking “section 464(c)” and insert-
13 ing “subsection (j)”.

14 (C) Section 464 is amended—

15 (i) by striking subsections (e) and (g)
16 and redesignating subsections (d) and (f) as
17 subsections (c) and (d), respectively, and

18 (ii) by adding at the end the following
19 new subsection:

20 “(e) *FARMING*.—For purposes of this section, the term
21 ‘farming’ means the cultivation of land or the raising or
22 harvesting of any agricultural or horticultural commodity
23 including the raising, shearing, feeding, caring for, train-
24 ing, and management of animals. For purposes of the pre-
25 ceding sentence, trees (other than trees bearing fruit or nuts)

1 *shall not be treated as an agricultural or horticultural com-*
2 *modity.”.*

3 *(D) Subsection (d) of section 464, as redес-*
4 *ignated by subparagraph (C), is amended—*

5 *(i) by striking paragraph (1) and re-*
6 *designating paragraphs (2), (3), and (4) as*
7 *paragraphs (1), (2), and (3), respectively,*
8 *and*

9 *(ii) by striking “SUBSECTIONS (a) AND*
10 *(b) TO APPLY TO” in the subsection head-*
11 *ing.*

12 *(E) Subparagraph (A) of section 58(a)(2) is*
13 *amended by striking “section 464(c)” and insert-*
14 *ing “section 461(j)”.*

15 *(23) DEDUCTIONS LIMITED TO AMOUNT AT*
16 *RISK.—Paragraph (3) of section 465(c) is amended*
17 *by striking “In the case of taxable years beginning*
18 *after December 31, 1978, this” and inserting “This”.*

19 *(24) PASSIVE ACTIVITY LOSSES AND CREDITS*
20 *LIMITED.—*

21 *(A) Section 469 is amended by striking sub-*
22 *section (m).*

23 *(B) Subsection (b) of section 58 is amended*
24 *by adding “and” at the end of paragraph (1), by*

1 *striking paragraph (2), and by redesignating*
2 *paragraph (3) as paragraph (2).*

3 (25) *ADJUSTMENTS REQUIRED BY CHANGES IN*
4 *METHOD OF ACCOUNTING.—Section 481(b)(3) is*
5 *amended by striking subparagraph (C).*

6 (26) *EXEMPTION FROM TAX ON CORPORATIONS,*
7 *CERTAIN TRUSTS, ETC.—Section 501 is amended by*
8 *striking subsection (g).*

9 (27) *REQUIREMENTS FOR EXEMPTION.—*

10 (A) *Section 503(a)(1) is amended to read as*
11 *follows:*

12 “(1) *GENERAL RULE.—An organization de-*
13 *scribed in paragraph (17) or (18) of section 501(c) or*
14 *described in section 401(a) and referred to in section*
15 *4975(g)(2) or (3) shall not be exempt from taxation*
16 *under section 501(a) if it has engaged in a prohibited*
17 *transaction.”.*

18 (B) *Paragraph (2) of section 503(a) is*
19 *amended by striking “described in section*
20 *501(c)(17) or (18) or paragraph (a)(1)(B)” and*
21 *inserting “described in paragraph (1)”.*

22 (C) *Subsection (c) of section 503 is amended*
23 *by striking “described in section 501(c)(17) or*
24 *(18) or subsection (a)(1)(B)” and inserting “de-*
25 *scribed in subsection (a)(1)”.*

1 (28) *INSURANCE COMPANY TAXABLE INCOME.*—

2 (A) *Section 832(e) is amended by striking*
3 *“of taxable years beginning after December 31,*
4 *1966,”.*

5 (B) *Section 832(e)(6) is amended by strik-*
6 *ing “In the case of any taxable year beginning*
7 *after December 31, 1970, the” and inserting*
8 *“The”.*

9 (29) *PROPERTY ON WHICH LESSEE HAS MADE*
10 *IMPROVEMENTS.*—*Section 1019 is amended by strik-*
11 *ing the last sentence.*

12 (30) *INVOLUNTARY CONVERSION.*—*Section 1033*
13 *is amended by striking subsection (j) and by redesign-*
14 *ating subsections (k) and (l) as subsections (j) and*
15 *(k), respectively.*

16 (31) *PROPERTY ACQUIRED DURING AFFILI-*
17 *ATION.*—*Section 1051 is hereby repealed, and the*
18 *table of sections for part IV of subchapter O of chap-*
19 *ter 1 is amended by striking the item relating to sec-*
20 *tion 1051.*

21 (32) *HOLDING PERIOD OF PROPERTY.*—

22 (A) *Paragraph (4) of section 1223 is*
23 *amended by striking “(or under so much of sec-*
24 *tion 1052(c) as refers to section 113(a)(23) of the*
25 *Internal Revenue Code of 1939)”.*

1 (B) Paragraph (6) of section 1223 is
2 amended by striking the last sentence.

3 (C) Paragraph (8) of section 1223 is re-
4 pealed.

5 (33) *PROPERTY USED IN THE TRADE OR BUSI-*
6 *NESS AND INVOLUNTARY CONVERSIONS.*—Subpara-
7 graph (A) of section 1231(c)(2) is amended by strik-
8 ing “beginning after December 31, 1981”.

9 (34) *SALE OR EXCHANGE OF PATENTS.*—Section
10 1235 is amended—

11 (A) by striking subsection (c) and by redesi-
12 gnating subsections (d) and (e) as subsections
13 (c) and (d), respectively, and

14 (B) by striking “subsection (d)” in sub-
15 section (b) and inserting “subsection (c)”.

16 (35) *DEALERS IN SECURITIES.*—Subsection (b)
17 of section 1236 is amended by striking “after Novem-
18 ber 19, 1951,”.

19 (36) *SALE OF PATENTS.*—Subsection (a) of sec-
20 tion 1249 is amended by striking “after December 31,
21 1962,”.

22 (37) *GAIN FROM DISPOSITION OF FARM LAND.*—
23 Paragraph (1) of section 1252(a) is amended—

1 (A) by striking “beginning after December
2 31, 1969” in the matter preceding subparagraph
3 (A), and

4 (B) by striking “after December 31, 1969,”
5 in subparagraph (A).

6 (38) *TREATMENT OF AMOUNTS RECEIVED ON RE-*
7 *TIREMENT OR SALE OR EXCHANGE OF DEBT INSTRU-*
8 *MENTS.—Subsection (c) of section 1271 is amended to*
9 *read as follows:*

10 “(c) *SPECIAL RULE FOR CERTAIN OBLIGATIONS WITH*
11 *RESPECT TO WHICH ORIGINAL ISSUE DISCOUNT NOT CUR-*
12 *RENTLY INCLUDIBLE.—*

13 “(1) *IN GENERAL.—On the sale or exchange of*
14 *debt instruments issued by a government or political*
15 *subdivision thereof after December 31, 1954, and be-*
16 *fore July 2, 1982, or by a corporation after December*
17 *31, 1954, and on or before May 27, 1969, any gain*
18 *realized which does not exceed—*

19 “(A) *an amount equal to the original issue*
20 *discount, or*

21 “(B) *if at the time of original issue there*
22 *was no intention to call the debt instrument be-*
23 *fore maturity, an amount which bears the same*
24 *ratio to the original issue discount as the num-*
25 *ber of complete months that the debt instrument*

1 *was held by the taxpayer bears to the number of*
2 *complete months from the date of original issue*
3 *to the date of maturity,*
4 *shall be considered as ordinary income.*

5 “(2) *SUBSECTION (a)(2)(A) NOT TO APPLY.—*
6 *Subsection (a)(2)(A) shall not apply to any debt in-*
7 *strument referred to in paragraph (1).*

8 “(3) *CROSS REFERENCE.—*

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

9 (39) *AMOUNT AND METHOD OF ADJUSTMENT.—*
10 *Section 1314 is amended by striking subsection (d)*
11 *and by redesignating subsection (e) as subsection (d).*

12 (40) *ELECTION; REVOCATION; TERMINATION.—*
13 *Clause (iii) of section 1362(d)(3) is amended by strik-*
14 *ing “unless” and all that follows and inserting “un-*
15 *less the corporation was an S corporation for such*
16 *taxable year.”.*

17 (41) *AFFILIATED GROUP DEFINED.—*Subpara-
18 *graph (A) of section 1504(a)(3) is amended by strik-*
19 *ing “for a taxable year which includes any period*
20 *after December 31, 1984” in clause (i) and by strik-*
21 *ing “in a taxable year beginning after December 31,*
22 *1984” in clause (ii).*

23 (42) *DISALLOWANCE OF THE BENEFITS OF THE*
24 *GRADUATED CORPORATE RATES AND ACCUMULATED*
25 *EARNINGS CREDIT.—*

1 (A) Subsection (a) of section 1551 is
2 amended—

3 (i) by striking paragraph (1) and by
4 redesignating paragraphs (2) and (3) as
5 paragraphs (1) and (2), respectively, and

6 (ii) by striking “after June 12, 1963,”
7 each place it appears.

8 (B) Section 1551(b) is amended—

9 (i) by striking “or (2)” in paragraph
10 (1), and

11 (ii) by striking “(a)(3)” in paragraph
12 (2) and inserting “(a)(2)”.

13 (43) DEFINITION OF WAGES.—

14 (A) Section 3121(b) is amended by striking
15 paragraph (17).

16 (B) Section 210(a) of the Social Security
17 Act is amended by striking paragraph (17).

18 (44) CREDITS AGAINST TAX.—

19 (A) Paragraph (4) of section 3302(f) is
20 amended—

21 (i) by striking “subsection—” and all
22 that follows through “(A) IN GENERAL.—
23 The” and inserting “subsection, the”,

24 (ii) by striking subparagraph (B),

1 (iii) by redesignating clauses (i) and
2 (ii) as subparagraphs (A) and (B), respec-
3 tively, and

4 (iv) by moving the text of such sub-
5 paragraphs (as so redesignated) 2 ems to
6 the left.

7 (B) Paragraph (5) of section 3302(f) is
8 amended by striking subparagraph (D) and by
9 redesignating subparagraph (E) as subpara-
10 graph (D).

11 (45) DOMESTIC SERVICE EMPLOYMENT TAXES.—
12 Section 3510(b) is amended by striking paragraph
13 (4).

14 (46) TAX ON FUEL USED IN COMMERCIAL TRANS-
15 PORTATION ON INLAND WATERWAYS.—Section
16 4042(b)(2)(A) is amended to read as follows:

17 “(A) The Inland Waterways Trust Fund fi-
18 nancing rate is 20 cents per gallon.”.

19 (47) TRANSPORTATION BY AIR.—

20 (A) Paragraph (1) of section 4261(b) is
21 amended to read as follows:

22 “(1) IN GENERAL.—There is hereby imposed on
23 the amount paid for each domestic segment of taxable
24 transportation by air a tax equal to \$3.”.

25 (B) Section 4261(e) is amended—

1 (i) in paragraph (1) by striking sub-
2 paragraph (C), and

3 (ii) by striking paragraph (5).

4 (48) TAXES ON FAILURE TO DISTRIBUTE IN-
5 COME.—

6 (A) Paragraph (2) of section 4942(f) is
7 amended by striking the semicolon at the end of
8 subparagraph (B) and inserting “, and”, by
9 striking “; and” at the end of subparagraph (C)
10 and inserting a period, and by striking subpara-
11 graph (D).

12 (B) Subsection (g) of section 4942 is
13 amended—

14 (i) by striking “For all taxable years
15 beginning on or after January 1, 1975, sub-
16 ject” in paragraph (2)(A) and inserting
17 “Subject”, and

18 (ii) by striking paragraph (4).

19 (C) Section 4942(i)(2) is amended by strik-
20 ing “beginning after December 31, 1969, and”.

21 (49) TAXES ON TAXABLE EXPENDITURES.—Sec-
22 tion 4945(f) is amended by striking “(excluding there-
23 from any preceding taxable year which begins before
24 January 1, 1970)”.

1 (50) *RETURNS.*—*Subsection (a) of section 6039D*
2 *is amended by striking “beginning after December 31,*
3 *1984,”.*

4 (51) *INFORMATION RETURNS.*—*Subsection (c) of*
5 *section 6060 is amended by striking “year” and all*
6 *that follows and inserting “year.”.*

7 (52) *CANAL ZONE.*—*Subparagraph (A) of section*
8 *6103(b)(5) is amended by striking “the Canal Zone,”.*

9 (53) *ABATEMENTS.*—*Section 6404(f) is amended*
10 *by striking paragraph (3).*

11 (54) *FAILURE BY CORPORATION TO PAY ESTI-*
12 *MATED INCOME TAX.*—*Clause (i) of section*
13 *6655(g)(4)(A) is amended by striking “(or the cor-*
14 *responding provisions of prior law)”.*

15 (55) *MERCHANT MARINE CAPITAL CONSTRUCTION*
16 *FUNDS.*—*Paragraph (4) of section 7518(g) is amend-*
17 *ed by striking “any nonqualified withdrawal” and all*
18 *that follows through “shall be determined” and insert-*
19 *ing “any nonqualified withdrawal shall be deter-*
20 *mined”.*

21 (56) *VALUATION TABLES.*—

22 (A) *Subsection (c) of section 7520 is amend-*
23 *ed by striking paragraph (2) and by redesign-*
24 *ating paragraph (3) as paragraph (2).*

1 (B) Paragraph (2) of section 7520(c), as so
2 redesignated, is amended—

3 (i) by striking “Not later than Decem-
4 ber 31, 1989, the” and inserting “The”, and
5 (ii) by striking “thereafter” in the last
6 sentence thereof.

7 (57) ADMINISTRATION AND COLLECTION OF
8 TAXES IN POSSESSIONS.—Section 7651 is amended by
9 striking paragraph (4) and by redesignating para-
10 graph (5) as paragraph (4).

11 (58) DEFINITION OF EMPLOYEE.—Section
12 7701(a)(20) is amended by striking “chapter 21” and
13 all that follows and inserting “chapter 21.”.

14 (b) INDIVIDUAL PROVISIONS.—

15 (1) ADJUSTMENTS IN TAX TABLES SO THAT IN-
16 FLATION WILL NOT RESULT IN TAX INCREASES.—
17 Paragraph (7) of section 1(f) is amended to read as
18 follows:

19 “(7) SPECIAL RULE FOR CERTAIN BRACKETS.—
20 In prescribing tables under paragraph (1) which
21 apply to taxable years beginning in a calendar year
22 after 1994, the cost-of-living adjustment used in mak-
23 ing adjustments to the dollar amounts at which the
24 36 percent rate bracket begins or at which the 39.6

1 *percent rate bracket begins shall be determined under*
2 *paragraph (3) by substituting ‘1993’ for ‘1992’.*”

3 (2) *EARNED INCOME CREDIT.*—*Paragraph (1) of*
4 *section 32(b) is amended—*

5 (A) *by striking subparagraphs (B) and (C),*
6 *and*

7 (B) *in subparagraph (A) by striking “(A)*
8 *IN GENERAL.—In the case of taxable years begin-*
9 *ning after 1995” and moving the table 2 ems to*
10 *the left.*

11 (3) *ANNUITIES; CERTAIN PROCEEDS OF ENDOW-*
12 *MENT AND LIFE INSURANCE CONTRACTS.*—*Section 72*
13 *is amended—*

14 (A) *in subsection (c)(4) by striking “; except*
15 *that if such date was before January 1, 1954,*
16 *then the annuity starting date is January 1,*
17 *1954”, and*

18 (B) *in subsection (g)(3) by striking “Janu-*
19 *ary 1, 1954, or” and “, whichever is later”.*

20 (4) *ACCIDENT AND HEALTH PLANS.*—*Section*
21 *105(f) is amended by striking “or (d)”.*

22 (5) *FLEXIBLE SPENDING ARRANGEMENTS.*—*Sec-*
23 *tion 106(c)(1) is amended by striking “Effective on*
24 *and after January 1, 1997, gross” and inserting*
25 *“Gross”.*

1 (6) *CERTAIN COMBAT ZONE COMPENSATION OF*
2 *MEMBERS OF THE ARMED FORCES.*—Subsection (c) of
3 *section 112 is amended—*

4 (A) *by striking “(after June 24, 1950)” in*
5 *paragraph (2), and*

6 (B) *striking “such zone;” and all that fol-*
7 *lows in paragraph (3) and inserting “such*
8 *zone.”.*

9 (7) *PRINCIPAL RESIDENCE.*—Section 121(b)(3) is
10 *amended—*

11 (A) *by striking subparagraph (B), and*

12 (B) *in subparagraph (A) by striking“(A) IN*
13 *GENERAL.—” and moving the text 2 ems to the*
14 *left.*

15 (8) *CERTAIN REDUCED UNIFORMED SERVICES*
16 *RETIREMENT PAY.*—Section 122(b)(1) is amended by
17 *striking “after December 31, 1965,”.*

18 (9) *MORTGAGE REVENUE BONDS FOR RESI-*
19 *DENCES IN FEDERAL DISASTER AREAS.*—Section
20 *143(k) is amended by striking paragraph (11).*

21 (10) *STATE LEGISLATORS’ TRAVEL EXPENSES*
22 *AWAY FROM HOME.*—Paragraph (4) of section 162(h)
23 *is amended by striking “For taxable years beginning*
24 *after December 31, 1980, this” and inserting “This”.*

1 (11) *HEALTH INSURANCE COSTS OF SELF-EM-*
2 *PLOYED INDIVIDUALS.*—*Paragraph (1) of section*
3 *162(l) is amended to read as follows:*

4 “(1) *ALLOWANCE OF DEDUCTION.*—*In the case of*
5 *an individual who is an employee within the mean-*
6 *ing of section 401(c)(1), there shall be allowed as a*
7 *deduction under this section an amount equal to 100*
8 *percent of the amount paid during the taxable year*
9 *for insurance which constitutes medical care for the*
10 *taxpayer and the taxpayer’s spouse and dependents.”.*

11 (12) *INTEREST.*—

12 (A) *Section 163 is amended—*

13 (i) *by striking paragraph (6) of sub-*
14 *section (d), and*

15 (ii) *by striking paragraph (5) of sub-*
16 *section (h).*

17 (B) *Section 56(b)(1)(C) is amended by*
18 *striking clause (ii) and by redesignating clauses*
19 *(iii), (iv), and (v) as clauses (ii), (iii), and (iv),*
20 *respectively.*

21 (13) *AMOUNTS RECEIVED BY SURVIVING ANNU-*
22 *ITANT UNDER JOINT AND SURVIVOR ANNUITY CON-*
23 *TRACT.*—*Subparagraph (A) of section 691(d)(1) is*
24 *amended by striking “after December 31, 1953, and”.*

1 (14) *INCOME TAXES OF MEMBERS OF ARMED*
2 *FORCES ON DEATH.*—Section 692(a)(1) is amended
3 by striking “after June 24, 1950”.

4 (15) *TAX ON NONRESIDENT ALIEN INDIVID-*
5 *UALS.*—Subparagraph (B) of section 871(a)(1) is
6 amended to read as follows:

7 “(B) gains described in subsection (b) or (c)
8 of section 631,”.

9 (16) *OLD-AGE, SURVIVORS, AND DISABILITY IN-*
10 *SURANCE.*—Subsection (a) of section 1401 is amended
11 by striking “the following percent” and all that fol-
12 lows and inserting “12.4 percent of the amount of the
13 self-employment income for such taxable year.”.

14 (17) *HOSPITAL INSURANCE.*—Subsection (b) of
15 section 1401 is amended by striking “the following
16 percent” and all that follows and inserting “2.9 per-
17 cent of the amount of the self-employment income for
18 such taxable year.”.

19 (18) *MINISTERS, MEMBERS OF RELIGIOUS OR-*
20 *TERS, AND CHRISTIAN SCIENCE PRACTITIONERS.*—
21 Paragraph (3) of section 1402(e) is amended by strik-
22 ing “whichever of the following dates is later: (A)”
23 and by striking “; or (B)” and all that follows and
24 inserting a period.

1 (19) *WITHHOLDING OF TAX ON NONRESIDENT*
2 *ALIENS.*—*The first sentence of subsection (b) of sec-*
3 *tion 1441 and the first sentence of paragraph (5) of*
4 *section 1441(c) are each amended by striking “gains*
5 *subject to tax” and all that follows through “October*
6 *4, 1966” and inserting “and gains subject to tax*
7 *under section 871(a)(1)(D)”.*

8 (20) *RETIREMENT.*—*Section 7447(i)(3)(B)(ii) is*
9 *amended by striking “at 4 percent per annum to De-*
10 *cember 31, 1947, and at 3 percent per annum there-*
11 *after”, and inserting “at 3 percent per annum”.*

12 (21) *ANNUITIES TO SURVIVING SPOUSES AND DE-*
13 *PENDENT CHILDREN OF JUDGES.*—

14 (A) *Paragraph (2) of section 7448(a) is*
15 *amended by striking “or under section 1106 of*
16 *the Internal Revenue Code of 1939” and by*
17 *striking “or pursuant to section 1106(d) of the*
18 *Internal Revenue Code of 1939”.*

19 (B) *Subsection (g) of section 7448 is*
20 *amended by striking “or other than pursuant to*
21 *section 1106 of the Internal Revenue Code of*
22 *1939”.*

23 (C) *Subsections (g), (j)(1), and (j)(2) of sec-*
24 *tion 7448 are each amended by striking “at 4*
25 *percent per annum to December 31, 1947, and at*

1 3 percent per annum thereafter” and inserting
2 “at 3 percent per annum”.

3 (c) *EFFECTIVE DATE.*—

4 (1) *GENERAL RULE.*—*Except as otherwise pro-*
5 *vided in paragraph (2), the amendments made by*
6 *this section shall take effect on the date of enactment*
7 *of this Act.*

8 (2) *SAVINGS PROVISION.*—*If—*

9 (A) *any provision amended or repealed by*
10 *subsection (a) applied to—*

11 (i) *any transaction occurring before*
12 *the date of the enactment of this Act,*

13 (ii) *any property acquired before such*
14 *date of enactment, or*

15 (iii) *any item of income, loss, deduc-*
16 *tion, or credit taken into account before*
17 *such date of enactment, and*

18 (B) *the treatment of such transaction, prop-*
19 *erty, or item under such provision would (with-*
20 *out regard to the amendments made by sub-*
21 *section (a)) affect the liability for tax for periods*
22 *ending after such date of enactment,*

23 *nothing in the amendments made by subsection (a)*
24 *shall be construed to affect the treatment of such*
25 *transaction, property, or item for purposes of deter-*

1 *mining liability for tax for periods ending after such*
2 *date of enactment.*

3 **TITLE VIII—REVENUE OFFSET**
4 **PROVISIONS**

5 **SEC. 801. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
6 **TRINE.**

7 *(a) IN GENERAL.—Section 7701 is amended by redес-*
8 *ignating subsection (p) as subsection (q) and by inserting*
9 *after subsection (o) the following new subsection:*

10 *“(p) CLARIFICATION OF ECONOMIC SUBSTANCE DOC-*
11 *TRINE; ETC.—*

12 *“(1) GENERAL RULES.—*

13 *“(A) IN GENERAL.—In any case in which a*
14 *court determines that the economic substance*
15 *doctrine is relevant for purposes of this title to*
16 *a transaction (or series of transactions), such*
17 *transaction (or series of transactions) shall have*
18 *economic substance only if the requirements of*
19 *this paragraph are met.*

20 *“(B) DEFINITION OF ECONOMIC SUB-*
21 *STANCE.—For purposes of subparagraph (A)—*

22 *“(i) IN GENERAL.—A transaction has*
23 *economic substance only if—*

24 *“(I) the transaction changes in a*
25 *meaningful way (apart from Federal*

1 *tax effects) the taxpayer's economic po-*
2 *sition, and*

3 *“(II) the taxpayer has a substan-*
4 *tial nontax purpose for entering into*
5 *such transaction and the transaction is*
6 *a reasonable means of accomplishing*
7 *such purpose.*

8 *In applying subclause (II), a purpose of*
9 *achieving a financial accounting benefit*
10 *shall not be taken into account in deter-*
11 *mining whether a transaction has a sub-*
12 *stantial nontax purpose if the origin of such*
13 *financial accounting benefit is a reduction*
14 *of income tax.*

15 *“(ii) SPECIAL RULE WHERE TAXPAYER*
16 *RELIES ON PROFIT POTENTIAL.—A trans-*
17 *action shall not be treated as having eco-*
18 *nomics substance by reason of having a po-*
19 *tential for profit unless—*

20 *“(I) the present value of the rea-*
21 *sonably expected pre-tax profit from*
22 *the transaction is substantial in rela-*
23 *tion to the present value of the expected*
24 *net tax benefits that would be allowed*
25 *if the transaction were respected, and*

1 “(II) the reasonably expected pre-
2 tax profit from the transaction exceeds
3 a risk-free rate of return.

4 “(C) TREATMENT OF FEES AND FOREIGN
5 TAXES.—Fees and other transaction expenses
6 and foreign taxes shall be taken into account as
7 expenses in determining pre-tax profit under
8 subparagraph (B)(i).

9 “(2) SPECIAL RULES FOR TRANSACTIONS WITH
10 TAX-INDIFFERENT PARTIES.—

11 “(A) SPECIAL RULES FOR FINANCING
12 TRANSACTIONS.—The form of a transaction
13 which is in substance the borrowing of money or
14 the acquisition of financial capital directly or
15 indirectly from a tax-indifferent party shall not
16 be respected if the present value of the deductions
17 to be claimed with respect to the transaction is
18 substantially in excess of the present value of the
19 anticipated economic returns of the person lend-
20 ing the money or providing the financial capital.
21 A public offering shall be treated as a borrowing,
22 or an acquisition of financial capital, from a
23 tax-indifferent party if it is reasonably expected
24 that at least 50 percent of the offering will be
25 placed with tax-indifferent parties.

1 “(B) *ARTIFICIAL INCOME SHIFTING AND*
2 *BASIS ADJUSTMENTS.*—*The form of a trans-*
3 *action with a tax-indifferent party shall not be*
4 *respected if—*

5 “(i) *it results in an allocation of in-*
6 *come or gain to the tax-indifferent party in*
7 *excess of such party’s economic income or*
8 *gain, or*

9 “(ii) *it results in a basis adjustment or*
10 *shifting of basis on account of overstating*
11 *the income or gain of the tax-indifferent*
12 *party.*

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

15 “(A) *ECONOMIC SUBSTANCE DOCTRINE.*—
16 *The term ‘economic substance doctrine’ means*
17 *the common law doctrine under which tax bene-*
18 *fits under subtitle A with respect to a trans-*
19 *action are not allowable if the transaction does*
20 *not have economic substance or lacks a business*
21 *purpose.*

22 “(B) *TAX-INDIFFERENT PARTY.*—*The term*
23 *‘tax-indifferent party’ means any person or enti-*
24 *ty not subject to tax imposed by subtitle A. A*
25 *person shall be treated as a tax-indifferent party*

1 *with respect to a transaction if the items taken*
2 *into account with respect to the transaction have*
3 *no substantial impact on such person's liability*
4 *under subtitle A.*

5 “(C) *EXCEPTION FOR PERSONAL TRANS-*
6 *ACTIONS OF INDIVIDUALS.—In the case of an in-*
7 *dividual, this subsection shall apply only to*
8 *transactions entered into in connection with a*
9 *trade or business or an activity engaged in for*
10 *the production of income.*

11 “(D) *TREATMENT OF LESSORS.—In apply-*
12 *ing paragraph (1)(B)(ii) to the lessor of tangible*
13 *property subject to a lease—*

14 “(i) *the expected net tax benefits with*
15 *respect to the leased property shall not in-*
16 *clude the benefits of—*

17 “(I) *depreciation,*

18 “(II) *any tax credit, or*

19 “(III) *any other deduction as pro-*
20 *vided in guidance by the Secretary,*
21 *and*

22 “(ii) *subclause (II) of paragraph*
23 *(1)(B)(ii) shall be disregarded in deter-*
24 *mining whether any of such benefits are al-*
25 *lowable.*

1 “(4) *OTHER COMMON LAW DOCTRINES NOT AF-*
2 *FECTED.—Except as specifically provided in this sub-*
3 *section, the provisions of this subsection shall not be*
4 *construed as altering or supplanting any other rule of*
5 *law, and the requirements of this subsection shall be*
6 *construed as being in addition to any such other rule*
7 *of law.*

8 “(5) *REGULATIONS.—The Secretary shall pre-*
9 *scribe such regulations as may be necessary or appro-*
10 *priate to carry out the purposes of this subsection.*
11 *Such regulations may include exemptions from the*
12 *application of this subsection.”.*

13 “(b) *EFFECTIVE DATE.—The amendments made by this*
14 *section shall apply to transactions entered into after the*
15 *date of the enactment of this Act.*

16 **SEC. 802. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
17 **UTABLE TO TRANSACTIONS LACKING ECO-**
18 **NOMIC SUBSTANCE, ETC.**

19 “(a) *IN GENERAL.—Subchapter A of chapter 68 is*
20 *amended by inserting after section 6662A the following new*
21 *section:*

1 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
2 **UTABLE TO TRANSACTIONS LACKING ECO-**
3 **NOMIC SUBSTANCE, ETC.**

4 *“(a) IMPOSITION OF PENALTY.—If a taxpayer has an*
5 *noneconomic substance transaction understatement for any*
6 *taxable year, there shall be added to the tax an amount*
7 *equal to 40 percent of the amount of such understatement.*

8 *“(b) REDUCTION OF PENALTY FOR DISCLOSED TRANS-*
9 *ACTIONS.—Subsection (a) shall be applied by substituting*
10 *‘20 percent’ for ‘40 percent’ with respect to the portion of*
11 *any noneconomic substance transaction understatement*
12 *with respect to which the relevant facts affecting the tax*
13 *treatment of the item are adequately disclosed in the return*
14 *or a statement attached to the return.*

15 *“(c) NONECONOMIC SUBSTANCE TRANSACTION UNDER-*
16 *STATEMENT.—For purposes of this section—*

17 *“(1) IN GENERAL.—The term ‘noneconomic sub-*
18 *stance transaction understatement’ means any*
19 *amount which would be an understatement under sec-*
20 *tion 6662A(b)(1) if section 6662A were applied by*
21 *taking into account items attributable to noneconomic*
22 *substance transactions rather than items to which sec-*
23 *tion 6662A would apply without regard to this para-*
24 *graph.*

1 “(2) *NONECONOMIC SUBSTANCE TRANSACTION.*—

2 *The term ‘noneconomic substance transaction’ means*
3 *any transaction if—*

4 “(A) *there is a lack of economic substance*
5 *(within the meaning of section 7701(p)(1)) for*
6 *the transaction giving rise to the claimed benefit*
7 *or the transaction was not respected under sec-*
8 *tion 7701(p)(2), or*

9 “(B) *the transaction fails to meet the re-*
10 *quirements of any similar rule of law.*

11 “(d) *RULES APPLICABLE TO COMPROMISE OF PEN-*
12 *ALTY.*—

13 “(1) *IN GENERAL.*—*If the 1st letter of proposed*
14 *deficiency which allows the taxpayer an opportunity*
15 *for administrative review in the Internal Revenue*
16 *Service Office of Appeals has been sent with respect*
17 *to a penalty to which this section applies, only the*
18 *Commissioner of Internal Revenue may compromise*
19 *all or any portion of such penalty.*

20 “(2) *APPLICABLE RULES.*—*The rules of para-*
21 *graphs (2) and (3) of section 6707A(d) shall apply for*
22 *purposes of paragraph (1).*

23 “(e) *COORDINATION WITH OTHER PENALTIES.*—*Ex-*
24 *cept as otherwise provided in this part, the penalty imposed*

1 *by this section shall be in addition to any other penalty*
2 *imposed by this title.*

3 “(f) *CROSS REFERENCES.*—

“*(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).*”

“*(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).*”.

4 (b) *COORDINATION WITH OTHER UNDERSTATEMENTS*
5 *AND PENALTIES.*—

6 (1) *The second sentence of section 6662(d)(2)(A)*
7 *is amended by inserting “and without regard to items*
8 *with respect to which a penalty is imposed by section*
9 *6662B” before the period at the end.*

10 (2) *Subsection (e) of section 6662A is amended—*

11 (A) *in paragraph (1), by inserting “and*
12 *noneconomic substance transaction understate-*
13 *ments” after “reportable transaction understate-*
14 *ments” both places it appears,*

15 (B) *in paragraph (2)(A), by inserting “and*
16 *a noneconomic substance transaction understate-*
17 *ment” after “reportable transaction understate-*
18 *ment”,*

19 (C) *in paragraph (2)(B), by inserting*
20 *“6662B or” before “6663”,*

21 (D) *in paragraph (2)(C)(i), by inserting*
22 *“or section 6662B” before the period at the end,*

1 (E) in paragraph (2)(C)(ii), by inserting
2 “and section 6662B” after “This section”,

3 (F) in paragraph (3), by inserting “or non-
4 economic substance transaction understatement”
5 after “reportable transaction understatement”,
6 and

7 (G) by adding at the end the following new
8 paragraph:

9 “(4) NONECONOMIC SUBSTANCE TRANSACTION
10 UNDERSTATEMENT.—For purposes of this subsection,
11 the term ‘noneconomic substance transaction under-
12 statement’ has the meaning given such term by sec-
13 tion 6662B(c).”.

14 (3) Subsection (e) of section 6707A is amended—

15 (A) by striking “or” at the end of subpara-
16 graph (B), and

17 (B) by striking subparagraph (C) and in-
18 serting the following new subparagraphs:

19 “(C) is required to pay a penalty under sec-
20 tion 6662B with respect to any noneconomic
21 substance transaction, or

22 “(D) is required to pay a penalty under
23 section 6662(h) with respect to any transaction
24 and would (but for section 6662A(e)(2)(C)) have
25 been subject to penalty under section 6662A at a

1 *rate prescribed under section 6662A(c) or under*
2 *section 6662B,”.*

3 (c) *CLERICAL AMENDMENT.—The table of sections for*
4 *part II of subchapter A of chapter 68 is amended by insert-*
5 *ing after the item relating to section 6662A the following*
6 *new item:*

 “*Sec. 6662B. Penalty for understatements attributable to transactions lacking*
 economic substance, etc.”.

7 (d) *EFFECTIVE DATE.—The amendments made by this*
8 *section shall apply to transactions entered into after the*
9 *date of the enactment of this Act.*

10 **SEC. 803. APPLICATION OF RULES TREATING INVERTED**
11 **CORPORATIONS AS DOMESTIC CORPORA-**
12 **TIONS TO CERTAIN TRANSACTIONS OCCUR-**
13 **RING AFTER MARCH 20, 2002.**

14 (a) *IN GENERAL.—Section 7874(b) (relating to in-*
15 *verted corporations treated as domestic corporations) is*
16 *amended to read as follows:*

17 “(b) *INVERTED CORPORATIONS TREATED AS DOMES-*
18 *TIC CORPORATIONS.—*

19 “(1) *IN GENERAL.—Notwithstanding section*
20 *7701(a)(4), a foreign corporation shall be treated for*
21 *purposes of this title as a domestic corporation if such*
22 *corporation would be a surrogate foreign corporation*
23 *if subsection (a)(2) were applied by substituting ‘80*
24 *percent’ for ‘60 percent’.*

1 “(2) *SPECIAL RULE FOR CERTAIN TRANSACTIONS*
2 *OCCURRING AFTER MARCH 20, 2002.—*

3 “(A) *IN GENERAL.—If—*

4 “(i) *paragraph (1) does not apply to a*
5 *foreign corporation, but*

6 “(ii) *paragraph (1) would apply to*
7 *such corporation if, in addition to the sub-*
8 *stitution under paragraph (1), subsection*
9 *(a)(2) were applied by substituting ‘March*
10 *20, 2002’ for ‘March 4, 2003’ each place it*
11 *appears,*

12 *then paragraph (1) shall apply to such corpora-*
13 *tion but only with respect to taxable years of*
14 *such corporation beginning after December 31,*
15 *2005.*

16 “(B) *SPECIAL RULES.—Subject to such*
17 *rules as the Secretary may prescribe, in the case*
18 *of a corporation to which paragraph (1) applies*
19 *by reason of this paragraph—*

20 “(i) *the corporation shall be treated, as*
21 *of the close of its last taxable year beginning*
22 *before January 1, 2006, as having trans-*
23 *ferred all of its assets, liabilities, and earn-*
24 *ings and profits to a domestic corporation*

1 *in a transaction with respect to which no*
2 *tax is imposed under this title,*

3 “*(ii) the bases of the assets transferred*
4 *in the transaction to the domestic corpora-*
5 *tion shall be the same as the bases of the as-*
6 *sets in the hands of the foreign corporation,*
7 *subject to any adjustments under this title*
8 *for built-in losses,*

9 “*(iii) the basis of the stock of any*
10 *shareholder in the domestic corporation*
11 *shall be the same as the basis of the stock*
12 *of the shareholder in the foreign corporation*
13 *for which it is treated as exchanged, and*

14 “*(iv) the transfer of any earnings and*
15 *profits by reason of clause (i) shall be dis-*
16 *regarded in determining any deemed divi-*
17 *dend or foreign tax creditable to the domes-*
18 *tic corporation with respect to such trans-*
19 *fer.*

20 “(C) *REGULATIONS.—The Secretary may*
21 *prescribe such regulations as may be necessary*
22 *or appropriate to carry out this paragraph, in-*
23 *cluding regulations to prevent the avoidance of*
24 *the purposes of this paragraph.”.*

1 **(b) EFFECTIVE DATE.**—*The amendment made by this*
2 *section shall apply to taxable years beginning after Decem-*
3 *ber 31, 2005.*

Amend the title so as to read: “A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services and to provide taxpayer protection and assistance, and for other purposes.”.