In the Senate of the United States,
February 1, 2007.

Resolved, That the bill from the House of Representatives (H.R. 2) entitled “An Act to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 TITLE I—FAIR MINIMUM WAGE
2 SEC. 100. SHORT TITLE.
3 This title may be cited as the “Fair Minimum Wage
4 Act of 2007”. 
SEC. 101. MINIMUM WAGE.

(a) In General.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007;

“(B) $6.55 an hour, beginning 12 months after that 60th day; and

“(C) $7.25 an hour, beginning 24 months after that 60th day;”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. 102. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) In General.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) Transition.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair
Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

TITLE II—SMALL BUSINESS TAX INCENTIVES

SEC. 200. SHORT TITLE; AMENDMENT OF CODE.

(a) SHORT TITLE.—This title may be cited as the “Small Business and Work Opportunity Act of 2007”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title 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.
Subtitle A—Small Business Tax Relief Provisions

PART I—GENERAL PROVISIONS

SEC. 201. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESSES.

Section 179 (relating to election to expense certain depreciable business assets) is amended by striking “2010” each place it appears and inserting “2011”.

SEC. 202. EXTENSION AND MODIFICATION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) Extension of Leasehold and Restaurant Improvements.—

(1) In general.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking “January 1, 2008” and inserting “April 1, 2008”.

(2) Effective date.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.
(b) Modification of Treatment of Qualified Restaurant Property as 15-Year Property for Purposes of Depreciation Deduction.—

(1) Treatment to Include New Construction.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

"(7) Qualified restaurant property.—The term ‘qualified restaurant property’ means any section 1250 property which is a building (or its structural components) or an improvement to such building if more than 50 percent of such building’s square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.”.

(2) Effective Date.—The amendment made by this subsection shall apply to any property placed in service after the date of the enactment of this Act, the original use of which begins with the taxpayer after such date.

c) Recovery Period for Depreciation of Certain Improvements to Retail Space.—

(1) 15-Year Recovery Period.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking “and” at the end of clause (vii), by striking the period at the end of clause (viii) and in-
serting "; and", and by adding at the end the fol-
lowing new clause:

“(ix) any qualified retail improvement
property placed in service before April 1,
2008.”.

(2) QUALIFIED RETAIL IMPROVEMENT PROP-
ERTY.—Section 168(e) is amended by adding at the
end the following new paragraph:

“(8) QUALIFIED RETAIL IMPROVEMENT PRO-
PERTY.—

“(A) IN GENERAL.—The term ‘qualified re-
tail improvement property’ means any improve-
ment to an interior portion of a building which
is nonresidential real property if—

“(i) such portion is open to the general
public and is used in the retail trade or
business of selling tangible personal prop-
erty to the general public, and

“(ii) such improvement is placed in
service more than 3 years after the date the
building was first placed in service.

“(B) IMPROVEMENTS MADE BY OWNER.—In
the case of an improvement made by the owner
of such improvement, such improvement shall be
qualified retail improvement property (if at all)
only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

“(C) Certain improvements not included.—Such term shall not include any improvement for which the expenditure is attributable to—

“(i) the enlargement of the building,

“(ii) any elevator or escalator,

“(iii) any structural component benefitting a common area, or

“(iv) the internal structural framework of the building.”.

(3) Requirement to use Straight Line Method.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

“(I) Qualified retail improvement property described in subsection (e)(8).”.

(4) Alternative System.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

“(E)(ix) ................................................................................................... 39”.

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(5) **Effective Date.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 203. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.**

(a) **Cash Accounting Permitted.**—

(1) **In General.**—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

“(g) Certain Small Business Taxpayers Permitted To Use Cash Accounting Method Without Limitation.——

“(1) **In General.**—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

“(2) **Eligible Taxpayer.**—For purposes of this subsection, a taxpayer is an eligible taxpayer with respect to any taxable year if——

“(A) for each of the prior taxable years ending on or after the date of the enactment of this subsection, the taxpayer (or any predecessor) met the gross receipts test in effect under section 448(c) for such taxable year, and

“(B) the taxpayer is not subject to section 447 or 448.”.
(2) Expansion of gross receipts test.—

(A) In general.—Paragraph (3) of section 448(b) (relating to entities with gross receipts of not more than $5,000,000) is amended to read as follows:

“(3) Entities meeting gross receipts test.—Paragraphs (1) and (2) of subsection (a) shall not apply to any corporation or partnership for any taxable year if, for each of the prior taxable years ending on or after the date of the enactment of the Small Business and Work Opportunity Act of 2007, the entity (or any predecessor) met the gross receipts test in effect under subsection (c) for such prior taxable year.”.

(B) Conforming amendments.—Section 448(c) of such Code is amended—

(i) by striking “$5,000,000” in the heading thereof;

(ii) by striking “$5,000,000” each place it appears in paragraph (1) and inserting “$10,000,000”, and

(iii) by adding at the end the following new paragraph:

“(4) Inflation adjustment.—In the case of any taxable year beginning in a calendar year after
2008, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting ‘calendar year 2007’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.”.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—

(1) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

“(1) IN GENERAL.—A qualified taxpayer shall not be required to use inventories under this section for a taxable year.

“(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If a qualified taxpayer does not use inventories with respect to any property for any taxable
year beginning after the date of the enactment of this subsection, such property shall be treated as a material or supply which is not incidental.

“(3) QUALIFIED TAXPAYER.—For purposes of this subsection, the term ‘qualified taxpayer’ means—

“(A) any eligible taxpayer (as defined in section 446(g)(2)), and

“(B) any taxpayer described in section 448(b)(3).”.

(2) CONFORMING AMENDMENTS.—

(A) Subpart D of part II of subchapter E of chapter 1 is amended by striking section 474.

(B) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking the item relating to section 474.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer’s method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;
(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SEC. 204. EXTENSION AND MODIFICATION OF COMBINED WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking “2007” and inserting “2012”.

(b) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

“(5) DESIGNATED COMMUNITY RESIDENTS.—

“(A) IN GENERAL.—The term ‘designated community resident’ means any individual who is certified by the designated local agency—

“(i) as having attained age 18 but not age 40 on the hiring date, and
“(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

“(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term ‘qualified wages’ shall not include wages paid or incurred for services performed while the individual’s principal place of abode is outside an empowerment zone, enterprise community, or renewal community.”.

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

“(D) a designated community resident,”.

(c) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking “or” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, or”, and by adding at the end the following new clause:

“(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with
(d) TREATMENT OF DISABLED VETERANS UNDER THE WORK OPPORTUNITY TAX CREDIT.—

(1) DISABLED VETERANS TREATED AS MEMBERS OF TARGETED GROUP.—

(A) IN GENERAL.—Subparagraph (A) of section 51(d)(3) (relating to qualified veteran) is amended by striking “agency as being a member of a family” and all that follows and inserting “agency as—

“(i) being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date, or

“(ii) entitled to compensation for a service-connected disability incurred after September 10, 2001.”.

(B) DEFINITIONS.—Paragraph (3) of section 51(d) is amended by adding at the end the following new subparagraph:

“(C) OTHER DEFINITIONS.—For purposes of subparagraph (A), the terms ‘compensation’ and
(2) Increase in Amount of Wages Taken Into Account for Disabled Veterans.—Paragraph (3) of section 51(b) is amended—

(A) by inserting “($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))” before the period at the end, and

(B) by striking “ONLY FIRST $6,000 OF” in the heading and inserting “LIMITATION ON”.

(e) Effective Date.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) Employment Taxes.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

“SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

“(a) General Rules.—For purposes of the taxes, and other obligations, imposed by this subtitle—
“(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

“(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

“(b) SUCCESSOR EMPLOYER STATUS.—For purposes of sections 3121(a)(1), 3231(e)(2)(C), and 3306(b)(1)—

“(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer during the term of such service contract, and

“(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.
“(c) LIABILITY OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—Solely for purposes of its liability for the taxes, and other obligations, imposed by this subtitle—

“(1) a certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (f)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2), but only with respect to remuneration remitted by such organization to such individual, and

“(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

“(d) TREATMENT OF CREDITS.—

“(1) IN GENERAL.—For purposes of any credit specified in paragraph (2)—

“(A) such credit with respect to a work site employee performing services for the customer applies to the customer, not the certified professional employer organization,
“(B) the customer, and not the certified professional employer organization, shall take into account wages and employment taxes—

“(i) paid by the certified professional employer organization with respect to the work site employee, and

“(ii) for which the certified professional employer organization receives payment from the customer, and

“(C) the certified professional employer organization shall furnish the customer with any information necessary for the customer to claim such credit.

“(2) CREDITS SPECIFIED.—A credit is specified in this paragraph if such credit is allowed under—

“(A) section 41 (credit for increasing research activity),

“(B) section 45A (Indian employment credit),

“(C) section 45B (credit for portion of employer social security taxes paid with respect to employee cash tips),

“(D) section 45C (clinical testing expenses for certain drugs for rare diseases or conditions),

“(E) section 51 (work opportunity credit),
“(F) section 51A (temporary incentives for employing long-term family assistance recipients),

“(G) section 1396 (empowerment zone employment credit),

“(H) 1400(d) (DC Zone employment credit),

“(I) Section 1400H (renewal community employment credit), and

“(J) any other section as provided by the Secretary.

“(e) Special Rule for Related Party.—This section shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting ‘10 percent’ for ‘50 percent’.

“(f) Special Rule for Certain Individuals.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer’s trade or business is not a work site employee with respect to remuneration paid by a certified professional employer organization.
“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.—Chapter 79 (relating to definitions) is amended by adding at the end the following new section:

“SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS DEFINED.

“(a) IN GENERAL.—For purposes of this title, the term ‘certified professional employer organization’ means a person who has been certified by the Secretary for purposes of section 3511 as meeting the requirements of subsection (b).

“(b) GENERAL REQUIREMENTS.—A person meets the requirements of this subsection if such person—

“(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

“(2) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,
“(3) agrees that it will satisfy the bond and independent financial review requirements of subsection (c) on an ongoing basis,

“(4) agrees that it will satisfy such reporting obligations as may be imposed by the Secretary,

“(5) agrees to verify on such periodic basis as the Secretary may prescribe that it continues to meet the requirements of this subsection, and

“(6) agrees to notify the Secretary in writing within such time as the Secretary may prescribe of any change that materially affects whether it continues to meet the requirements of this subsection.

“(c) BOND AND INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—

“(1) In general.—An organization meets the requirements of this paragraph if such organization—

“(A) meets the bond requirements of paragraph (2), and

“(B) meets the independent financial review requirements of paragraph (3).

“(2) Bond.—

“(A) In general.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C
(in a form acceptable to the Secretary) in an amount at least equal to the amount specified in subparagraph (B).

“(B) AMOUNT OF BOND.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of—

“(i) 5 percent of the organization’s liability under section 3511 for taxes imposed by subtitle C during the preceding calendar year (but not to exceed $1,000,000), or

“(ii) $50,000.

“(3) INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—A certified professional employer organization meets the requirements of this paragraph if such organization—

“(A) has, as of the most recent review date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant that the certified professional employer organization’s financial statements are presented fairly in accordance with generally accepted accounting principles, and
“(B) provides, not later than the last day of
the second month beginning after the end of each
calendar quarter, to the Secretary from an inde-
pendent certified public accountant an assertion
regarding Federal employment tax payments
and an examination level attestation on such as-
sertion.
Such assertion shall state that the organization has
withheld and made deposits of all taxes imposed by
chapters 21, 22, and 24 of the Internal Revenue Code
in accordance with regulations imposed by the Sec-
retary for such calendar quarter and such examina-
tion level attestation shall state that such assertion is
fairly stated, in all material respects.
“(4) CONTROLLED GROUP RULES.—For purposes
of the requirements of paragraphs (2) and (3), all
professional employer organizations that are members
of a controlled group within the meaning of sections
414(b) and (c) shall be treated as a single organiza-
tion.
“(5) FAILURE TO FILE ASSERTION AND ATTESTA-
tion.—If the certified professional employer organi-
ization fails to file the assertion and attestation re-
quired by paragraph (3) with respect to any calendar
quarter, then the requirements of paragraph (3) with
respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

“(6) REVIEW DATE.—For purposes of paragraph (3)(A), the review date shall be 6 months after the completion of the organization’s fiscal year.

“(d) SUSPENSION AND REVOCATION AUTHORITY.—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 3511 if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

“(e) WORK SITE EMPLOYEE.—For purposes of this title—

“(1) IN GENERAL.—The term ‘work site employee’ means, with respect to a certified professional employer organization, an individual who—

“(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

“(B) performs services at a work site meeting the requirements of paragraph (3).
“(2) Service contract requirements.—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

“(A) assume responsibility for payment of wages to such individual, without regard to the receipt or adequacy of payment from the customer for such services,

“(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to such individual’s wages, without regard to the receipt or adequacy of payment from the customer for such services,

“(C) assume responsibility for any employee benefits which the service contract may require the organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

“(D) assume responsibility for hiring, firing, and recruiting workers in addition to the customer’s responsibility for hiring, firing and recruiting workers,
“(E) maintain employee records relating to such individual, and

“(F) agree to be treated as a certified professional employer organization for purposes of section 3511 with respect to such individual.

“(3) **Work Site Coverage Requirement.**—The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2) (but not taking into account those individuals who are excluded employees within the meaning of section 414(q)(5)).

“(f) **Determination of Employment Status.**—Except to the extent necessary for purposes of section 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

“(g) **Regulations.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(c) **Conforming Amendments.**—
(1) Section 3302 is amended by adding at the end the following new subsection:

“(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705), or a customer of such organization, makes a contribution to the State’s unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such contribution.”.

(2) Section 3303(a) is amended—

(A) by striking the period at the end of paragraph (3) and inserting “; and” and by inserting after paragraph (3) the following new paragraph:

“(4) if the taxpayer is a certified professional employer organization (as defined in section 7705) that is treated as the employer under section 3511, such certified professional employer organization is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.”, and

(B) in the last sentence—
(i) by striking “paragraphs (1), (2),
and (3)” and inserting “paragraphs (1),
(2), (3), and (4)”, and

(ii) by striking “paragraph (1), (2), or
(3)” and inserting “paragraph (1), (2), (3),
or (4)”.

(3) Section 6053(c) (relating to reporting of tips)
is amended by adding at the end the following new
paragraph:

“(8) CERTIFIED PROFESSIONAL EMPLOYER OR-
GANIZATIONS.—For purposes of any report required
by this subsection, in the case of a certified profes-
sional employer organization that is treated under
section 3511 as the employer of a work site employee,
the customer with respect to whom a work site em-
ployee performs services shall be the employer for pur-
poses of reporting under this section and the certified
professional employer organization shall furnish to
the customer any information necessary to complete
such reporting no later than such time as the Sec-
retary shall prescribe.”.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 is amend-
ed by adding at the end the following new item:

“Sec. 3511. Certified professional employer organizations.”.
(2) The table of sections for chapter 79 is amended by inserting after the item relating to section 7704 the following new item:

“Sec. 7705. Certified professional employer organizations defined.”.

(e) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this section with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(f) USER FEES.—Subsection (b) of section 7528 (relating to Internal Revenue Service user fees) is amended by adding at the end the following new paragraph:

“(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 shall not exceed $500.”.

(g) EFFECTIVE DATES.—
(1) **In General.**—The amendments made by this section shall apply with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) **Certification Program.**—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986, as added by subsection (b), not later than 6 months before the effective date determined under paragraph (1).

(h) **No Inference.**—Nothing contained in this section or the amendments made by this section shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by this section), or

(2) for purposes of any other provision of law.

PART II—SUBCHAPTER S PROVISIONS

SEC. 211. CAPITAL GAIN OF S CORPORATION NOT TREATED AS PASSIVE INVESTMENT INCOME.

(a) **In General.**—Section 1362(d)(3) is amended by striking subparagraphs (B), (C), (D), (E), and (F) and inserting the following new subparagraph:
“(B) PASSIVE INVESTMENT INCOME DEFINED.—

“(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term ‘passive investment income’ means gross receipts derived from royalties, rents, dividends, interest, and annuities.

“(ii) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term ‘passive investment income’ shall not include interest on any obligation acquired in the ordinary course of the corporation’s trade or business from its sale of property described in section 1221(a)(1).

“(iii) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term ‘passive investment income’ shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

“(iv) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in
a C corporation meeting the requirements of section 1504(a)(2), the term ‘passive investment income’ shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

“(v) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), the term ‘passive investment income’ shall not include—

“(I) interest income earned by such bank or company, or

“(II) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.”.
(b) CONFORMING AMENDMENT.—Clause (i) of section 1042(c)(4)(A) is amended by striking “section 1362(d)(3)(C)” and inserting “section 1362(d)(3)(B)”.

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

SEC. 212. TREATMENT OF BANK DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

“(f) RESTRICTED BANK DIRECTOR STOCK.—

“(1) IN GENERAL.—Restricted bank director stock shall not be taken into account as outstanding stock of the S corporation in applying this subchapter (other than section 1368(f)).

“(2) RESTRICTED BANK DIRECTOR STOCK.—For purposes of this subsection, the term ‘restricted bank director stock’ means stock in a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), if such stock—

“(A) is required to be held by an individual under applicable Federal or State law in order
to permit such individual to serve as a director, and

“(B) is subject to an agreement with such bank or company (or a corporation which controls (within the meaning of section 368(c)) such bank or company) pursuant to which the holder is required to sell back such stock (at the same price as the individual acquired such stock) upon ceasing to hold the office of director.

“(3) CROSS REFERENCE.—

“For treatment of certain distributions with respect to restricted bank director stock, see section 1368(f)”.

(b) DISTRIBUTIONS.—Section 1368 (relating to distributions) is amended by adding at the end the following new subsection:

“(f) RESTRICTED BANK DIRECTOR STOCK.—If a director receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any restricted bank director stock (as defined in section 1361(f)), the amount of such distribution—

“(1) shall be includible in gross income of the director, and

“(2) shall be deductible by the corporation for the taxable year of such corporation in which or with which ends the taxable year in which such amount is included in the gross income of the director.”.
(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

(2) Special rule for treatment as second class of stock.—In the case of any taxable year beginning after December 31, 1996, restricted bank director stock (as defined in section 1361(f) of the Internal Revenue Code of 1986, as added by this section) shall not be taken into account in determining whether an S corporation has more than 1 class of stock.

SEC. 213. SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.

(a) In general.—Section 1361, as amended by this Act, is amended by adding at the end the following new subsection:

“(g) Special Rule for Bank Required To Change From the Reserve Method of Accounting on Becoming S Corporation.—In the case of a bank which changes from the reserve method of accounting for bad debts described in section 585 or 593 for its first taxable year for which an election under section 1362(a) is in effect, the bank may elect to take into account any adjustments under
section 481 by reason of such change for the taxable year immediately preceding such first taxable year.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 214. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY.

(a) IN GENERAL.—Subparagraph (C) of section 1361(b)(3) (relating to treatment of terminations of qualified subchapter S subsidiary status) is amended—

(1) by striking “For purposes of this title,” and inserting the following:

“(i) IN GENERAL.—For purposes of this title,”; and

(2) by inserting at the end the following new clause:

“(ii) TERMINATION BY REASON OF SALE OF STOCK.—If the failure to meet the requirements of subparagraph (B) is by reason of the sale of stock of a corporation which is a qualified subchapter S subsidiary, the sale of such stock shall be treated as if—

“(I) the sale were a sale of an undivided interest in the assets of such
corporation (based on the percentage of
the corporation’s stock sold), and
“(II) the sale were followed by an
acquisition by such corporation of all
of its assets (and the assumption by
such corporation of all of its liabilities)
in a transaction to which section 351
applies.”.

(b) EFFECTIVE DATE.—The amendments made by this
section shall apply to taxable years beginning after December
31, 2006.

SEC. 215. ELIMINATION OF ALL EARNINGS AND PROFITS AT-
TRIBUTABLE TO PRE-1983 YEARS FOR CERT-
AIN CORPORATIONS.

In the case of a corporation which is—

(1) described in section 1311(a)(1) of the Small
Business Job Protection Act of 1996, and

(2) not described in section 1311(a)(2) of such
Act,

the amount of such corporation’s accumulated earnings and
profits (for the first taxable year beginning after the date
of the enactment of this Act) shall be reduced by an amount
equal to the portion (if any) of such accumulated earnings
and profits which were accumulated in any taxable year
beginning before January 1, 1983, for which such corpora-
tion was an electing small business corporation under sub-

SEC. 216. EXPANSION OF QUALIFYING BENEFICIARIES OF
AN ELECTING SMALL BUSINESS TRUST.

(a) No Look Through for Eligibility Pur-
poses.—Clause (v) of section 1361(c)(2)(B) is amended by
adding at the end the following new sentence: “This clause
shall not apply for purposes of subsection (b)(1)(C).”.

(b) Effective Date.—The amendment made by this
section shall take effect on the date of the enactment of this
Act.

Subtitle B—Revenue Provisions

SEC. 221. MODIFICATION OF EFFECTIVE DATE OF LEASING
PROVISIONS OF THE AMERICAN JOBS CRE-

(a) Leases to Foreign Entities.—Section 849(b)
of the American Jobs Creation Act of 2004 is amended by
adding at the end the following new paragraph:

“(5) Leases to Foreign Entities.—In the case
of tax-exempt use property leased to a tax-exempt en-
tity which is a foreign person or entity, the amend-
ments made by this part shall apply to taxable years
beginning after December 31, 2006, with respect to
leases entered into on or before March 12, 2004.”.
(b) **Effective Date.**—The amendment made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 222. APPLICATION OF RULES TREATING INVERTED CORPORATIONS AS DOMESTIC CORPORATIONS TO CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.

(a) In General.—Section 7874(b) (relating to inverted corporations treated as domestic corporations) is amended to read as follows:

“(b) Inverted Corporations Treated as Domestic Corporations.—

“(1) In General.—Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting ‘80 percent’ for ‘60 percent’.

“(2) Special Rule for Certain Transactions Occurring After March 20, 2002.—

“(A) In General.—If—

“(i) paragraph (1) does not apply to a foreign corporation, but

“(ii) paragraph (1) would apply to such corporation if, in addition to the sub-
stitution under paragraph (1), subsection (a)(2) were applied by substituting ‘March 20, 2002’ for ‘March 4, 2003’ each place it appears,
then paragraph (1) shall apply to such corporation but only with respect to taxable years of such corporation beginning after December 31, 2006.

“(B) Special rules.—Subject to such rules as the Secretary may prescribe, in the case of a corporation to which paragraph (1) applies by reason of this paragraph—

“(i) the corporation shall be treated, as of the close of its last taxable year beginning before January 1, 2007, as having transferred all of its assets, liabilities, and earnings and profits to a domestic corporation in a transaction with respect to which no tax is imposed under this title,

“(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,
“(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

“(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

“(C) Regulations.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the avoidance of the purposes of this paragraph.”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 223. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) Disallowance of Deduction.—

(1) In general.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—
(A) by redesignating paragraphs (1) and 
(2) as subparagraphs (A) and (B), respectively, 
(B) by striking “If” and inserting:
“(1) TREPBLE DAMAGES.—If”, and
(C) by adding at the end the following new
paragraph:
“(2) PUNITIVE DAMAGES.—No deduction shall be
allowed under this chapter for any amount paid or
incurred for punitive damages in connection with
any judgment in, or settlement of, any action. This
paragraph shall not apply to punitive damages de-
scribed in section 104(c).”.

(2) CONFORMING AMENDMENT.—The heading for
section 162(g) is amended by inserting “O R PUNITIVE
DAMAGES” after “LAWS”.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES
PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of
chapter 1 (relating to items specifically included in
gross income) is amended by adding at the end the
following new section:

“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSUR-
ANCE OR OTHERWISE.

“Gross income shall include any amount paid to or
on behalf of a taxpayer as insurance or otherwise by reason
of the taxpayer’s liability (or agreement) to pay punitive damages.”.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

“(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person’s liability (or agreement) to pay punitive damages.”.

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

“Sec. 91. Punitive damages compensated by insurance or otherwise.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 224. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

“(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or
incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

“(2) Exception for amounts constituting restitution or paid to come into compliance with law.—Paragraph (1) shall not apply to any amount which—

“(A) the taxpayer establishes—

“(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

“(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

“(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification
under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

“(3) Exception for amounts paid or incurred as the result of certain court orders.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

“(4) Certain nongovernmental regulatory entities.—An entity is described in this paragraph if it is—

“(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

“(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

“(5) Exception for taxes due.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.”.
(b) **Reporting of Deductible Amounts.**—

(1) **In General.**—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

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"SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) Requirement of Reporting.—

(1) In General.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

(2) Suit or Agreement Described.—
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“(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

“(i) it is—

“(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

“(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

“(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

“(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in
order to ensure the efficient administration of the internal revenue laws.

“(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

“(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

“(B) the date specified Secretary.

“(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

“(1) the name of the government or entity, and

“(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

“(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term ‘appropriate official’ means the officer or employee having control of the suit, investigation,
or inquiry or the person appropriately designated for purposes of this section.”.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

“Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 225. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

“(a) GENERAL RULES.—For purposes of this subtitle—

“(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expa-
triate to whom this section applies shall be treated as
sold on the day before the expatriation date for its
fair market value.

“(2) Recognition of gain or loss.—In the
case of any sale under paragraph (1)—

“(A) notwithstanding any other provision of
this title, any gain arising from such sale shall
be taken into account for the taxable year of the
sale, and

“(B) any loss arising from such sale shall
be taken into account for the taxable year of the
sale to the extent otherwise provided by this title,
except that section 1091 shall not apply to any
such loss.

Proper adjustment shall be made in the amount of
any gain or loss subsequently realized for gain or loss
taken into account under the preceding sentence.

“(3) Exclusion for certain gain.—

“(A) In general.—The amount which, but
for this paragraph, would be includible in the
gross income of any individual by reason of this
section shall be reduced (but not below zero) by
$600,000. For purposes of this paragraph, allo-
cable expatriation gain taken into account under
subsection (f)(2) shall be treated in the same
manner as an amount required to be includible in gross income.

“(B) Cost-of-living adjustment.—

“(i) In general.—In the case of an expatriation date occurring in any calendar year after 2007, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting ‘calendar year 2006’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(ii) Rounding rules.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

“(4) Election to continue to be taxed as United States citizen.—

“(A) In general.—If a covered expatriate elects the application of this paragraph—
“(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

“(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

“(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

“(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

“(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

“(iii) complies with such other requirements as the Secretary may prescribe.

“(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the elec-
tion and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

“(b) Election To Defer Tax.—

“(1) In General.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

“(2) Determination of Tax With Respect To Property.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under
subsection (a) with respect to all property to which subsection (a) applies.

“(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

“(4) SECURITY.—

“(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

“(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

“(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or
“(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

“(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

“(7) INTEREST.—For purposes of section 6601—

“(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

“(B) section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(c) COVERED EXPATRIATE.—For purposes of this section—
“(1) IN GENERAL.—Except as provided in paragraph (2), the term ‘covered expatriate’ means an expatriate.

“(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

“(A) the individual—

“(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

“(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

“(B)(i) the individual’s relinquishment of United States citizenship occurs before such individual attains age 18½, and

“(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

“(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—
“(1) Exempt Property.—This section shall not apply to the following:

“(A) United States Real Property Interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

“(B) Specified Property.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

“(2) Special Rules for Certain Retirement Plans.—

“(A) In General.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

“(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

“(ii) an amount equal to the present value of the expatriate’s nonforfeitable accrued benefit shall be treated as having been
received by such individual on such date as
a distribution under the plan.

“(B) Treatment of subsequent distrib-
utions.—In the case of any distribution on
or after the expatriation date to or on behalf of
the covered expatriate from a plan from which
the expatriate was treated as receiving a dis-
tribution under subparagraph (A), the amount
otherwise includible in gross income by reason of
the subsequent distribution shall be reduced by
the excess of the amount includible in gross in-
come under subparagraph (A) over any portion
of such amount to which this subparagraph pre-
viously applied.

“(C) Treatment of subsequent distrib-
utions by plan.—For purposes of this title,
a retirement plan to which this paragraph ap-
plies, and any person acting on the plan’s behalf,
shall treat any subsequent distribution described
in subparagraph (B) in the same manner as
such distribution would be treated without re-
gard to this paragraph.

“(D) Applicable plans.—This paragraph
shall apply to—
“(i) any qualified retirement plan (as defined in section 4974(c)),

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

“(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

“(e) DEFINITIONS.—For purposes of this section—

“(1) EXPATRIATE.—The term ‘expatriate’ means—

“(A) any United States citizen who relinquishes citizenship, and

“(B) any long-term resident of the United States who—

“(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

“(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty
applicable to residents of the foreign country.

“(2) EXPATRIATION DATE.—The term ‘expatriation date’ means—

“(A) the date an individual relinquishes United States citizenship, or

“(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

“(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

“(A) the date the individual renounces such individual’s United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Im-

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migration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

“(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

“(D) the date a court of the United States cancels a naturalized citizen’s certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

“(4) LONG-TERM RESIDENT.—The term ‘long-term resident’ has the meaning given to such term by section 877(e)(2).

“(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES’ INTERESTS IN TRUST.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

“(A) the individual shall not be treated as having sold such interest,
“(B) such interest shall be treated as a separate share in the trust, and

“(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

“(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual’s share in the trust.

“(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

“(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

“(i) paragraph (1) and subsection (a) shall not apply, and
“(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

“(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

“(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

“(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

“(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

“(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain
with respect to the trust interest if such gain had been included in gross income under subsection (a).

“(ii) **Increase for Interest.**—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting ‘5 percentage points’ for ‘3 percentage points’ in subparagraph (B) thereof.

“(iii) **Decrease for Taxes Previously Paid.**—The balance in the tax deferred account shall be reduced—

“(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

“(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount
of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

“(D) Allocable Expatriation Gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust is the amount of gain which would be allocable to such beneficiary’s vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

“(E) Tax Deducted and Withheld.—

“(i) In General.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

“(ii) Exception Where Failure to Waive Treaty Rights.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

“(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the
trust and each trustee shall be personally liable for the amount of such tax, and

“(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

“(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

“(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

“(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate.
tri ate or the estate the amount of such tax im-
posed on the other beneficiary.

“(G) DEFINITIONS AND SPECIAL RULES.—
For purposes of this paragraph—

“(i) QUALIFIED TRUST.—The term
‘qualified trust’ means a trust which is de-
scribed in section 7701(a)(30)(E).

“(ii) VESTED INTEREST.—The term
‘vested interest’ means any interest which,
as of the day before the expatriation date, is
vested in the beneficiary.

“(iii) NONVESTED INTEREST.—The
term ‘nonvested interest’ means, with re-
spect to any beneficiary, any interest in a
trust which is not a vested interest. Such
interest shall be determined by assuming the
maximum exercise of discretion in favor of
the beneficiary and the occurrence of all
contingencies in favor of the beneficiary.

“(iv) ADJUSTMENTS.—The Secretary
may provide for such adjustments to the
bases of assets in a trust or a deferred tax
account, and the timing of such adjust-
ments, in order to ensure that gain is taxed
only once.
“(v) Coordination with retirement plan rules.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

“(3) Determination of beneficiaries’ interest in trust.—

“(A) Determinations under paragraph (1).—For purposes of paragraph (1), a beneficiary’s interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

“(B) Other determinations.—For purposes of this section—

“(i) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.
“(ii) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

“(I) the methodology used to determine that taxpayer’s trust interest under this section, and

“(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary’s trust interest under this section.

“(g) Termination of deferrals, etc.—In the case of any covered expatriate, notwithstanding any other provision of this title—

“(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

“(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

“(h) Imposition of tentative tax.—
“(1) **IN GENERAL.**—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

“(2) **DUE DATE.**—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

“(3) **TREATMENT OF TAX.**—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

“(4) **DEFERRAL OF TAX.**—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

“(i) **SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.**—

“(1) **IMPOSITION OF LIEN.**—

“(A) **IN GENERAL.**—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, ad-
dition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

“(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate’s income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

“(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

“(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

“(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

“(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this
subsection as if it were a lien imposed by section 6324A.

“(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

“(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

“(1) TREATMENT OF GIFTS AND INHERITANCES.—

“(A) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date.

“(B) DETERMINATION OF BASIS.—Notwithstanding sections 1015 or 1022, the basis of any property described in subparagraph (A) in the hands of the donee or the person acquiring such property from the decedent shall be equal to the
fair market value of the property at the time of
the gift, bequest, devise, or inheritance.

“(2) Exceptions for transfers otherwise
subject to estate or gift tax.—Paragraph (1)
shall not apply to any property if either—

“(A) the gift, bequest, devise, or inheritance
is—

“(i) shown on a timely filed return of
tax imposed by chapter 12 as a taxable gift
by the covered expatriate, or

“(ii) included in the gross estate of the
covered expatriate for purposes of chapter
11 and shown on a timely filed return of
tax imposed by chapter 11 of the estate of
the covered expatriate, or

“(B) no such return was timely filed but no
such return would have been required to be filed
even if the covered expatriate were a citizen or
long-term resident of the United States.

“(3) Definitions.—For purposes of this sub-
section, any term used in this subsection which is also
used in section 877A shall have the same meaning as
when used in section 877A.”.
(c) Definition of Termination of United States Citizenship.—Section 7701(a) is amended by adding at the end the following new paragraph:

“(50) Termination of United States Citizenship.—

“(A) In General.—An individual shall not cease to be treated as a United States citizen before the date on which the individual’s citizenship is treated as relinquished under section 877A(e)(3).

“(B) Dual Citizens.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.”.

(d) Ineligibility for Visa or Admission to United States.—

(1) In General.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

“(E) Former Citizens Not in Compliance with Expatriation Revenue Provisions.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section
877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation) is inadmissible.”.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General’s delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).”.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking “or (20)” each place it appears and inserting “(20), or (21)”. 

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(3) Effective Dates.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) Conforming Amendments.—

(1) Section 877 is amended by adding at the end the following new subsection:

“(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after the date of the enactment of this subsection.”.

(2) Section 2107 is amended by adding at the end the following new subsection:

“(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.”.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

“(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.”.

(4) Section 6039G(a) is amended by inserting “or 877A” after “section 877(b)”.

(5) The second sentence of section 6039G(d) is amended by inserting “or who relinquishes United
States citizenship (within the meaning of section 877A(e)(3))” after “section 877(a))”.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

“Sec. 877A. Tax responsibilities of expatriation.”.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.
SEC. 226. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.

(a) In General.—Section 409A(a) of the Internal Revenue Code of 1986 (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended—

(1) by striking “and (4)” in subclause (I) of paragraph (1)(A)(i) and inserting “(4), and (5)”, and

(2) by adding at the end the following new paragraph:

“(5) Annual limitation on aggregate deferred amounts.—

“(A) Limitation.—The requirements of this paragraph are met if the plan provides that the aggregate amount of compensation which is deferred for any taxable year with respect to a participant under the plan may not exceed the applicable dollar amount for the taxable year.

“(B) Inclusion of future earnings.—If an amount is includible under paragraph (1) in the gross income of a participant for any taxable year by reason of any failure to meet the requirements of this paragraph, any income (whether actual or notional) for any subsequent taxable...
year shall be included in gross income under paragraph (1)(A) in such subsequent taxable year to the extent such income—

“(i) is attributable to compensation (or income attributable to such compensation) required to be included in gross income by reason of such failure (including by reason of this subparagraph), and

“(ii) is not subject to a substantial risk of forfeiture and has not been previously included in gross income.

“(C) AGGREGATION RULE.—For purposes of this paragraph, all nonqualified deferred compensation plans maintained by all employers treated as a single employer under subsection (d)(6) shall be treated as 1 plan.

“(D) APPLICABLE DOLLAR AMOUNT.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable dollar amount’ means, with respect to any participant, the lesser of—

“(I) the average annual compensation which was payable during the base period to the participant by the employer maintaining the non-
qualified deferred compensation plan
(or any predecessor of the employer)
and which was includible in the par-
ticipant’s gross income for taxable
years in the base period, or
“(II) $1,000,000.
“(ii) Base period.—
“(I) In general.—The term ‘base
period’ means, with respect to any
computation year, the 5-taxable year
period ending with the taxable year
preceding the computation year.
“(II) Elections made before
computation year.—If, before the be-
inning of the computation year, an
election described in paragraph (4)(B)
is made by the participant to have
compensation for services performed in
the computation year deferred under a
nonqualified deferred compensation
plan, the base period shall be the 5-tax-
able year period ending with the tax-
able year preceding the taxable year in
which the election is made.
“(III) **COMPUTATION YEAR.**—For purposes of this clause, the term ‘computation year’ means any taxable year of the participant for which the limitation under subparagraph (A) is being determined.

“(IV) **SPECIAL RULE FOR EMPLOYEES OF LESS THAN 5 YEARS.**—If a participant did not perform services for the employer maintaining the non-qualified deferred compensation plan (or any predecessor of the employer) during the entire 5-taxable year period referred to in subparagraph (A) or (B), only the portion of such period during which the participant performed such services shall be taken into account.”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2006, except that—

(A) the amendments shall only apply to amounts deferred after December 31, 2006 (and to earnings on such amounts), and
(B) taxable years beginning on or before December 31, 2006, shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(a)(5)(D) of the Internal Revenue Code of 1986 (as added by such amendments).

(2) Guidance relating to certain existing arrangements.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance providing a limited period during which a nonqualified deferred compensation plan adopted before December 31, 2006, may, without violating the requirements of section 409A(a) of such Code, be amended—

(A) to provide that a participant may, no later than December 31, 2007, cancel or modify an outstanding deferral election with regard to all or a portion of amounts deferred after December 31, 2006, to the extent necessary for the plan to meet the requirements of section 409A(a)(5) of such Code (as added by the amendments made by this section), but only if amounts subject to the cancellation or modification are, to the extent not previously included in gross income, includ-
ible in income of the participant when no longer subject to substantial risk of forfeiture, and

(B) to conform to the requirements of section 409A(a)(5) of such Code (as added by the amendments made by this section) with regard to amounts deferred after December 31, 2006.

SEC. 227. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking “Any person who—” and inserting “(a) IN GENERAL.—”, and

(2) by adding at the end the following new subsection:

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

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking “$100,000” and inserting “$500,000”,

(B) by striking “$500,000” and inserting “$1,000,000”, and

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

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking “Any person” and inserting the following:

“(a) IN GENERAL.—Any person”, and

(ii) by striking “$25,000” and inserting “$50,000”,

(B) in the third sentence, by striking “section” and inserting “subsection”, and

(C) by adding at the end the following new subsection:

“(b) AGGRAVATED FAILURE TO FILE.—
“(1) **In general.**—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

“(A) ‘felony’ for ‘misdemeanor’,

“(B) ‘$500,000 ($1,000,000’ for ‘$25,000 ($100,000’,

“(C) ‘10 years’ for ‘1 year’.”.

“(2) **Failure described.**—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years if the aggregate tax liability for such period is not less than $100,000.”.

(3) **Fraud and false statements.**—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking “$100,000” and inserting “$500,000”,

(B) by striking “$500,000” and inserting “$1,000,000”, and

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

(c) **Effective date.**—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.
SEC. 228. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) Determination of Penalty.—

(1) In general.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) Applicable taxpayer.—For purposes of this subsection—

(A) In general.—The term “applicable taxpayer” means a taxpayer which—
(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.
(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary’s delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary’s delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

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

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

(b) APPLICABLE PENALTY.—For purposes of this section, the term “applicable penalty” means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.
(c) **Effective Date.**—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

**SEC. 229. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.**

(a) **In General.**—Section 6657 (relating to bad checks) is amended—

1. by striking “$750” and inserting “$1,250”, and
2. by striking “$15” and inserting “$25”.

(b) **Effective Date.**—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

**SEC. 230. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.**

(a) **In General.**—Section 1275(d) (relating to regulation authority) is amended—

1. by striking “The Secretary” and inserting the following:

   “(1) **In General.**—The Secretary”, and
2. by adding at the end the following new paragraph:
“(2) Treatment of Contingent Payment Convertible Debt.—

“(A) In General.—In the case of a debt instrument which—

“(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

“(ii) provides for contingent payments, any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

“(B) Special Rule.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.”.
(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

“For the treatment of contingent payment convertible debt, see section 1275(d)(2).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 231. EXTENSION OF IRS USER FEES.

Subsection (c) of section 7528 (relating to Internal Revenue Service user fees) is amended by striking “September 30, 2014” and inserting “September 30, 2016”.

SEC. 232. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES.

(a) IN GENERAL.—Section 6330(f) (relating to jeopardy and State refund collection) is amended—

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

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

(3) by inserting after paragraph (2) the following new paragraph:
“(3) the Secretary has served a levy in connection with the collection of taxes under chapter 21, 22,
23, or 24,”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued on or after the date that is 120 days after the date of the enactment of this Act.

SEC. 233. MODIFICATIONS TO WHISTLEBLOWER REFORMS.

(a) MODIFICATION OF TAX THRESHOLD FOR AWARDS.—Subparagraph (B) of section 7623(b)(5), as added by the Tax Relief and Health Care Act of 2006, is amended by striking “$2,000,000” and inserting “$20,000”.

(b) WHISTLEBLOWER OFFICE.—

(1) IN GENERAL.—Section 7623 is amended by adding at the end the following new subsections:

“(c) WHISTLEBLOWER OFFICE.—

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

“(A) shall at all times operate at the direction of the Commissioner and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner,

“(B) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign
it to the appropriate Internal Revenue Service office,

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

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

“(E) may require such individual and any legal representative of such individual to not disclose any information so provided,

“(F) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual, and

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

“(2) FUNDING FOR OFFICE.—There is authorized to be appropriated $10,000,000 for each fiscal year for the Whistleblower Office. These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

“(3) REQUEST FOR ASSISTANCE.—

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

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

“(d) REPORTS.—The Secretary shall each year con-
duct a study and report to Congress on the use of this sec-
tion, including—

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

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

(2) CONFORMING AMENDMENT.—Section 406 of
division A of the Tax Relief and Health Care Act of
2006 is amended by striking subsections (b) and (c).
(3) Report on Implementation.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the establishment and operation of the Whistleblower Office under section 7623(c) of the Internal Revenue Code of 1986.

(c) Publicity of Award Appeals.—Paragraph (4) of section 7623(b), as added by the Tax Relief and Health Care Act of 2006, is amended to read as follows:

“(4) Appeal of Award Determination.—

“(A) In General.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

“(B) Publicity of Appeals.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this subsection, provide by rules adopted under section 7453 that portions of filings, hearings, testimony, evidence, and reports in connection with proceedings under this subsection may be closed to the public or to inspection by the public.”.
(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

(2) **PUBLICITY OF AWARD APPEALS.**—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 406 of the Tax Relief and Health Care Act of 2006.

**SEC. 234. MODIFICATIONS OF DEFINITION OF EMPLOYEES COVERED BY DENIAL OF DEDUCTION FOR EXCESSIVE EMPLOYEE REMUNERATION.**

(a) **IN GENERAL.**—Paragraph (3) of section 162(m) is amended to read as follows:

“(3) **COVERED EMPLOYEE.**—For purposes of this subsection, the term ‘covered employee’ means, with respect to any taxpayer for any taxable year, an individual who—

“(A) was the chief executive officer of the taxpayer, or an individual acting in such a capacity, at any time during the taxable year,

“(B) is 1 of the 4 highest compensated officers of the taxpayer for the taxable year (other than the individual described in subparagraph (A)), or
“(C) was a covered employee of the taxpayer
(or any predecessor) for any preceding taxable
year beginning after December 31, 2006.

In the case of an individual who was a covered em-
ployee for any taxable year beginning after December
31, 2006, the term ‘covered employee’ shall include a
beneficiary of such employee with respect to any re-
muneration for services performed by such employee
as a covered employee (whether or not such services
are performed during the taxable year in which the
remuneration is paid).”.

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

Subtitle C—General Provisions

SEC. 241. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL
BUSINESSES.

(a) In General.—Section 212 of the Small Business
Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601
note) is amended by striking subsection (a) and inserting
the following:

“(a) Compliance Guide.—

“(1) In General.—For each rule or group of re-
lated rules for which an agency is required to prepare
a final regulatory flexibility analysis under section
605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications ‘small entity compliance guides’.

“(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

“(A) the posting of the guide in an easily identified location on the website of the agency; and

“(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

“(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

“(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

“(B) not later than the date on which the requirements of that rule become effective.

“(4) COMPLIANCE ACTIONS.—

“(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.
“(B) EXPLANATION.—The explanation under subparagraph (A)—

“(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

“(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except that, compliance with any procedures described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

“(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional requirements, or diminish requirements, relating to the rule.

“(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language
of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

“(6) REPORTING.—Not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency’s compliance with paragraphs (1) through (5).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting “and entitled” after “designated”.

SEC. 242. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the “Sec-
retary”) shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT AND PERIOD OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section. The Secretary shall make the grant for a period of 3 years.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—
(A) technical assistance in the establishment of a child care program;
(B) assistance for the startup costs related to a child care program;
(C) assistance for the training of child care providers;
(D) scholarships for low-income wage earners;
(E) the provision of services to care for sick children or to provide care to school-aged children;
(F) the entering into of contracts with local resource and referral organizations or local health departments;
(G) assistance for care for children with disabilities;
(H) payment of expenses for renovation or operation of a child care facility; or
(I) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application
at such time, in such manner, and containing such
information as the State may require.

(3) Preference.—

(A) In general.—In providing assistance
under this section, a State shall give priority to
an applicant that desires to form a consortium
to provide child care in a geographic area within
the State where such care is not generally avail-
able or accessible.

(B) Consortium.—For purposes of sub-
paragraph (A), a consortium shall be made up
of 2 or more entities that shall include small
businesses and that may include large businesses,
nonprofit agencies or organizations, local govern-
ments, or other appropriate entities.

(4) Limitations.—With respect to grant funds
received under this section, a State may not provide
in excess of $500,000 in assistance from such funds
to any single applicant.

(e) Matching Requirement.—To be eligible to re-
cieve a grant under this section, a State shall provide assur-
ances to the Secretary that, with respect to the costs to be
incurred by a covered entity receiving assistance in car-
rying out activities under this section, the covered entity
will make available (directly or through donations from
public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the covered entity under the grant); (2) for the second fiscal year in which the covered entity receives such assistance, not less than 66 2/3 percent of such costs ($2 for each $1 of assistance provided to the covered entity under the grant); and (3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the covered entity under the grant).

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider—

(1) who receives assistance from a State shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State; and (2) who receives assistance from an Indian tribe or tribal organization shall comply with all applicable regulatory standards.
(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.
(B) Appeals process.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(i) Reporting Requirements.—

(1) 2-Year Study.—

(A) In general.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of covered entities to meet the child care needs of communities within States;

(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) Report.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of
the study conducted in accordance with subpara-
graph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years
after the date on which the Secretary first
awards grants under this section, the Secretary
shall conduct a study to determine the number of
child care facilities that are funded through cov-
ered entities that received assistance through a
grant awarded under this section and that re-
main in operation, and the extent to which such
facilities are meeting the child care needs of the
individuals served by such facilities.

(B) REPORT.—Not later than 52 months
after the date on which the Secretary first
awards grants under this section, the Secretary
shall prepare and submit to the appropriate
committees of Congress a report on the results of
the study conducted in accordance with subpara-
graph (A).

(j) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term “covered enti-
ty” means a small business or a consortium formed
in accordance with subsection (d)(3).
(2) INDIAN COMMUNITY.—The term “Indian community” means a community served by an Indian tribe or tribal organization.

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian tribe” and “tribal organization” have the meanings given the terms in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(4) SMALL BUSINESS.—The term “small business” means an employer who employed an average of at least 2 but not more than 50 employees on the business days during the preceding calendar year.

(5) STATE.—The term “State” has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(k) APPLICATION TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In this section:

(1) IN GENERAL.—Except as provided in subsection (f)(1), and in paragraphs (2) and (3), the term “State” includes an Indian tribe or tribal organization.

(2) GEOGRAPHIC REFERENCES.—The term “State” includes an Indian community in subsections (c) (the second and third place the term appears),
(d)(1) (the second place the term appears), (d)(3)(A)
(the second place the term appears), and (i)(1)(A)(i).

(3) **STATE-LEVEL ACTIVITIES.**—The term “State-
level activities” includes activities at the tribal level.

(l) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be ap-
propriated to carry out this section, $50,000,000 for
the period of fiscal years 2008 through 2012.

(2) **STUDIES AND ADMINISTRATION.**—With re-
spect to the total amount appropriated for such pe-
riod in accordance with this subsection, not more
than $2,500,000 of that amount may be used for ex-
penditures related to conducting studies required
under, and the administration of, this section.

(m) **TERMINATION OF PROGRAM.**—The program estab-
lished under subsection (a) shall terminate on September
30, 2012.

**SEC. 243. STUDY OF UNIVERSAL USE OF ADVANCE PAY-
MENT OF EARNED INCOME CREDIT.**

Not later than 180 days after the date of the enactment
of this Act, the Secretary of the Treasury shall report to
Congress on a study of the benefits, costs, risks, and barriers
to workers and to businesses (with a special emphasis on
small businesses) if the advance earned income tax credit
program (under section 3507 of the Internal Revenue Code
of 1986) included all recipients of the earned income tax
credit (under section 32 of such Code) and what steps would
be necessary to implement such inclusion.

SEC. 244. SENSE OF THE SENATE CONCERNING PERSONAL
SAVINGS.

(a) FINDINGS.—The Senate finds that—

(1) the personal saving rate in the United States
is at its lowest point since the Great Depression, with
the rate having fallen into negative territory;

(2) the United States ranks at the bottom of the
Group of Twenty (G–20) nations in terms of net na-
tional saving rate;

(3) approximately half of all the working people
of the United States work for an employer that does
not offer any kind of retirement plan;

(4) existing savings policies enacted by Congress
provide limited incentives to save for low- and mod-
erate-income families; and

(5) the Social Security program was enacted to
serve as the safest component of a retirement system
that also includes employer-sponsored retirement
plans and personal savings.

(b) SENSE OF THE SENATE.—It is the sense of the Sen-
ate that—
(1) Congress should enact policies that promote savings vehicles for retirement that are simple, easily accessible and provide adequate financial security for all the people of the United States;

(2) it is important to begin retirement saving as early as possible to take full advantage of the power of compound interest; and

(3) regularly contributing money to a financially-sound investment account is one important method for helping to achieve one’s retirement goals.

SEC. 245. RENEWAL GRANTS FOR WOMEN’S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

“(m) CONTINUED FUNDING FOR CENTERS.—

“(1) IN GENERAL.—A nonprofit organization described in paragraph (2) shall be eligible to receive, subject to paragraph (3), a 3-year grant under this subsection.

“(2) APPLICABILITY.—A nonprofit organization described in this paragraph is a nonprofit organization that has received funding under subsection (b) or (l).

“(3) APPLICATION AND APPROVAL CRITERIA.—
“(A) CRITERIA.—Subject to subparagraph (B), the Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

“(B) CONTENTS.—Except as otherwise provided in this subsection, the conditions for participation in the grant program under this subsection shall be the same as the conditions for participation in the program under subsection (l), as in effect on the date of enactment of this Act.

“(C) NOTIFICATION.—Not later than 60 days after the date of the deadline to submit applications for each fiscal year, the Administrator shall approve or deny any application under this subsection and notify the applicant for each such application.

“(4) AWARD OF GRANTS.—

“(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall make a grant for the Federal share of the cost of activities described in the application to each applicant approved under this subsection.
“(B) AMOUNT.—A grant under this subsection shall be for not more than $150,000, for each year of that grant.

“(C) FEDERAL SHARE.—The Federal share under this subsection shall be not more than 50 percent.

“(D) PRIORITY.—In allocating funds made available for grants under this section, the Administrator shall give applications under this subsection or subsection (l) priority over first-time applications under subsection (b).

“(5) RENEWAL.—

“(A) IN GENERAL.—The Administrator may renew a grant under this subsection for additional 3-year periods, if the nonprofit organization submits an application for such renewal at such time, in such manner, and accompanied by such information as the Administrator may establish.

“(B) UNLIMITED RENEWALS.—There shall be no limitation on the number of times a grant may be renewed under subparagraph (A).

“(n) PRIVACY REQUIREMENTS.—

“(1) IN GENERAL.—A women’s business center may not disclose the name, address, or telephone
number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

“(A) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

“(B) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a women’s business center, but a disclosure under this subparagraph shall be limited to the information necessary for such audit.

“(2) ADMINISTRATION USE OF INFORMATION.—This subsection shall not—

“(A) restrict Administration access to program activity data; or

“(B) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

“(3) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring
disclosures during a financial audit under paragraph
(1)(B).”.

(b) REPEAL.—Section 29(l) of the Small Business Act
(15 U.S.C. 656(l)) is repealed effective October 1 of the first
full fiscal year after the date of enactment of this Act.

(c) TRANSITIONAL RULE.—Notwithstanding any other
provision of law, a grant or cooperative agreement that was
awarded under subsection (l) of section 29 of the Small
Business Act (15 U.S.C. 656), on or before the day before
the date described in subsection (b) of this section, shall re-
main in full force and effect under the terms, and for the
duration, of such grant or agreement.

SEC. 246. REPORTS ON ACQUISITIONS OF ARTICLES, MATE-
RIALS, AND SUPPLIES MANUFACTURED OUT-
SIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a)
is amended—

(1) by striking “Notwithstanding” and inserting
the following:
“(a) IN GENERAL.—Notwithstanding”; and

(2) by adding at the end the following:
“(b) REPORTS.—
“(1) IN GENERAL.—Not later than 180 days
after the end of each of fiscal years 2007 through
2011, the head of each Federal agency shall submit to
the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the amount of the acquisitions made by the agency in that fiscal year of articles, materials, or supplies purchased from entities that manufacture the articles, materials, or supplies outside of the United States.

“(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall separately include, for the fiscal year covered by such report—

“(A) the dollar value of any articles, materials, or supplies that were manufactured outside the United States;

“(B) an itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act, and a citation to the treaty, international agreement, or other law under which each waiver was granted;

“(C) if any articles, materials, or supplies were acquired from entities that manufacture articles, materials, or supplies outside the United States, the specific exception under this section that was used to purchase such articles, materials, or supplies; and
“(D) a summary of—

“(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

“(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

“(3) Public Availability.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available to the maximum extent practicable.

“(4) Exception for Intelligence Community.—This subsection shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as specified in, or designated under, section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).”.

SEC. 247. SENSE OF THE SENATE REGARDING REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

It is the sense of the Senate that Congress should repeal the 1993 tax increase on Social Security benefits and eliminate wasteful spending, such as spending on unnecessary tax loopholes, in order to fully offset the cost of such repeal
and avoid forcing taxpayers to pay substantially more interest to foreign creditors.

SEC. 248. SENSE OF THE SENATE REGARDING PERMANENT TAX INCENTIVES TO MAKE EDUCATION MORE AFFORDABLE AND MORE ACCESSIBLE FOR AMERICAN FAMILIES.

It is the sense of the Senate that Congress should make permanent the tax incentives to make education more affordable and more accessible for American families and eliminate wasteful spending, such as spending on unnecessary tax loopholes, in order to fully offset the cost of such incentives and avoid forcing taxpayers to pay substantially more interest to foreign creditors.

SEC. 249. RESPONSIBLE GOVERNMENT CONTRACTOR REQUIREMENTS.

Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following new paragraph:

“(10) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

“(A) Employers with no contracts, grants, or agreements.—

“(i) In general.—Subject to clause (iii) and subparagraph (C), if an employer who does not hold a Federal contract, grant,
or cooperative agreement is determined to have violated this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 7 years.

“(ii) Placement on Excluded List.—The Secretary of Homeland Security or the Attorney General shall advise the Administrator of General Services of the debarment of an employer under clause (i) and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 7 years.

“(iii) Waiver.—

“(I) Authority.—The Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive operation of clause (i) or may limit the duration or scope of a debarment under clause (i) if such waiver or limitation is necessary to
national defense or in the interest of national security.

“(II) Notification to Congress.—If the Administrator grants a waiver or limitation described in subclause (I), the Administrator shall submit to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives immediate notice of such waiver or limitation.

“(III) Prohibition on Judicial Review.—The decision of whether to debar or take alternative action under this clause shall not be judicially reviewed.

“(B) Employers with Contracts, Grants, or Agreements.—

“(i) In general.—Subject to clause (iii) and subclause (C), an employer who holds a Federal contract, grant, or cooperative agreement and is determined to have violated this section shall be debarred from the receipt of new Federal contracts, grants,
or cooperative agreements for a period of 10 years.

“(ii) NOTICE TO AGENCIES.—Prior to debarring the employer under clause (i), the Secretary of Homeland Security, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government’s intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 10 years.

“(iii) WAIVER.—

“(I) AUTHORITY.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive operation of clause (i) or may limit the duration or scope of the debarment under clause (i) if such waiver or limitation
is necessary to the national defense or in the interest of national security.

“(II) Notification to Congress.—If the Administrator grants a waiver or limitation described in subclause (I), the Administrator shall submit to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives immediate notice of such waiver or limitation.

“(III) Prohibition on Judicial Review.—The decision of whether to debar or take alternate action under this clause shall not be judicially reviewed.

“(C) Exemption from Penalty for Employers Participating in the Basic Pilot Program.—In the case of imposition on an employer of a debarment from the receipt of a Federal contract, grant, or cooperative agreement under subparagraph (A) or (B), that penalty shall be waived if the employer establishes that the employer was voluntarily participating in the basic pilot program under section 403(a) of
the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) at the time of the violations of this section that resulted in the debarment.”.

Attest:

Secretary.