

PUBLIC LAW 108-311—OCT. 4, 2004

WORKING FAMILIES TAX RELIEF ACT OF 2004

Public Law 108–311
108th Congress

An Act

Oct. 4, 2004
[H.R. 1308]

To amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.

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

Working
Families Tax
Relief Act of
2004.

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

26 USC 1 note.

(a) **SHORT TITLE.**—This Act may be cited as the “Working Families Tax Relief Act of 2004”.

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

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

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

TITLE I—EXTENSION OF FAMILY TAX PROVISIONS

Sec. 101. Repeal of scheduled reductions in child tax credit, marriage penalty relief, and 10-percent rate bracket.

Sec. 102. Acceleration of increase in refundability of the child tax credit.

Sec. 103. 1-year extension of minimum tax relief to individuals.

Sec. 104. Earned income includes combat pay.

Sec. 105. Application of EGTRRA sunset to this title.

TITLE II—UNIFORM DEFINITION OF CHILD

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Sec. 202. Modifications of definition of head of household.

Sec. 203. Modifications of dependent care credit.

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Sec. 206. Modifications of deduction for personal exemption for dependents.

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TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

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Sec. 302. Parity in the application of certain limits to mental health benefits.

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Sec. 309. Certain New York Liberty Zone benefits.

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Sec. 311. Disclosure of tax information to facilitate combined employment tax reporting.

- Sec. 312. Allowance of nonrefundable personal credits against regular and minimum tax liability.
- Sec. 313. Credit for electricity produced from certain renewable resources.
- Sec. 314. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 315. Indian employment tax credit.
- Sec. 316. Accelerated depreciation for business property on Indian reservation.
- Sec. 317. Disclosure of return information relating to student loans.
- Sec. 318. Elimination of phaseout of credit for qualified electric vehicles for 2004 and 2005.
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- Sec. 320. Disclosures relating to terrorist activities.
- Sec. 321. Joint review of strategic plans and budget for the Internal Revenue Service.
- Sec. 322. Availability of medical savings accounts.

TITLE IV—TAX TECHNICAL CORRECTIONS

- Sec. 401. Amendments related to Medicare Prescription Drug, Improvement, and Modernization Act of 2003.
- Sec. 402. Amendments related to Jobs and Growth Tax Relief Reconciliation Act of 2003.
- Sec. 403. Amendments related to Job Creation and Worker Assistance Act of 2002.
- Sec. 404. Amendments related to Economic Growth and Tax Relief Reconciliation Act of 2001.
- Sec. 405. Amendments related to Community Renewal Tax Relief Act of 2000.
- Sec. 406. Amendments related to Taxpayer Relief Act of 1997.
- Sec. 407. Amendments related to Small Business Job Protection Act of 1996.
- Sec. 408. Clerical amendments.

TITLE I—EXTENSION OF FAMILY TAX PROVISIONS

SEC. 101. REPEAL OF SCHEDULED REDUCTIONS IN CHILD TAX CREDIT, MARRIAGE PENALTY RELIEF, AND 10-PERCENT RATE BRACKET.

(a) **CHILD TAX CREDIT.**—Subsection (a) of section 24 (relating to child tax credit) is amended to read as follows:

“(a) **ALLOWANCE OF CREDIT.**—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year with respect to each qualifying child of the taxpayer an amount equal to \$1,000.”.

(b) **MARRIAGE PENALTY RELIEF IN STANDARD DEDUCTION.**—

(1) **IN GENERAL.**—Paragraph (2) of section 63(c) (relating to basic standard deduction) is amended to read as follows:

“(2) **BASIC STANDARD DEDUCTION.**—For purposes of paragraph (1), the basic standard deduction is—

“(A) 200 percent of the dollar amount in effect under subparagraph (C) for the taxable year in the case of—

“(i) a joint return, or

“(ii) a surviving spouse (as defined in section 2(a)),

“(B) \$4,400 in the case of a head of household (as defined in section 2(b)), or

“(C) \$3,000 in any other case.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 63(c)(4) is amended by striking “(2)(D)” each place it occurs and inserting “(2)(C)”.

(B) Section 63(c) is amended by striking paragraph (7).

(c) **MARRIAGE PENALTY RELIEF IN 15-PERCENT INCOME TAX BRACKET.**—Paragraph (8) of section 1(f) is amended to read as follows: 26 USC 1.

“(8) **ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.**—With respect to taxable years beginning after December 31, 2003, in prescribing the tables under paragraph (1)—

“(A) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

“(B) the comparable taxable income amounts in the table contained in subsection (d) shall be $\frac{1}{2}$ of the amounts determined under subparagraph (A).”.

(d) **10-PERCENT RATE BRACKET.**—

(1) **IN GENERAL.**—Clause (i) of section 1(i)(1)(B) is amended by striking “(\$12,000 in the case of taxable years beginning after December 31, 2004, and before January 1, 2008)”.

(2) **INFLATION ADJUSTMENT.**—Subparagraph (C) of section 1(i)(1) is amended to read as follows:

“(C) **INFLATION ADJUSTMENT.**—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—

“(i) the cost-of-living adjustment shall be determined under subsection (f)(3) by substituting ‘2002’ for ‘1992’ in subparagraph (B) thereof, and

“(ii) the adjustments under clause (i) shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.”.

26 USC 1 note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 102. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.

(a) **ACCELERATION OF REFUNDABILITY.**—Section 24(d)(1)(B)(i) (relating to portion of credit refundable) is amended by striking “(10 percent in the case of taxable years beginning before January 1, 2005)”.

26 USC 24 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 103. EXTENSION OF MINIMUM TAX RELIEF TO INDIVIDUALS.

(a) **IN GENERAL.**—Subparagraphs (A) and (B) of section 55(d)(1) of the Internal Revenue Code of 1986 (relating to exemption amount for taxpayers other than corporations) are each amended by striking “2003 and 2004” and inserting “2003, 2004, and 2005”.

26 USC 55 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 104. EARNED INCOME INCLUDES COMBAT PAY.

(a) **CHILD TAX CREDIT.**—Section 24(d)(1) (relating to portion of credit refundable) is amended by adding at the end the following new sentence: “For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated

as earned income which is taken into account in computing taxable income for the taxable year.”

(b) EARNED INCOME CREDIT.—Subparagraph (B) of section 32(c)(2) (relating to earned income) is amended—

(1) by striking “and” at the end of clause (iv),

(2) by striking the period at the end of clause (v) and inserting “, and”, and

(3) by adding at the end the following:

“(vi) in the case of any taxable year ending—

“(I) after the date of the enactment of this clause, and

“(II) before January 1, 2006,

a taxpayer may elect to treat amounts excluded from gross income by reason of section 112 as earned income.”.

(c) EFFECTIVE DATE.—

(1) CHILD TAX CREDIT.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003. 26 USC 24 note.

(2) EARNED INCOME CREDIT.—The amendments made by subsection (b) shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 32 note.

SEC. 105. APPLICATION OF EGTRRA SUNSET TO THIS TITLE.

26 USC 1 note.

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

TITLE II—UNIFORM DEFINITION OF CHILD

SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.

Section 152 is amended to read as follows:

“SEC. 152. DEPENDENT DEFINED.

“(a) IN GENERAL.—For purposes of this subtitle, the term ‘dependent’ means—

“(1) a qualifying child, or

“(2) a qualifying relative.

“(b) EXCEPTIONS.—For purposes of this section—

“(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

“(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual’s spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

“(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

“(A) IN GENERAL.—The term ‘dependent’ does not include an individual who is not a citizen or national of the United States unless such individual is a resident

of the United States or a country contiguous to the United States.

“(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of ‘dependent’ if—

“(i) for the taxable year of the taxpayer, the child has the same principal place of abode as the taxpayer and is a member of the taxpayer’s household, and

“(ii) the taxpayer is a citizen or national of the United States.

“(c) QUALIFYING CHILD.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying child’ means, with respect to any taxpayer for any taxable year, an individual—

“(A) who bears a relationship to the taxpayer described in paragraph (2),

“(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

“(C) who meets the age requirements of paragraph (3), and

“(D) who has not provided over one-half of such individual’s own support for the calendar year in which the taxable year of the taxpayer begins.

“(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

“(A) a child of the taxpayer or a descendant of such a child, or

“(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

“(3) AGE REQUIREMENTS.—

“(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

“(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

“(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

“(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

“(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

“(i) a parent of the individual, or

“(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

“(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

“(i) the parent with whom the child resided for the longest period of time during the taxable year, or

“(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

“(d) QUALIFYING RELATIVE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying relative’ means, with respect to any taxpayer for any taxable year, an individual—

“(A) who bears a relationship to the taxpayer described in paragraph (2),

“(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

“(C) with respect to whom the taxpayer provides over one-half of the individual’s support for the calendar year in which such taxable year begins, and

“(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

“(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

“(A) A child or a descendant of a child.

“(B) A brother, sister, stepbrother, or stepsister.

“(C) The father or mother, or an ancestor of either.

“(D) A stepfather or stepmother.

“(E) A son or daughter of a brother or sister of the taxpayer.

“(F) A brother or sister of the father or mother of the taxpayer.

“(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

“(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer’s household.

“(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

“(A) no one person contributed over one-half of such support,

“(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

“(C) the taxpayer contributed over 10 percent of such support, and

“(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

“(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

“(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

“(i) the availability of medical care at such workshop is the principal reason for the individual’s presence there, and

“(ii) the income arises solely from activities at such workshop which are incident to such medical care.

“(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term ‘sheltered workshop’ means a school—

“(i) which provides special instruction or training designed to alleviate the disability of the individual, and

“(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

“(5) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

“(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent, and

“(B) in the case of the remarriage of a parent, support of a child received from the parent’s spouse shall be treated as received from the parent.

“(e) SPECIAL RULE FOR DIVORCED PARENTS.—

“(1) IN GENERAL.—Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—

“(A) a child receives over one-half of the child’s support during the calendar year from the child’s parents—

“(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

“(ii) who are separated under a written separation agreement, or

“(iii) who live apart at all times during the last 6 months of the calendar year, and

“(B) such child is in the custody of 1 or both of the child’s parents for more than one-half of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

“(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

“(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

“(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

“(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, or

“(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least \$600 for the support of such child during such calendar year.

For purposes of subparagraph (B), amounts expended for the support of a child or children shall be treated as received from the noncustodial parent to the extent that such parent provided amounts for such support.

“(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

“(A) CUSTODIAL PARENT.—The term ‘custodial parent’ means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

“(B) NONCUSTODIAL PARENT.—The term ‘noncustodial parent’ means the parent who is not the custodial parent.

“(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

“(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

“(1) CHILD DEFINED.—

“(A) IN GENERAL.—The term ‘child’ means an individual who is—

“(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

“(ii) an eligible foster child of the taxpayer.

“(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer, shall be treated as a child of such individual by blood.

“(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term ‘eligible foster child’ means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

“(2) STUDENT DEFINED.—The term ‘student’ means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

“(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

“(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

“(3) DETERMINATION OF HOUSEHOLD STATUS.—An individual shall not be treated as a member of the taxpayer’s household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

“(4) BROTHER AND SISTER.—The terms ‘brother’ and ‘sister’ include a brother or sister by the half blood.

“(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of subsections (c)(1)(D) and (d)(1)(C), in the case of an individual who is—

“(A) a child of the taxpayer, and

“(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account.

“(6) TREATMENT OF MISSING CHILDREN.—

“(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

“(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

“(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping, shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the child is kidnapped.

“(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

“(i) the deduction under section 151(c),

“(ii) the credit under section 24 (relating to child tax credit),

“(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

“(iv) the earned income credit under section 32.

“(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

“(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

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“(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping, shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

“(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

“(7) CROSS REFERENCES.—

“**For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).**”.

SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) is amended to read as follows:

“(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

“(I) is married at the close of the taxpayer’s taxable year, and

“(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or”.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) are amended to read as follows:

“(i) subparagraph (H) of section 152(d)(2), or

“(ii) paragraph (3) of section 152(d).”.

SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Section 21(a)(1) is amended by striking “In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))” and inserting “In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1) with respect to such individual”.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) is amended to read as follows:

“(1) QUALIFYING INDIVIDUAL.—The term ‘qualifying individual’ means—

“(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

“(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

“(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.”.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) is amended to read as follows:

“(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.”.

SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 24(c) is amended to read as follows:

“(1) IN GENERAL.—The term ‘qualifying child’ means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.”.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) is amended by striking “the first sentence of section 152(b)(3)” and inserting “subparagraph (A) of section 152(b)(3)”.

SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) is amended to read as follows:

“(3) QUALIFYING CHILD.—

“(A) IN GENERAL.—The term ‘qualifying child’ means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

“(B) MARRIED INDIVIDUAL.—The term ‘qualifying child’ shall not include an individual who is married as of the close of the taxpayer’s taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

“(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

“(D) IDENTIFICATION REQUIREMENTS.—

“(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

“(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) is amended by striking “(3)(E)” and inserting “(3)(C)”.

(3) Section 32(m) is amended by striking “subsections (c)(1)(F)” and inserting “subsections (c)(1)(E)”.

SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.

Subsection (c) of section 151 is amended to read as follows:

“(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.”.

SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 2(a)(1)(B)(i) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(2) Section 21(e)(5) is amended—

(A) by striking “paragraph (2) or (4) of” in subparagraph (A), and

(B) by striking “within the meaning of section 152(e)(1)” and inserting “as defined in section 152(e)(3)(A)”.

(3) Section 21(e)(6)(B) is amended by striking “section 151(c)(3)” and inserting “section 152(f)(1)”.

(4) Section 25B(c)(2)(B) is amended by striking “151(c)(4)” and inserting “152(f)(2)”.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) are each amended by striking “paragraphs (1) through (8) of section 152(a)” both places it appears and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(B) Section 51(i)(1)(C) is amended by striking “152(a)(9)” and inserting “152(d)(2)(H)”.

(6) Section 72(t)(2)(D)(i)(III) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(7) Section 72(t)(7)(A)(iii) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(8) Section 42(i)(3)(D)(ii)(I) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(9) Subsections (b) and (c)(1) of section 105 are amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(10) Section 120(d)(4) is amended by inserting “(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)” after “section 152”.

(11) Section 125(e)(1)(D) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(12) Section 129(c)(2) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(13) The first sentence of section 132(h)(2)(B) is amended by striking “151(c)(3)” and inserting “152(f)(1)”.

(14) Section 153 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) is amended by inserting “(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)” after “section 152”.

(16) Section 170(g)(3) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(17) Section 213(a) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(18) The second sentence of section 213(d)(11) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(19) Section 220(d)(2)(A) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(20) Section 221(d)(4) is amended by inserting “(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)” after “section 152”.

(21) Section 529(e)(2)(B) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(22) Section 2032A(c)(7)(D) is amended by striking “section 151(c)(4)” and inserting “section 152(f)(2)”.

(23) Section 2057(d)(2)(B) is amended by inserting “, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof” after “section 152”.

(24) Section 7701(a)(17) is amended by striking “152(b)(4), 682,” and inserting “682”.

26 USC 7702.

(25) Section 7702B(f)(2)(C)(iii) is amended by striking “paragraphs (1) through (8) of section 152(a)” and inserting “subparagraphs (A) through (G) of section 152(d)(2)”.

(26) Section 7703(b)(1) is amended—

(A) by striking “151(c)(3)” and inserting “152(f)(1), and

(B) by striking “paragraph (2) or (4) of”.

26 USC 2 note.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title shall apply to taxable years beginning after December 31, 2004.

TITLE III—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

SEC. 301. RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking “June 30, 2004” and inserting “December 31, 2005”.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking “June 30, 2004” and inserting “December 31, 2005”.

26 USC 41 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 2004.

SEC. 302. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Section 9812(f) is amended—

(1) by striking “and” at the end of paragraph (1), and

(2) by striking paragraph (2) and inserting the following new paragraphs:

“(2) on or after January 1, 2004, and before the date of the enactment of the Working Families Tax Relief Act of 2004, and

“(3) after December 31, 2005.”

(b) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking “on or after December 31, 2004” and inserting “after December 31, 2005”.

(c) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg-5(f)) is amended by striking “on or after December 31, 2004” and inserting “after December 31, 2005”.

(d) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 9812 note.

SEC. 303. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 51(c)(4) is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51A(f) is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2003. 26 USC 51 note.

SEC. 304. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking “and 2003” and inserting “2003, 2004, and 2005”. 26 USC 1397.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after December 31, 2003. 26 USC 1397E note.

SEC. 305. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2004” and inserting “January 1, 2006”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to articles brought into the United States after December 31, 2003. 26 USC 7652 note.

SEC. 306. DEDUCTION FOR CORPORATE DONATIONS OF SCIENTIFIC PROPERTY AND COMPUTER TECHNOLOGY.

(a) IN GENERAL.—Section 170(e)(6)(G) is amended by striking “2003” and inserting “2005”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2003. 26 USC 170 note.

SEC. 307. DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2003” and inserting “, 2003, 2004, or 2005”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred in taxable years beginning after December 31, 2003. 26 USC 62 note.

SEC. 308. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003. 26 USC 198 note.

SEC. 309. CERTAIN NEW YORK LIBERTY ZONE BENEFITS.

(a) EXTENSION OF TAX-EXEMPT BOND FINANCING.—Subparagraph (D) of section 1400L(d)(2) is amended by striking “2005” and inserting “2010”.

(b) EXTENSION OF ADVANCE REFUNDINGS.—Section 1400L(e)(1) is amended by striking “2005” and inserting “2006”.

(c) CLARIFICATION OF BONDS ELIGIBLE FOR ADVANCE REFUNDING.—Section 1400L(e)(2)(B) (relating to bonds described) is amended by striking “, or” and inserting “or the Municipal Assistance Corporation, or”.

26 USC 1400L
note.

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002.

SEC. 310. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—Subsection (f) of section 1400 is amended by striking “December 31, 2003” both places it appears and inserting “December 31, 2005”.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking “January 1, 2004” each place it appears and inserting “January 1, 2006”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking “December 31, 2008” and inserting “December 31, 2010”, and

(ii) by striking “2008” in the heading and inserting “2010”.

(B) Section 1400B(g)(2) is amended by striking “December 31, 2008” and inserting “December 31, 2010”.

(C) Section 1400F(d) is amended by striking “December 31, 2008” and inserting “December 31, 2010”.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking “January 1, 2004” and inserting “January 1, 2006”.

26 USC 1400
note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 2004.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 311. DISCLOSURE OF TAX INFORMATION TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.

(a) IN GENERAL.—Paragraph (5) of section 6103(d) (relating to disclosure to State tax officials and State and local law enforcement agencies) is amended to read as follows:

“(5) DISCLOSURE FOR COMBINED EMPLOYMENT TAX REPORTING.—

“(A) IN GENERAL.—The Secretary may disclose taxpayer identity information and signatures to any agency, body, or commission of any State for the purpose of carrying out with such agency, body, or commission a combined Federal and State employment tax reporting program approved by the Secretary. Subsections (a)(2) and (p)(4) and sections 7213 and 7213A shall not apply with respect

to disclosures or inspections made pursuant to this paragraph.

“(B) TERMINATION.—The Secretary may not make any disclosure under this paragraph after December 31, 2005.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 6103 note.

SEC. 312. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—
(1) by striking “RULE FOR 2000, 2001, 2002, AND 2003.—” and inserting “RULE FOR TAXABLE YEARS 2000 THROUGH 2005.—”, and

(2) by striking “or 2003” and inserting “2003, 2004, or 2005”.

(b) CONFORMING PROVISIONS.—

(1) Section 904(h) is amended by striking “or 2003” and inserting “2003, 2004, or 2005”.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004 or 2005. 26 USC 23 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003. 26 USC 26 note.

SEC. 313. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are each amended by striking “January 1, 2004” and inserting “January 1, 2006”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2003. 26 USC 45 note.

SEC. 314. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking “January 1, 2004” and inserting “January 1, 2006”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003. 26 USC 613A note.

SEC. 315. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking “December 31, 2004” and inserting “December 31, 2005”.

SEC. 316. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

Section 168(j)(8) (relating to termination) is amended by striking “December 31, 2004” and inserting “December 31, 2005”.

SEC. 317. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.

Section 6103(l)(13)(D) (relating to termination) is amended by striking “December 31, 2004” and inserting “December 31, 2005”.

SEC. 318. ELIMINATION OF PHASEOUT OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES FOR 2004 AND 2005.

(a) IN GENERAL.—Paragraph (2) of section 30(b) is amended to read as follows:

“(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2005, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by 75 percent.”.

26 USC 30 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

SEC. 319. ELIMINATION OF PHASEOUT FOR DEDUCTION FOR CLEAN-FUEL VEHICLE PROPERTY FOR 2004 AND 2005.

(a) IN GENERAL.—Subparagraph (B) of section 179A(b)(1) is amended to read as follows:

“(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2005, the limit otherwise allowable under subparagraph (A) shall be reduced by 75 percent.”.

26 USC 179A note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 2003.

SEC. 320. DISCLOSURES RELATING TO TERRORIST ACTIVITIES.

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are both amended by striking “December 31, 2003” and inserting “December 31, 2005”.

(b) DISCLOSURE OF TAXPAYER IDENTITY TO LAW ENFORCEMENT AGENCIES INVESTIGATING TERRORISM.—Subparagraph (A) of section 6103(i)(7) is amended by adding at the end the following new clause:

“(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer’s identity shall not be treated as taxpayer return information.”.

26 USC 6103 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

SEC. 321. JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking “2004” and inserting “2005”.

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking “2004” and inserting “2005”, and

(2) by striking “with respect to—” and all that follows and inserting “with respect to the matters addressed in the joint review referred to in section 8021(f)(2).”.

Deadline.
26 USC 8021 note.

(c) TIME FOR JOINT REVIEW.—The joint review required by section 8021(f)(2) of the Internal Revenue Code of 1986 to be made before June 1, 2004, shall be treated as timely if made before June 1, 2005.

SEC. 322. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) **IN GENERAL.**—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking “2003” each place it appears in the text and headings and inserting “2005”.

(b) **CONFORMING AMENDMENTS.**—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking “or 2002” each place it appears and inserting “2002, or 2004”, and

(B) in the heading by striking “OR 2002” and inserting “2002, OR 2004”.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking “and 2002” and inserting “2002, and 2004”.

(3) Subparagraph (C) of section 220(j)(2) is amended to read as follows:

“(C) **NO LIMITATION FOR 2000 OR 2003.**—The numerical limitation shall not apply for 2000 or 2003.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 2004. 26 USC 220 note.

(d) **TIME FOR FILING REPORTS, ETC.**—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2004, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2004 shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2004 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

Deadlines.
26 USC 220 note.

TITLE IV—TAX TECHNICAL CORRECTIONS

SEC. 401. AMENDMENTS RELATED TO MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003.

(a) **AMENDMENTS RELATED TO SECTION 1201 OF THE ACT.**—

(1) Paragraph (2) of section 26(b) is amended by striking “and” at the end of subparagraph (Q), by striking the period at the end of subparagraph (R) and inserting “, and”, and by adding at the end the following new subparagraph:

“(S) section 223(f)(4) (relating to additional tax on health savings account distributions not used for qualified medical expenses).

(2) Paragraph (3) of section 35(g) is amended to read as follows:

“(3) **MEDICAL AND HEALTH SAVINGS ACCOUNTS.**—Amounts distributed from an Archer MSA (as defined in section 220(d)) or from a health savings account (as defined in section 223(d)) shall not be taken into account under subsection (a).”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in section 1201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. 26 USC 26 note.

26 USC 26.

26 USC 26 note.

SEC. 402. AMENDMENTS RELATED TO JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003.

(a) AMENDMENTS RELATED TO SECTION 302 OF THE ACT.—

26 USC 1.

(1) Clause (i) of section 1(h)(1)(D) is amended by inserting “(determined without regard to paragraph (11))” after “net capital gain”.

(2) Subclause (I) of section 1(h)(11)(B)(iii) is amended—
(A) by striking “section 246(c)(1)” and inserting “section 246(c)”,

(B) by striking “120-day period” and inserting “121-day period”, and

(C) by striking “90-day period” and inserting “91-day period”.

(3) Clause (ii) of section 1(h)(11)(D) is amended by striking “an individual” and inserting “a taxpayer to whom this section applies”.

(4) Paragraph (4) of section 691(c) is amended by striking “of any gain”.

(5)(A) Subparagraph (B) of section 854(b)(1) is amended—

(i) by striking clauses (iii) and (iv), and

(ii) by amending clause (i) to read as follows:

“(i) IN GENERAL.—In any case in which—

“(I) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies),

“(II) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend, and

“(III) the qualified dividend income of such investment company for such taxable year is less than 95 percent of its gross income,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend designated by the regulated investment company.”.

(B) Subparagraph (C) of section 854(b)(1) is amended to read as follows:

“(C) LIMITATIONS.—

“(i) SUBPARAGRAPH (A).—The aggregate amount which may be designated as dividends under subparagraph (A) shall not exceed the aggregate dividends received by the company for the taxable year.

“(ii) SUBPARAGRAPH (B).—The aggregate amount which may be designated as qualified dividend income under subparagraph (B) shall not exceed the sum of—

“(I) the qualified dividend income of the company for the taxable year, and

“(II) the amount of any earnings and profits which were distributed by the company for such taxable year and accumulated in a taxable year with respect to which this part did not apply.”.

(C) Paragraph (2) of section 854(b) is amended by striking “as a dividend for purposes of the maximum rate under section 1(h)(11) and” and inserting “as qualified dividend income for purposes of section 1(h)(11) and as dividends for purposes of”.

(D) Paragraph (5) of section 854(b) is amended to read as follows:

“(5) QUALIFIED DIVIDEND INCOME.—For purposes of this subsection, the term ‘qualified dividend income’ has the meaning given such term by section 1(h)(11)(B).”

(E) Paragraph (2) of section 857(c) is amended to read as follows:

“(2) SECTION (1)(h)(11).—

“(A) IN GENERAL.—In any case in which—

“(i) a dividend is received from a real estate investment trust (other than a capital gain dividend), and

“(ii) such trust meets the requirements of section 856(a) for the taxable year during which it paid such dividend,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend designated by the real estate investment trust.

“(B) LIMITATION.—The aggregate amount which may be designated as qualified dividend income under subparagraph (A) shall not exceed the sum of—

“(i) the qualified dividend income of the trust for the taxable year,

“(ii) the excess of—

“(I) the sum of the real estate investment trust taxable income computed under section 857(b)(2) for the preceding taxable year and the income subject to tax by reason of the application of the regulations under section 337(d) for such preceding taxable year, over

“(II) the sum of the taxes imposed on the trust for such preceding taxable year under section 857(b)(1) and by reason of the application of such regulations, and

“(iii) the amount of any earnings and profits which were distributed by the trust for such taxable year and accumulated in a taxable year with respect to which this part did not apply.

“(C) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as qualified dividend income shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 60 days after the close of its taxable year. Deadline.

“(D) QUALIFIED DIVIDEND INCOME.—For purposes of this paragraph, the term ‘qualified dividend income’ has the meaning given such term by section 1(h)(11)(B).”

(F) With respect to any taxable year of a regulated investment company or real estate investment trust ending on or before November 30, 2003, the period for providing notice of the qualified dividend amount to shareholders under sections 854(b)(2) and 857(c)(2)(C) of the Internal Revenue Code of 1986, as amended by this section, shall not expire before the date on which the statement under section 6042(c) of such Code is required to be furnished with respect to the last calendar year beginning in such taxable year. 26 USC 854 note.

(6) Paragraph (2) of section 302(f) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended to read as follows: 26 USC 1 note.

“(2) PASS-THRU ENTITIES.—In the case of a pass-thru entity described in subparagraph (A), (B), (C), (D), (E), or (F) of section 1(h)(10) of the Internal Revenue Code of 1986, as amended by this Act, the amendments made by this section shall apply to taxable years ending after December 31, 2002; except that dividends received by such an entity on or before such date shall not be treated as qualified dividend income (as defined in section 1(h)(11)(B) of such Code, as added by this Act).”

26 USC 1 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

SEC. 403. AMENDMENTS RELATED TO JOB CREATION AND WORKER ASSISTANCE ACT OF 2002.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE ACT.—

26 USC 168.

(1) Clause (i) of section 168(k)(2)(B) is amended to read as follows:

“(i) IN GENERAL.—The term ‘qualified property’ includes any property if such property—

“(I) meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

“(II) has a recovery period of at least 10 years or is transportation property,

“(III) is subject to section 263A, and

“(IV) meets the requirements of clause (ii) or (iii) of section 263A(f)(1)(B) (determined as if such clauses also apply to property which has a long useful life (within the meaning of section 263A(f))).”

(2)(A) Subparagraph (D) of section 168(k)(2) is amended by adding at the end the following new clauses:

“(iii) SYNDICATION.—For purposes of subparagraph (A)(ii), if—

“(I) property is originally placed in service after September 10, 2001, by the lessor of such property,

“(II) such property is sold by such lessor or any subsequent purchaser within 3 months after the date such property was originally placed in service, and

“(III) the user of such property after the last sale during such 3-month period remains the same as when such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date of such last sale.

“(iv) LIMITATIONS RELATED TO USERS AND RELATED PARTIES.—The term ‘qualified property’ shall not include any property if—

“(I) the user of such property (as of the date on which such property is originally placed in service) or a person which is related (within the meaning of section 267(b) or 707(b)) to such user or to the taxpayer had a written binding contract in effect for the acquisition of such property at any time on or before September 10, 2001, or

“(II) in the case of property manufactured, constructed, or produced for such user’s or person’s own use, the manufacture, construction, or production of such property began at any time on or before September 10, 2001.”.

(B) Clause (ii) of section 168(k)(2)(D) is amended by inserting “clause (iii) and” before “subparagraph (A)(ii)”.

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

(1) Subparagraph (H) of section 172(b)(1) is amended by striking “a taxpayer which has”. 26 USC 172.

(2) In the case of a net operating loss for a taxable year ending during 2001 or 2002— 26 USC 172 note.

(A) an application under section 6411(a) of the Internal Revenue Code of 1986 with respect to such loss shall not fail to be treated as timely filed if filed before November 1, 2002,

(B) any election made under section 172(b)(3) of such Code may (notwithstanding such section) be revoked before November 1, 2002, and

(C) any election made under section 172(j) of such Code shall (notwithstanding such section) be treated as timely made if made before November 1, 2002.

(3) Section 102(c)(2) of the Job Creation and Worker Assistance Act of 2002 (Public Law 107-147) is amended by striking “before January 1, 2003” and inserting “after December 31, 1990”. 26 USC 56 note.

(4)(A) Subclause (I) of section 56(d)(1)(A)(i) is amended by striking “attributable to carryovers”.

(B) Subclause (I) of section 56(d)(1)(A)(ii) is amended—
(i) by striking “for taxable years” and inserting “from taxable years”, and

(ii) by striking “carryforwards” and inserting “carryovers”.

(c) AMENDMENTS RELATED TO SECTION 301 OF THE ACT.—

(1) Subparagraph (D) of section 1400L(a)(2) is amended— 26 USC 1400L.

(A) by striking “subchapter B” and inserting “subchapter A”, and

(B) in clause (ii), by striking “subparagraph (B)” and inserting “this paragraph”.

(2) Subparagraph (D) of section 1400L(b)(2) is amended by inserting “, and clause (iv) thereof shall be applied by substituting ‘qualified New York Liberty Zone property’ for ‘qualified property’” before the period at the end.

(3) Subsection (c) of section 1400L is amended by adding at the end the following new paragraph:

“(5) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.”. Applicability.

(4) Paragraph (2) of section 1400L(f) is amended by inserting before the period “, determined without regard to subparagraph (C)(i) thereof”.

(d) AMENDMENT RELATED TO SECTION 405 OF THE ACT.—The last sentence of section 4006(a)(3)(E)(iii)(IV) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)(iii)(IV)) is amended—

(1) by inserting “or this subparagraph” after “this clause” both places it appears, and

(2) by inserting “(other than sections 4005, 4010, 4011, and 4043)” after “subsections”.

26 USC 137. (e) AMENDMENT RELATED TO SECTION 411 OF THE ACT.—Subparagraph (B) of section 411(c)(2) of the Job Creation and Worker Assistance Act of 2002 is amended by striking “Paragraph (2)” and inserting “Paragraph (1)”.

26 USC 56 note. (f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Job Creation and Worker Assistance Act of 2002 to which they relate.

SEC. 404. AMENDMENTS RELATED TO ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

26 USC 530. (a) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Clause (i) of section 530(d)(2)(C) is amended by striking “higher” after “qualified”.

26 USC 45A. (b) AMENDMENTS RELATED TO SECTION 611 OF THE ACT.—
(1) Paragraph (3) of section 45A(c) is amended by inserting “, except that the base period taken into account for purposes of such adjustment shall be the calendar quarter beginning October 1, 1993” before the period at the end.

26 USC 415. (2) Subparagraph (A) of section 415(d)(4) is amended by adding at the end the following new sentence: “This subparagraph shall also apply for purposes of any provision of this title that provides for adjustments in accordance with the method contained in this subsection, except to the extent provided in such provision.”.

26 USC 4972. (c) AMENDMENT RELATED TO SECTION 614 OF THE ACT.—Clause (ii) of section 4972(c)(6)(A) is amended to read as follows:

“(ii) the amount of contributions described in section 401(m)(4)(A), or”.

26 USC 408. (d) AMENDMENT RELATED TO SECTION 637 OF THE ACT.—Clause (i) of section 408(p)(6)(A) is amended by adding at the end the following new sentence: “For purposes of the preceding sentence, amounts described in section 6051(a)(3) shall be determined without regard to section 3401(a)(3).”.

26 USC 403. (e) AMENDMENT RELATED TO SECTION 641 OF THE ACT.—Subparagraph (B) of section 403(a)(4) is amended to read as follows:
“(B) CERTAIN RULES MADE APPLICABLE.—The rules of paragraphs (2) through (7) and (9) of section 402(c) and section 402(f) shall apply for purposes of subparagraph (A).”.

26 USC 45A note. (f) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

SEC. 405. AMENDMENTS RELATED TO COMMUNITY RENEWAL TAX RELIEF ACT OF 2000.

26 USC 1234B. (a) AMENDMENTS RELATED TO SECTION 401 OF THE ACT.—
(1) Subsection (c) of section 1234B is amended by adding at the end the following new sentence: “The Secretary may prescribe regulations regarding the status of contracts the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as defined for purposes of section 1256(g)(6)).”.

26 USC 1256. (2) Paragraph (6) of section 1256(g) is amended by adding at the end the following new sentence: “The Secretary may

prescribe regulations regarding the status of options the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as so defined).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in section 401 of the Community Renewal Tax Relief Act of 2000. 26 USC 1234B note.

SEC. 406. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENT RELATED TO SECTION 211 OF THE ACT.—Subparagraph (B) of section 529(c)(5) is amended to read as follows: 26 USC 529.

“(B) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) unless the new beneficiary is—

“(i) assigned to the same generation as (or a higher generation than) the old beneficiary (determined in accordance with section 2651), and

“(ii) a member of the family of the old beneficiary.”.

(b) AMENDMENT RELATED TO SECTION 213 OF THE ACT.—Clause (iii) of section 530(d)(4)(B) is amended by striking “account holder” and inserting “designated beneficiary”. 26 USC 530.

(c) AMENDMENT RELATED TO SECTION 226 OF THE ACT.—Section 1397E is amended by adding at the end the following new subsection: 26 USC 1397E.

“(i) S CORPORATIONS.—In the case of a qualified zone academy bond held by an S corporation which is an eligible taxpayer—

“(1) each shareholder shall take into account such shareholder’s pro rata share of the credit, and

“(2) no basis adjustments to the stock of the corporation shall be made under section 1367 on account of this section.”.

(d) AMENDMENT RELATED TO SECTION 311 OF THE ACT.—Subparagraph (B) of section 55(b)(3) is amended by striking “the amount on which a tax is determined under” and inserting “an amount equal to the excess described in”. 26 USC 55.

(e) AMENDMENTS RELATED TO SECTION 1001 OF THE ACT.—

(1) Paragraph (2) of section 1259(c) is amended by striking “The term ‘constructive sale’ shall not include any contract” and inserting “A taxpayer shall not be treated as having made a constructive sale solely because the taxpayer enters into a contract”. 26 USC 1259.

(2) Subparagraphs (A) and (B)(i) of section 1259(c)(3) are each amended by striking “be treated as a constructive sale” and inserting “cause a constructive sale”.

(3) Clause (i) of section 1259(c)(3)(A) is amended by striking “before the end of” and inserting “on or before”.

(4) Clause (ii) of section 1259(c)(3)(B) is amended by striking “substantially similar”.

(5) Subclause (I) of section 1259(c)(3)(B)(ii) is amended to read as follows:

“(I) which would (but for this subparagraph) cause the requirement of subparagraph (A)(iii) not to be met with respect to the transaction described in clause (i) of this subparagraph,”.

(6) Subclause (II) of such section is amended by inserting “on or” before “before the 30th day”.

(7) The heading for subparagraph (B) of section 1259(c)(3) is amended by striking “POSITIONS WHICH ARE REESTABLISHED” and inserting “CERTAIN CLOSED TRANSACTIONS WHERE RISK OF LOSS ON APPRECIATED FINANCIAL POSITION DIMINISHED”.

26 USC 246.

(f) AMENDMENTS RELATED TO SECTION 1015 OF THE ACT.—
(1) Section 246(c)(1)(A) is amended by striking “90-day period” and inserting “91-day period”.

(2) Section 246(c)(2)(B) is amended—

(A) by striking “180-day period” and inserting “181-day period”, and

(B) by striking “90-day period” and inserting “91-day period”.

26 USC 901.

(g) AMENDMENTS RELATED TO SECTION 1053 OF THE ACT.—
(1) Section 901(k)(1)(A)(i) is amended by striking “30-day period” and inserting “31-day period”.

(2) Section 901(k)(3)(B) is amended—

(A) by striking “90-day period” and inserting “91-day period”, and

(B) by striking “30-day period” and inserting “31-day period”.

26 USC 55 note.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Taxpayer Relief Act of 1997 to which they relate.

SEC. 407. AMENDMENTS RELATED TO SMALL BUSINESS JOB PROTECTION ACT OF 1996.

26 USC 1377.

(a) AMENDMENT RELATED TO SECTION 1307 OF THE ACT.—
Subsection (b) of section 1377 (relating to post-termination transition period) is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULES FOR AUDIT RELATED POST-TERMINATION TRANSITION PERIODS.—

“(A) NO APPLICATION TO CARRYOVERS.—Paragraph (1)(B) shall not apply for purposes of section 1366(d)(3).

“(B) LIMITATION ON APPLICATION TO DISTRIBUTIONS.—
Paragraph (1)(B) shall apply to a distribution described in section 1371(e) only to the extent that the amount of such distribution does not exceed the aggregate increase (if any) in the accumulated adjustments account (within the meaning of section 1368(e)) by reason of the adjustments referred to in such paragraph.”.

26 USC 401.

(b) AMENDMENTS RELATED TO SECTION 1432 OF THE ACT.—
Paragraph (26) of section 401(a) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively.

26 USC 401 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Small Business Job Protection Act of 1996 to which they relate.

SEC. 408. CLERICAL AMENDMENTS.

26 USC 1.

(a) INTERNAL REVENUE CODE OF 1986.—

(1) Subclause (II) of section 1(g)(7)(B)(ii) is amended by striking “10 percent.” and inserting “10 percent”.

(2) Clause (ii) of section 1(h)(6)(A) is amended—

(A) in subclause (I), by striking “(5)(B)” and inserting “(4)(B)”, and

(B) in subclause (II), by striking “(5)(A)” and inserting “(4)(A)”.

(3) Subclause (I) of section 42(d)(2)(D)(iii) is amended by striking “section 179(b)(7)” and inserting “section 179(d)(7)”.

(4) Subsection (f) of section 72 is amended by striking “Economic Growth and Tax Relief Reconciliation Act of 2001” and inserting “Economic Growth and Tax Relief Reconciliation Act of 2001”.

(5)(A) Section 138 and paragraph (2) of section 26(b) are each amended by striking “Medicare+Choice MSA” each place it appears in the text and inserting “Medicare Advantage MSA”.

(B) The heading for section 138 is amended to read as follows:

“SEC. 138. MEDICARE ADVANTAGE MSA.”

(C) The heading for subsection (b) of section 138 is amended by striking “MEDICARE+CHOICE MSA” and inserting “MEDICARE ADVANTAGE MSA”.

(D) The heading for paragraph (2) of section 138(c) is amended by striking “MEDICARE+CHOICE MSA” and inserting “MEDICARE ADVANTAGE MSA”.

(E) Clause (i) of section 138(c)(2)(C) is amended by striking “Medicare+Choice MSAs” and inserting “Medicare Advantage MSAs”.

(F) Subsection (f) of section 138 is amended by striking “Medicare+Choice MSA’s” and inserting “Medicare Advantage MSAs”.

(G) The item relating to section 138 in the table of sections for part III of subchapter B of chapter 1 is amended to read as follows:

“Sec. 138. Medicare Advantage MSA.”

(6) Clause (ii) of section 168(k)(2)(D) is amended—

(A) by inserting “is” after “if property”, and

(B) by striking “is” in subclause (I).

(7) Each of the following provisions is amended by inserting “Robert T. Stafford” before “Disaster Relief and Emergency Assistance Act”:

(A) Section 165(i)(1).

(B) Section 165(k).

(C) Section 1033(h)(3).

(D) Section 5064(b)(3).

(E) Section 5708(a).

(8) The heading for subparagraph (F) of section 168(k)(2) is amended by striking “MINIUMUM” and inserting “MINIMUM”.

(9) Paragraph (1) of section 246A(b) is amended by striking “section 243(c)(4)” and inserting “section 243(d)(4)”.

(10) Clause (ii) of section 263(g)(2)(B) is amended by striking “1278” and inserting “1276”.

(11) Clause (ii) of section 403(b)(7)(A) is amended by striking “section 3121(a)(1)(D)” and inserting “section 3121(a)(5)(D)”.

(12) Paragraph (1) of section 408(a) is amended by striking “457(e)(16)” and inserting “457(e)(16)”.

(13) Paragraph (2) of section 408(n) is amended by striking “section 101(6)” and inserting “paragraph (6) or (7) of section 101”.

(14) The table contained in section 411(a)(12)(B) is amended by striking the last line and inserting the following:

“6 or more 100.”.

(15) Paragraph (7) of section 414(q) is amended by striking “section” and inserting “subsection”.

(16) Subparagraph (A) of section 416(i)(1) is amended in the matter following clause (iii) by striking “in the case of plan years” and inserting “In the case of plan years”.

(17) Subparagraph (C) of section 415(c)(7) is amended by striking “subparagraph (D)” and inserting “subparagraph (B)”.

(18) The item relating to section 1234B in the table of sections for part IV of subchapter P of chapter 1 is amended to read as follows:

“Sec. 1234B. Gains or losses from securities futures contracts.”.

(19) Subsection (h) of section 1296 is amended by striking “paragraphs (2) and (3) of section 851(b)” and inserting “section 851(b)(2)”.

(20) The table of sections for part II of subchapter A of chapter 11 is amended by inserting after the item relating to section 2010 the following new item:

“Sec. 2011. Credit for State death taxes.”.

(21) The table of sections for subchapter A of chapter 13 is amended by inserting after the item relating to section 2603 the following new item:

“Sec. 2604. Credit for certain State taxes.”.

(22) Subsection (c) of section 4973 is amended by striking “subsection (a)(2)” and inserting “subsection (a)(3)”.

(23) Paragraph (2) of section 4978(a) is amended by striking “60 percent” and inserting “(60 percent)”.

(24) Paragraph (4) of section 6103(p) is amended by striking “subsection (1)(16) or (17)” each place it appears and inserting “subsection (1)(16) or (18)”.

(b) OTHER LAWS.—

(1) Subsection (c) of section 156 of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A-623) is amended in the first sentence by inserting “than” after “not later”.

(2) Paragraph (6) of section 1(a) of Public Law 107-22 shall be applied by substituting “part VIII” for “part VII” in such paragraph.

Applicability.
26 USC 1400E
note.

26 USC 72.

(3) Subparagraph (A) of section 1(b)(3) of Public Law 107-22 shall be applied by substituting “EDUCATIONAL” for “EDUCATION” in the matter preceding subparagraph (A) in such section.

26 USC 24.

(4) Paragraph (1) of section 204(e) of the Railroad Retirement and Survivors’ Improvement Act of 2001 shall be applied by substituting “Section 24(d)(2)(A)(iii)” for “Section 24(d)(3)(A)(iii)” in such paragraph.

26 USC 221.

(5) Paragraph (2) of section 412(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting “Section 221(f)(1)” for “Section 221(g)(1)” in such paragraph.

26 USC 2011
note.

(6) Subsection (b) of section 531 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting “section” for “subsection” in such subsection.

(7) Paragraph (3) of section 619(c) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by substituting “after the item relating to section 45D” for “at the end” in such paragraph.

(8) The table contained in section 203(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(4)(B)) is amended by striking the last line and inserting the following:

“6 or more 100.”.

(9) Paragraph (3) of section 652(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall be applied by inserting “each place it appears” before “in the next to last sentence” in such paragraph.

26 USC 4972.

Approved October 4, 2004.

LEGISLATIVE HISTORY—H.R. 1308:

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WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):

Oct. 4, Presidential remarks.

