

108TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Mr. GRASSLEY (for himself and Mr. BAUCUS) introduced the following bill;  
which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Internal Revenue Code of 1986 to make  
technical corrections, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Tax Technical Correc-  
5 tions Act of 2004”.

6 **SEC. 2. TECHNICAL CORRECTIONS.**

7 (a) AMENDMENTS RELATED TO THE AMERICAN  
8 JOBS CREATION ACT OF 2004.—

9 (1) AMENDMENTS RELATED TO SECTION 102  
10 OF THE ACT.—

1 (A) Paragraph (2) of section 199(c) of the  
2 Internal Revenue Code of 1986 is amended to  
3 read as follows:

4 “(2) ALLOCATION METHOD.—The Secretary  
5 shall prescribe rules for the proper allocation of  
6 items described in paragraph (1) for purposes of de-  
7 termining qualified production activities income.”.

8 (B) Clause (i) of section 199(d)(4)(B) of  
9 such Code is amended—

10 (i) by striking “50 percent” and in-  
11 sserting “more than 50 percent”, and

12 (ii) by striking “80 percent” and in-  
13 sserting “at least 80 percent”.

14 (2) AMENDMENT RELATED TO SECTION 231 OF  
15 THE ACT.—Subparagraph (C) of section 1361(c)(1)  
16 of such Code is amended to read as follows:

17 “(C) EFFECT OF ADOPTION, ETC.—For  
18 purposes of this paragraph, any legally adopted  
19 child of an individual, any child who is lawfully  
20 placed with an individual for legal adoption by  
21 the individual, and any eligible foster child of  
22 an individual (within the meaning of section  
23 152(f)(1)(C)), shall be treated as a child of  
24 such individual by blood.”.

1           (3) AMENDMENT RELATED TO SECTION 248 OF  
2 THE ACT.—Subsection (c) of section 1356 of such  
3 Code is amended—

4                   (A) by striking paragraph (3), and

5                   (B) by adding at the end of paragraph (2)

6           the following new flush sentence:

7           “Such term shall not include any core qualifying ac-  
8           tivities.”.

9           (4) AMENDMENT RELATED TO SECTION 314 OF  
10 THE ACT.—Paragraph (2) of section 55(c) of such  
11 Code is amended by striking “regular tax” and in-  
12           serting “regular tax liability”.

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

17           (6) AMENDMENTS RELATED TO SECTION 418  
18 OF THE ACT.—

19                   (A) The second sentence of section  
20           897(h)(1) of such Code is amended by striking  
21           “any distribution” and all that follows through  
22           “any class of stock” and inserting “any dis-  
23           tribution by a real estate investment trust with  
24           respect to any class of stock”.

1           (B) Subsection (c) of section 418 of the  
2 American Jobs Creation Act of 2004 is amend-  
3 ed by striking “taxable years beginning after  
4 the date of the enactment of this Act” and in-  
5 serting “any distribution by a real estate invest-  
6 ment trust which is treated as a deduction for  
7 a taxable year of such trust beginning after the  
8 date of the enactment of this Act”.

9           (7) AMENDMENTS RELATED TO SECTION 422  
10 OF THE ACT.—

11           (A) Subparagraph (A) of section 965(b)(2)  
12 of such Code is amended by inserting “cash”  
13 before “dividends”.

14           (B) Paragraph (3) of section 965(b) of  
15 such Code is amended by adding at the end the  
16 following: “The Secretary may prescribe such  
17 regulations as may be necessary or appropriate  
18 to prevent the avoidance of the purposes of this  
19 paragraph, including regulations which provide  
20 that cash dividends shall not be taken into ac-  
21 count under subsection (a) to the extent such  
22 dividends are attributable to the direct or indi-  
23 rect transfer (including through the use of in-  
24 tervening entities or capital contributions) of  
25 cash or other property from a related person

1 (as so defined) to a controlled foreign corpora-  
2 tion.”.

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

5 “(1) APPLICABLE FINANCIAL STATEMENT.—

6 The term ‘applicable financial statement’ means—

7 “(A) with respect to a United States  
8 shareholder which is required to file a financial  
9 statement with the Securities and Exchange  
10 Commission (or which is included in such a  
11 statement so filed by another person), the most  
12 recent audited annual financial statement (in-  
13 cluding the notes which form an integral part  
14 of such statement) of such shareholder (or  
15 which includes such shareholder)—

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

18 “(ii) which was certified on or before  
19 June 30, 2003, as being prepared in ac-  
20 cordance with generally accepted account-  
21 ing principles, and

22 “(B) with respect to any other United  
23 States shareholder, the most recent audited fi-  
24 nancial statement (including the notes which  
25 form an integral part of such statement) of

1 such shareholder (or which includes such share-  
2 holder)—

3 “(i) which was certified on or before  
4 June 30, 2003, as being prepared in ac-  
5 cordance with generally accepted account-  
6 ing principles, and

7 “(ii) which is used for the purposes of  
8 a statement or report—

9 “(I) to creditors,

10 “(II) to shareholders, or

11 “(III) for any other substantial  
12 nontax purpose.”.

13 (D) Paragraph (2) of section 965(d) of  
14 such Code is amended by striking “properly al-  
15 located and apportioned” and inserting “di-  
16 rectly allocable”.

17 (E) Subsection (d) of section 965 of such  
18 Code is amended by adding at the end the fol-  
19 lowing new paragraph:

20 “(4) COORDINATION WITH SECTION 78.—Sec-  
21 tion 78 shall not apply to any tax which is not allow-  
22 able as a credit under section 901 by reason of this  
23 subsection.”.

24 (F) The last sentence of section 965(e)(1)  
25 of such Code is amended by inserting “which

1 are imposed by foreign countries and posses-  
2 sions of the United States and are” after  
3 “taxes”.

4 (8) AMENDMENTS RELATED TO SECTION 501  
5 OF THE ACT.—

6 (A) Subparagraph (A) of section 164(b)(5)  
7 of such Code is amended to read as follows:

8 “(A) ELECTION TO DEDUCT STATE AND  
9 LOCAL SALES TAXES IN LIEU OF STATE AND  
10 LOCAL INCOME TAXES.—At the election of the  
11 taxpayer for the taxable year, subsection (a)  
12 shall be applied—

13 “(i) without regard to the reference to  
14 State and local income taxes, and

15 “(ii) as if State and local general sales  
16 taxes were referred to in a paragraph  
17 thereof.”.

18 (B) Clause (ii) of section 56(b)(1)(A) of  
19 such Code is amended by inserting “or clause  
20 (ii) of section 164(b)(5)(A)” before the period  
21 at the end.

22 (9) AMENDMENT RELATED TO SECTION 835 OF  
23 THE ACT.—The last sentence of paragraph (3) of  
24 section 860G(a) of such Code is amended by striking

1 “treated as secured” and inserting “treated as prin-  
2 cipally secured”.

3 (10) AMENDMENTS RELATED TO SECTION 885  
4 OF THE ACT.—

5 (A) Paragraph (2) of section 26(b) of such  
6 Code is amended by striking “and” at the end  
7 of subparagraph (R), by striking the period at  
8 the end of subparagraph (S) and inserting “,  
9 and”, and by adding at the end the following  
10 new subparagraph:

11 “(T) subsections (a)(1)(B)(i) and  
12 (b)(4)(A) of section 409A (relating to interest  
13 and additional tax with respect to certain de-  
14 ferred compensation).”.

15 (B) Clause (ii) of section 409A(a)(4)(C) of  
16 such Code is amended by striking “first”.

17 (C)(i) Notwithstanding section 885(d)(1)  
18 of the American Jobs Creation Act of 2004,  
19 subsection (b) of section 409A of such Code  
20 shall take effect on January 1, 2005.

21 (ii) Not later than 90 days after the date  
22 of the enactment of this Act, the Secretary of  
23 the Treasury shall issue guidance under which  
24 a nonqualified deferred compensation plan  
25 which is in violation of the requirements of sec-

1           tion 409A(b) of such Code shall be treated as  
2           not having violated such requirements if such  
3           plan comes into conformance with such require-  
4           ments during such limited period as the Sec-  
5           retary may specify in such guidance.

6           (D) Subsection (f) of section 885 of the  
7           American Jobs Creation Act of 2004 is amend-  
8           ed by striking “December 31, 2004” the first  
9           place it appears and inserting “January 1,  
10          2005”.

11          (11) EFFECTIVE DATE.—The amendments  
12          made by this subsection shall take effect as if in-  
13          cluded in the provisions of the American Jobs Cre-  
14          ation Act of 2004 to which they relate.

15          (b) AMENDMENTS RELATED TO THE WORKING FAM-  
16          ILIES TAX RELIEF ACT OF 2004.—

17           (1) AMENDMENT RELATED TO SECTION 203 OF  
18          THE ACT.—Subparagraph (B) of section 21(b)(1) of  
19          the Internal Revenue Code of 1986 is amended by  
20          inserting “(as defined in section 152, determined  
21          without regard to subsections (b)(1), (b)(2), and  
22          (d)(1)(B))” after “dependent of the taxpayer”.

23           (2) AMENDMENT RELATED TO SECTION 207 OF  
24          THE ACT.—Subparagraph (A) of section 223(d)(2)  
25          of such Code is amended by inserting “, determined

1 without regard to subsections (b)(1), (b)(2), and  
2 (d)(1)(B) thereof” after “section 152”.

3 (3) EFFECTIVE DATE.—The amendments made  
4 by this subsection shall take effect as if included in  
5 the provisions of the Working Families Tax Relief  
6 Act of 2004 to which they relate.

7 (c) AMENDMENT RELATED TO THE JOBS AND  
8 GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.—

9 (1) AMENDMENT RELATED TO SECTION 201 OF  
10 THE ACT.—Subparagraph (D) of section  
11 1400L(b)(2) of the Internal Revenue Code of 1986  
12 is amended by striking “September 11, 2004” and  
13 inserting “January 1, 2005”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by this subsection shall take effect as if included in  
16 section 201 of the Jobs and Growth Tax Relief and  
17 Reconciliation Act of 2003.

18 (d) AMENDMENTS RELATED TO THE TRADE ACT OF  
19 2002.—

20 (1) Paragraph (4) of section 6103(p) of the In-  
21 ternal Revenue Code of 1986 is amended by striking  
22 “(l)(16), (17), (19), or (20)” each place it appears  
23 and inserting “(l)(16), (18), (19), or (20)”.

24 (2) The Internal Revenue Code of 1986 shall be  
25 applied and administered as if the amendments

1 made by section 408(a)(24) of the Working Families  
2 Tax Relief Act of 2004 had never been enacted.

3 (e) AMENDMENT RELATED TO THE VICTIMS OF TER-  
4 RORISM TAX RELIEF ACT OF 2001.—

5 (1) AMENDMENT RELATED TO SECTION 201 OF  
6 THE ACT.—Paragraph (17) of section 6103(l) of the  
7 Internal Revenue Code of 1986 is amended by strik-  
8 ing “subsection (f), (i)(7), or (p)” and inserting  
9 “subsection (f), (i)(8), or (p)”.

10 (2) EFFECTIVE DATE.—The amendment made  
11 by this subsection shall take effect as if included in  
12 section 201 of the Victims of Terrorism Tax Relief  
13 Act of 2001.

14 (f) AMENDMENTS RELATED TO THE TAXPAYER RE-  
15 LIEF ACT OF 1997.—

16 (1) AMENDMENTS RELATED TO SECTION 1055  
17 OF THE ACT.—

18 (A) The last sentence of section 6411(a) of  
19 the Internal Revenue Code of 1986 is amended  
20 by striking “6611(f)(3)(B)” and inserting  
21 “6611(f)(4)(B)”.

22 (B) Paragraph (4) of section 6601(d) of  
23 such Code is amended by striking  
24 “6611(f)(3)(A)” and inserting “6611(f)(4)(A)”.

1           (2) AMENDMENT RELATED TO SECTION 1144  
2           OF THE ACT.—Subparagraph (B) of section  
3           6038B(a)(1) of such Code is amended by inserting  
4           “or” at the end.

5           (3) EFFECTIVE DATE.—The amendments made  
6           by this subsection shall take effect as if included in  
7           the provisions of the Taxpayer Relief Act of 1997 to  
8           which they relate.

9           (g) CLERICAL CORRECTIONS.—

10           (1) Subparagraph (E) of section 26(b)(2) of the  
11           Internal Revenue Code of 1986 is amended by strik-  
12           ing “section 530(d)(3)” and inserting “section  
13           530(d)(4)”.

14           (2)(A) Subclause (II) of section 38(c)(2)(A)(ii)  
15           of such Code is amended by striking “or the New  
16           York Liberty Zone business employee credit or the  
17           specified credits” and inserting “, the New York  
18           Liberty Zone business employee credit, and the spec-  
19           ified credits”.

20           (B) Subclause (II) of section 38(c)(3)(A)(ii) of  
21           such Code is amended by striking “or the specified  
22           credits” and inserting “and the specified credits”.

23           (3) Subparagraph (A) of section 39(a)(1) of  
24           such Code is amended by striking “each of the 1  
25           taxable years” and by inserting “the taxable year”.

1           (4)(A) Subsection (a) of section 62 of such  
2 Code is amended—

3           (i) by redesignating paragraph (19) (relat-  
4 ing to costs involving discrimination suits, etc.),  
5 as added by section 703 of the American Jobs  
6 Creation Act of 2004, as paragraph (20), and

7           (ii) by moving such paragraph after para-  
8 graph (19) (relating to health savings ac-  
9 counts).

10          (B) Subsection (e) of section 62 of such Code  
11 is amended by striking “subsection (a)(19)” and in-  
12 serting “subsection (a)(20)”.

13          (5) Subsection (d) of section 121 of such Code  
14 is amended by redesignating paragraph (10) (relat-  
15 ing to property acquired in like-kind exchange), as  
16 added by section 840 of the American Jobs Creation  
17 Act of 2004, as paragraph (11).

18          (6) Paragraph (2) of section 221(d) of such  
19 Code is amended by striking “this Act” and insert-  
20 ing “the Taxpayer Relief Act of 1997”.

21          (7) Subparagraph (B) of section 332(d)(1) of  
22 such Code is amended by striking “distribution to  
23 which section 301 applies” and inserting “distribu-  
24 tion of property to which section 301 applies”.

1           (8) The matter following clause (iv) of section  
2           415(n)(3)(C) of such Code is amended by striking  
3           “clauses” and inserting “clause”.

4           (9) Paragraph (1) of section 512(b) of such  
5           Code is amended by striking “section 512(a)(5)”  
6           and inserting “subsection (a)(5)”.

7           (10)(A) Subsection (b) of section 512 of such  
8           Code is amended—

9                   (i) by redesignating paragraph (18) (relat-  
10                   ing to the treatment of gain or loss on sale or  
11                   exchange of certain brownfield sites), as added  
12                   by section 702 of the American Jobs Creation  
13                   Act of 2004, as paragraph (19), and

14                   (ii) by moving such paragraph to the end  
15                   of such subsection.

16           (B) Subparagraph (E) of section 514(b)(1) of  
17           such Code is amended by striking “section  
18           512(b)(18)” and inserting “section 512(b)(19)”.

19           (11)(A) Subsection (b) of section 530 of such  
20           Code is amended by striking paragraph (3) and by  
21           redesignating paragraphs (4) and (5) as paragraphs  
22           (3) and (4), respectively.

23           (B) Clause (ii) of section 530(b)(2)(A) of such  
24           Code is amended by striking “paragraph (4)” and  
25           inserting “paragraph (3)”.

1           (12) Clause (i) of section 954(c)(1)(C) of such  
2 Code is amended by striking “paragraph (4)(A)”  
3 and inserting “paragraph (5)(A)”.

4           (13) Subparagraph (F) of section 954(c)(1) of  
5 such Code is amended by striking “Net income from  
6 notional principal contracts.” after “INCOME FROM  
7 NOTIONAL PRINCIPAL CONTRACTS.—”.

8           (14) The matter preceding clause (i) of section  
9 1031(h)(2)(B) of such Code is amended by striking  
10 “subparagraph” and inserting “subparagraphs”.

11           (15) Paragraphs (1) and (2) of section 1375(d)  
12 of such Code are each amended by striking “sub-  
13 chapter C” and inserting “accumulated”.

14           (16) Each of the following provisions of such  
15 Code are amended by striking “General Accounting  
16 Office” each place it appears therein and inserting  
17 “Government Accountability Office”:

18                   (A) Clause (ii) of section 1400E(c)(4)(A).

19                   (B) Paragraph (1) of section 6050M(b).

20                   (C) Subparagraphs (A), (B)(i), and (B)(ii)  
21 of section 6103(i)(8).

22                   (D) Paragraphs (3)(C)(i), (4), (5), and  
23 (6)(B) of section 6103(p).

24                   (E) Subsection (e) of section 8021.

1           (17) Section 3401 of such Code is amended by  
2 redesignating subsection (h) as subsection (g).

3           (18) Paragraph (2) of section 4161(a) of such  
4 Code is amended to read as follows:

5           “(2) 3 PERCENT RATE OF TAX FOR ELECTRIC  
6 OUTBOARD MOTORS.—In the case of an electric out-  
7 board motor, paragraph (1) shall be applied by sub-  
8 stituting ‘3 percent’ for ‘10 percent’.”.

9           (19) Subparagraph (C) of section 4261(e)(4) of  
10 such Code is amended by striking “imposed sub-  
11 section (b)” and inserting “imposed by subsection  
12 (b)”.

13           (20) Section 6427 of such Code is amended by  
14 striking subsection (o) and redesignating subsection  
15 (p) as subsection (o).

16           (21) Subsection (a) of section 4980D of such  
17 Code is amended by striking “plans” and inserting  
18 “plan”.

19           (22) The matter following clause (iii) of section  
20 6045(e)(5)(A) of such Code is amended by striking  
21 “for ‘\$250,000.’” and all that follows through “to  
22 the Treasury.” and inserting “for ‘\$250,000’. The  
23 Secretary may by regulation increase the dollar  
24 amounts under this subparagraph if the Secretary

- 1 determines that such an increase will not materially
- 2 reduce revenues to the Treasury.”.