

110TH CONGRESS  
1ST SESSION

# H. R. 3970

To amend the Internal Revenue Code of 1986 to provide additional tax relief to low and moderate income individuals, to repeal the individual alternative minimum tax, to reform the corporate income tax, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2007

Mr. RANGEL introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide additional tax relief to low and moderate income individuals, to repeal the individual alternative minimum tax, to reform the corporate income tax, and for other purposes.

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

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Tax Reduction and Reform Act of 2007”.

6 (b) REFERENCE.—Except as otherwise expressly pro-  
7 vided, whenever in this Act an amendment or repeal is

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

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

Sec. 1. Short title, etc.

#### TITLE I—INDIVIDUAL TAX PROVISIONS

##### Subtitle A—Individual Tax Relief

##### PART 1—GENERAL TAX REDUCTIONS

- Sec. 1001. Increase in standard deduction.
- Sec. 1002. Modification of earned income credit amount for individuals with no qualifying children.
- Sec. 1003. Change in refundable child credit.

##### PART 2—AMT RELIEF

##### SUBPART A—AMT EXTENSION FOR 2007

- Sec. 1011. Extension of alternative minimum tax relief for nonrefundable personal credits.
- Sec. 1012. Extension of increased alternative minimum tax exemption amount.

##### SUBPART B—REPEAL OF THE INDIVIDUAL AMT

- Sec. 1021. Repeal of alternative minimum tax on individuals.
- Sec. 1022. Limitation of benefits of individual AMT repeal.
- Sec. 1023. High income individuals subject to overall limitation on itemized deductions and phaseout of deductions for personal exemptions.
- Sec. 1024. Modification of 2-percent floor on miscellaneous itemized deductions.

##### SUBPART C—CONFORMING AMENDMENTS

- Sec. 1031. Conforming amendments, etc.

##### Subtitle B—Other Reforms

##### PART 1—PROVISIONS RELATED TO CERTAIN INVESTMENT PARTNERSHIPS

- Sec. 1201. Income of partners for performing investment management services treated as ordinary income received for performance of services.
- Sec. 1202. Nonqualified deferred compensation for investment services.
- Sec. 1203. Indebtedness incurred by a partnership in acquiring securities and commodities not treated as acquisition indebtedness for organizations which are partners with limited liability.

Sec. 1204. Application to partnership interests and tax sharing agreements of rule treating certain gain on sales between related persons as ordinary income.

PART 2—SELF-EMPLOYMENT TAX TREATMENT OF CERTAIN INTEREST  
HOLDERS IN SERVICE PROVIDING ENTITIES

Sec. 1211. Certain service providing S corporation shareholders and partners subject to self-employment taxes.

PART 3—BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES  
TRANSACTIONS

Sec. 1221. Broker reporting of customer's basis in securities transactions.

TITLE II—ONE-YEAR EXTENDERS

- Sec. 2001. Research credit.  
 Sec. 2002. Indian employment credit.  
 Sec. 2003. New markets tax credit.  
 Sec. 2004. Railroad track maintenance.  
 Sec. 2005. Mortgage insurance premiums treated as interest.  
 Sec. 2006. Deduction for State and local sales taxes.  
 Sec. 2007. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.  
 Sec. 2008. Seven-year cost recovery period for motorsports racing track facility.  
 Sec. 2009. Accelerated depreciation for business property on Indian reservation.  
 Sec. 2010. Expensing of environmental remediation costs.  
 Sec. 2011. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.  
 Sec. 2012. Deduction of qualified tuition and related expenses.  
 Sec. 2013. Modification of tax treatment of certain payments to controlling exempt organizations.  
 Sec. 2014. Treatment of certain dividends of regulated investment companies.  
 Sec. 2015. Extension and modification of credit to holders of qualified zone academy bonds.  
 Sec. 2016. Tax incentives for investment in the District of Columbia.  
 Sec. 2017. Disclosure for combined employment tax reporting.  
 Sec. 2018. Disclosure of return information to apprise appropriate officials of terrorist activities.  
 Sec. 2019. Disclosure upon request of information relating to terrorist activities.  
 Sec. 2020. Disclosure of return information to carry out income contingent repayment of student loans.  
 Sec. 2021. Authority for undercover operations.  
 Sec. 2022. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.  
 Sec. 2023. Parity in the application of certain limits to mental health benefits.  
 Sec. 2024. Extension of economic development credit for American Samoa.  
 Sec. 2025. Qualified conservation contributions.  
 Sec. 2026. Enhanced charitable deduction for contributions of food inventory.  
 Sec. 2027. Enhanced charitable deduction for contributions of book inventory to public schools.  
 Sec. 2028. Enhanced deduction for qualified computer contributions.  
 Sec. 2029. Tax-free distributions from individual retirement plans for charitable purposes.

- Sec. 2030. Basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 2031. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 2032. Election to include combat pay as earned income for purposes of earned income tax credit.
- Sec. 2033. Modification of mortgage revenue bonds for veterans.
- Sec. 2034. Distributions from retirement plans to individuals called to active duty.
- Sec. 2035. Stock in RIC for purposes of determining estates of nonresidents not citizens.
- Sec. 2036. Qualified investment entities.
- Sec. 2037. Disclosure of return information for certain veterans programs.

### TITLE III—CORPORATE TAX REFORM

#### Subtitle A—Corporate Rate Reduction

- Sec. 3001. Reduction in top corporate marginal rate.

#### Subtitle B—Repeal of Deduction for Income Attributable to Domestic Production Activities

- Sec. 3101. Repeal of deduction for income attributable to domestic production activities.

#### Subtitle C—Provisions Related to Foreign Source Income

- Sec. 3201. Allocation of expenses and taxes on basis of repatriation of foreign income.
- Sec. 3202. Foreign currency conversion for determination of foreign taxes and foreign corporation's earnings and profits.
- Sec. 3203. Repeal of worldwide allocation of interest.
- Sec. 3204. Limitation on treaty benefits for certain deductible payments.

#### Subtitle D—Modification of Accounting Rules

- Sec. 3301. Repeal of last-in, first-out method of inventory.
- Sec. 3302. Repeal of lower of cost or market method of inventory.
- Sec. 3303. Special rule for service providers on accrual method not applicable to C corporations.

#### Subtitle E—Modification to Expensing and Depreciation Rules

- Sec. 3401. Small business expensing provisions made permanent.
- Sec. 3402. Amortization of goodwill and other intangibles.

#### Subtitle F—Codification of Economic Substance Doctrine

- Sec. 3501. Codification of economic substance doctrine.
- Sec. 3502. Penalties for underpayments.

#### Subtitle G—Modifications to Deductions for Dividends Received

- Sec. 3601. Modifications to deductions for dividends received.

#### Subtitle H—Other Provisions

Sec. 3701. Recognition of ordinary income on sale or exercise of stock option in S corporation with an ESOP.

Sec. 3702. Termination of special rules for domestic international sales corporations.

Sec. 3703. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.

1           **TITLE I—INDIVIDUAL TAX**  
 2                           **PROVISIONS**  
 3       **Subtitle A—Individual Tax Relief**  
 4                           **PART 1—GENERAL TAX REDUCTIONS**

5   **SEC. 1001. INCREASE IN STANDARD DEDUCTION.**

6           (a) IN GENERAL.—Paragraph (1) of section 63(c)  
 7 (defining standard deduction) is amended by striking  
 8 “and” at the end of subparagraph (A), by striking the  
 9 period at the end of subparagraph (B) and inserting “,  
 10 and”, and by inserting after subparagraph (B) the fol-  
 11 lowing:

12                           “(C) the additional amount.”.

13           (b) ADDITIONAL AMOUNT.—Subsection (c) of section  
 14 63 (defining standard deduction) is amended by adding  
 15 at the end the following new paragraph:

16                           “(8) ADDITIONAL AMOUNT.—For purposes of  
 17 paragraph (1), the additional amount is—

18                           “(A) 200 percent of the amount in effect  
 19 under subparagraph (C) for the taxable year in  
 20 the case of a joint return or a surviving spouse  
 21 (as defined in section 2(a)),

1           “(B) \$625 in the case of a head of house-  
2           hold (as defined in section 2(b)), and

3           “(C) \$425 in any other case.”.

4           (c) ADJUSTMENT FOR INFLATION.—

5           (1) IN GENERAL.—Section 63(c)(4) (relating to  
6           adjustments for inflation) is amended—

7           (A) in the matter preceding subparagraph  
8           (A) by striking “or (5)” and inserting “(5),  
9           (8)(B), or (8)(C)”, and

10           (B) in subparagraph (B) by striking “and”  
11           at the end of clause (i), by striking the period  
12           at the end of clause (ii) and inserting “, and”,  
13           and by inserting after clause (ii) the following  
14           new clause:

15           “(iii) ‘calendar year 2007’ in the case  
16           of the dollar amounts contained in para-  
17           graph (8)(B) or (8)(C).”.

18           (2) ROUNDING.—Section 1(f)(6) (relating to  
19           rounding) is amended by adding at the end the fol-  
20           lowing new subparagraph:

21           “(C) SPECIAL RULE FOR STANDARD DE-  
22           DUCTION ADDITIONAL AMOUNT.—In the case of  
23           an increase with respect to section 63(c)(8) by  
24           reason of section 63(c)(4), subparagraph (A)  
25           shall be applied by substituting ‘\$25’ for ‘\$50’

1           each place it appears and subparagraph (B)  
2           shall not apply.”.

3           (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 2007.

6 **SEC. 1002. MODIFICATION OF EARNED INCOME CREDIT**  
7                           **AMOUNT FOR INDIVIDUALS WITH NO QUALI-**  
8                           **FYING CHILDREN.**

9           (a) **INCREASE IN CREDIT PERCENTAGE AND PHASE-**  
10 **OUT PERCENTAGE FOR INDIVIDUALS WITH NO CHIL-**  
11 **DREN.**—The table contained in subparagraph (A) of sec-  
12 tion 32(b)(1) is amended by striking “7.65” each place  
13 it appears and inserting “15.3”.

14           (b) **INCREASE IN BEGINNING PHASEOUT AMOUNT.**—

15                   (1) **IN GENERAL.**—The table contained in sub-  
16 paragraph (A) of section 32(b)(2) is amended by  
17 striking “\$5,280” and inserting “\$10,900”.

18                   (2) **INFLATION ADJUSTMENT.**—Subparagraph  
19 (B) of section 32(j)(1) is amended—

20                           (A) by striking “and” at the end of clause  
21 (i), by redesignating clause (ii) as clause (iii),  
22 and by inserting after clause (i) the following  
23 new clause:

24                                   “(ii) in the case of the \$10,900  
25 amount in subsection (b)(2)(A), by sub-

1                   stituting ‘calendar year 2007’ for ‘calendar  
2                   year 1992’ in subparagraph (B) thereof,  
3                   and”, and

4                   (B) in clause (i) by inserting “except as  
5                   provided in clause (ii),” before “in the case of”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2007.

9 **SEC. 1003. CHANGE IN REFUNDABLE CHILD CREDIT.**

10       (a) MODIFICATION OF THRESHOLD AMOUNT.—  
11 Clause (i) of section 24(d)(1)(B) is amended by striking  
12 “\$10,000” and inserting “\$8,500”.

13       (b) REPEAL OF INFLATION ADJUSTMENT TO  
14 EARNED INCOME BASE.—Subsection (d) of section 24 (re-  
15 lating to portion of credit refundable) is amended by strik-  
16 ing paragraph (3).

17       (c) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall apply to taxable years beginning after  
19 December 31, 2007.



**PART 2—AMT RELIEF****Subpart A—AMT Extension for 2007****SEC. 1011. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.**

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2006) is amended—

(1) by striking “or 2006” and inserting “2006, or 2007”, and

(2) by striking “2006” in the heading thereof and inserting “2007”.

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

**SEC. 1012. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.**

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking “(\$62,550 in the case of taxable years beginning in 2006)” in subparagraph (A) and inserting “(\$64,950 in the case of taxable years beginning in 2007)”, and

(2) by striking “(\$42,500 in the case of taxable years beginning in 2006)” in subparagraph (B) and

1 inserting “(\$44,150 in the case of taxable years be-  
2 ginning in 2007)”.

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

6 **Subpart B—Repeal of the Individual AMT**

7 **SEC. 1021. REPEAL OF ALTERNATIVE MINIMUM TAX ON IN-**  
8 **DIVIDUALS.**

9 (a) IN GENERAL.—Subsection (a) of section 55 (re-  
10 lating to alternative minimum tax imposed) is amended  
11 by adding at the end the following new flush sentence:

12 “Except in the case of a corporation, no tax shall be im-  
13 posed by this section for any taxable year beginning after  
14 December 31, 2007, and the tentative minimum tax of any  
15 taxpayer other than a corporation for any such taxable  
16 year shall be zero for purposes of this title.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to taxable years beginning after  
19 December 31, 2007.

20 **SEC. 1022. LIMITATION OF BENEFITS OF INDIVIDUAL AMT**  
21 **REPEAL.**

22 (a) IN GENERAL.—Part VI of subchapter A of chap-  
23 ter 1 (relating to alternative minimum tax) is amended  
24 by inserting after section 55 the following new section:

1 **“SEC. 55A. LIMITATION OF BENEFITS OF INDIVIDUAL AMT**

2 **REPEAL.**

3 “(a) GENERAL RULE.—In the case of a taxpayer  
4 other than a corporation, there is hereby imposed (in addi-  
5 tion to any other tax imposed by this subtitle) a tax equal  
6 to the sum of—

7 “(1) 4 percent of so much of modified adjusted  
8 gross income as exceeds the initial threshold  
9 amount, plus

10 “(2) 0.6 percent of so much of modified ad-  
11 justed gross income as exceeds \$250,000 (\$500,000  
12 in the case of a joint return or a surviving spouse  
13 (as defined in section 2(a)).

14 “(b) INITIAL THRESHOLD AMOUNT.—For purposes  
15 of this section—

16 “(1) IN GENERAL.—The term ‘initial threshold  
17 amount’ means—

18 “(A) in the case of a joint return or a sur-  
19 viving spouse (as defined in section 2(a)), the  
20 greater of—

21 “(i) the amount which the Secretary  
22 estimates is the lowest adjusted gross in-  
23 come level (rounded to the nearest multiple  
24 of \$10,000) above which at least 90 per-  
25 cent of married individuals filing a joint  
26 return would (but for the repeal of such

1 tax) be affected by the alternative min-  
2 imum tax for their first taxable year begin-  
3 ning in 2008, or

4 “(ii) \$200,000,

5 “(B) in the case of any married individual  
6 filing a separate return,  $\frac{1}{2}$  of the amount de-  
7 termined under subparagraph (A), and

8 “(C) in any other case,  $\frac{3}{4}$  of the amount  
9 determined under subparagraph (A).

10 “(2) CITIZENS AND RESIDENTS LIVING  
11 ABROAD.—The initial threshold amount determined  
12 under paragraph (1) shall be decreased by any  
13 amount excluded from the taxpayer’s gross income  
14 under section 911.

15 “(c) MODIFIED ADJUSTED GROSS INCOME.—For  
16 purposes of this section, the term ‘modified adjusted gross  
17 income’ means adjusted gross income reduced by any de-  
18 duction allowed for investment interest (as defined in sec-  
19 tion 163(d)).

20 “(d) NONRESIDENT ALIEN.—In the case of a non-  
21 resident alien individual, only amounts taken into account  
22 in connection with the tax imposed under section 871(b)  
23 shall be taken into account under this section.

24 “(e) INFLATION ADJUSTMENTS.—

1           “(1) IN GENERAL.—In the case of taxable years  
2 beginning after 2008, the amount in effect under  
3 subsection (b)(1)(A) for taxable years beginning in  
4 2008 shall be increased by an amount equal to—

5                   “(A) such dollar amount, multiplied by

6                   “(B) the cost-of-living adjustment deter-  
7 mined under section 1(f)(3) for the calendar  
8 year in which the taxable year begins, by sub-  
9 stituting ‘calendar year 2007’ for ‘calendar year  
10 1992’ in subparagraph (B) thereof.

11           “(2) ROUNDING.—If any amount as adjusted  
12 under paragraph (1) is not a multiple of \$5,000,  
13 such amount shall be rounded to the next lowest  
14 multiple of \$5,000.

15           “(f) MARITAL STATUS.—For purposes of this section,  
16 marital status shall be determined under section 7703.”.

17           (b) CONFORMING AMENDMENT.—Subparagraph (A)  
18 of section 26(b)(2) is amended by striking “section 55”  
19 and inserting “sections 55 and 55A”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to taxable years beginning after  
22 December 31, 2007.

1 **SEC. 1023. HIGH INCOME INDIVIDUALS SUBJECT TO OVER-**  
 2 **ALL LIMITATION ON ITEMIZED DEDUCTIONS**  
 3 **AND PHASEOUT OF DEDUCTIONS FOR PER-**  
 4 **SONAL EXEMPTIONS.**

5 (a) OVERALL LIMITATION ON ITEMIZED DEDUC-  
 6 TIONS.—Section 68 (relating to overall limitation on  
 7 itemized deductions) is amended by striking subsections  
 8 (f) and (g) and inserting the following new subsection:

9 “(f) PHASEOUT OF LIMITATION.—

10 “(1) IN GENERAL.—In the case of a taxpayer  
 11 whose adjusted gross income is not more than  
 12 \$250,000 (\$500,000 in the case of a joint return or  
 13 a surviving spouse (as defined in section 2(a))—

14 “(A) in the case of any taxable year begin-  
 15 ning in 2008 or 2009, the reduction under sub-  
 16 section (a) shall be equal to  $\frac{1}{3}$  of the amount  
 17 which would (but for this subsection) be the  
 18 amount of such reduction, and

19 “(B) in the case of any taxable year begin-  
 20 ning after 2009, subsection (a) shall not apply.

21 “(2) PHASEOUT BASED ON INCOME.—

22 “(A) IN GENERAL.—In the case of a tax-  
 23 payer whose adjusted gross income is more  
 24 than \$250,000 (\$500,000 in the case of a joint  
 25 return or a surviving spouse (as defined in sec-  
 26 tion 2(a)), the reduction under subsection (a)

1 shall be equal to the applicable fraction of the  
2 amount which would (but for this subsection)  
3 be the amount of such reduction.

4 “(B) APPLICABLE FRACTION.—For pur-  
5 poses of subparagraph (A), the term ‘applicable  
6 fraction’ means—

7 “(i) in the case of any taxable year  
8 beginning in 2008 or 2009, a fraction (not  
9 in excess of 1) equal to the sum of—

10 “(I)  $\frac{1}{3}$ , plus

11 “(II)  $\frac{1}{30}$  for each \$1,000 (or  
12 fraction thereof) by which the tax-  
13 payer’s adjusted gross income exceeds  
14 \$250,000 (\$500,000 in the case of a  
15 joint return or a surviving spouse (as  
16 defined in section 2(a)), and

17 “(ii) in the case of any taxable year  
18 beginning in 2010, a fraction (not in ex-  
19 cess of 1) equal to  $\frac{1}{20}$  for each \$1,000 (or  
20 fraction thereof) by which the taxpayer’s  
21 adjusted gross income exceeds \$250,000  
22 (\$500,000 in the case of a joint return or  
23 a surviving spouse (as defined in section  
24 2(a)).”.

1 (b) PHASEOUT OF DEDUCTIONS FOR PERSONAL EX-  
2 EMPTIONS.—Paragraph (3) of section 151(d) is amended  
3 by striking subparagraphs (E) and (F) and inserting the  
4 following new subparagraphs:

5 “(E) REDUCTION OF PHASEOUT.—In the  
6 case of a taxpayer whose adjusted gross income  
7 is not more than \$250,000 (\$500,000 in the  
8 case of a joint return or a surviving spouse (as  
9 defined in section 2(a))—

10 “(i) in the case of any taxable year  
11 beginning in 2008 or 2009, the reduction  
12 under subparagraph (A) shall be equal to  
13  $\frac{1}{3}$  of the amount which would (but for this  
14 subparagraph) be the amount of such re-  
15 duction, and

16 “(ii) in the case of any taxable year  
17 beginning after 2009, subparagraph (A)  
18 shall not apply.

19 “(F) PHASEOUT BASED ON INCOME.—In  
20 the case of a taxpayer whose adjusted gross in-  
21 come is more than \$250,000 (\$500,000 in the  
22 case of a joint return or a surviving spouse (as  
23 defined in section 2(a)), the reduction under  
24 subparagraph (A) shall be equal to the applica-  
25 ble fraction of the amount which would (but for



1 this subparagraph) be the amount of such re-  
2 duction.

3 “(G) APPLICABLE FRACTION.—For pur-  
4 poses of subparagraph (F), the term ‘applicable  
5 fraction’ means—

6 “(i) in the case of any taxable year  
7 beginning in 2008 or 2009, the fraction  
8 (not in excess of 1) equal to the sum of—

9 “(I)  $\frac{1}{3}$ , plus

10 “(II)  $\frac{1}{30}$  for each \$1,000 (or  
11 fraction thereof) by which the tax-  
12 payer’s adjusted gross income exceeds  
13 \$250,000 (\$500,000 in the case of a  
14 joint return or a surviving spouse (as  
15 defined in section 2(a)), and

16 “(ii) in the case of any taxable year  
17 beginning in 2010, the fraction (not in ex-  
18 cess of 1) equal to  $\frac{1}{20}$  for each \$1,000 (or  
19 fraction thereof) by which the taxpayer’s  
20 adjusted gross income exceeds \$250,000  
21 (\$500,000 in the case of a joint return or  
22 a surviving spouse (as defined in section  
23 2(a)).”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2007.

4 **SEC. 1024. MODIFICATION OF 2-PERCENT FLOOR ON MIS-**  
5 **CELLANEOUS ITEMIZED DEDUCTIONS.**

6 (a) IN GENERAL.—Subsection (a) of section 67 is  
7 amended by striking “exceeds” and all that follows and  
8 inserting “exceeds the sum of—

9 “(1) 2 percent of so much of modified adjusted  
10 gross income (as defined in section 55A(c)) as does  
11 not exceed the initial threshold amount applicable to  
12 the taxpayer under section 55A, plus

13 “(2) 5 percent of so much of modified adjusted  
14 gross income (as so defined) as exceeds such initial  
15 threshold amount.”.

16 (b) CONFORMING AMENDMENT.—

17 (1) The heading for section 67 is amended by  
18 striking “**2-PERCENT FLOOR**” and inserting  
19 “**FLOOR**”.

20 (2) The item in the table of sections for part  
21 I of subchapter B of chapter 1 relating to section 67  
22 is amended by striking “2-percent floor” and insert-  
23 ing “Floor”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2007.

4 **Subpart C—Conforming Amendments**

5 **SEC. 1031. CONFORMING AMENDMENTS, ETC.**

6 (a) CONFORMING AMENDMENTS RELATED TO RE-  
7 PEAL OF ALTERNATIVE MINIMUM TAX ON INDIVID-  
8 UALS.—

9 (1) Subparagraph (B) of section 1(g)(7) is  
10 amended by adding “and” at the end of clause (i),  
11 by striking “, and” at the end of clause (ii) and in-  
12 serting a period, and by striking clause (iii).

13 (2) Section 2(d) is amended by striking “taxes  
14 imposed by sections 1 and 55” and inserting “tax  
15 imposed by section 1”.

16 (3) Section 5(a) is amended by striking para-  
17 graph (4).

18 (4) Section 23 is amended—

19 (A) by striking subsection (b)(4), and

20 (B) by amending subsection (c) by striking  
21 paragraphs (1) and (2), by redesignating para-  
22 graph (3) as paragraph (2) and inserting before  
23 paragraph (2) (as so redesignated) the fol-  
24 lowing:

1           “(1) IN GENERAL.—If the credit allowable  
2           under subsection (a) for any taxable year exceeds  
3           the limitation imposed by section 26(a) for such tax-  
4           able year reduced by the sum of the credits allowable  
5           under this subpart (other than this section and sec-  
6           tions 25D and 1400C), such excess shall be carried  
7           to the next succeeding taxable year and added to the  
8           credit allowable under subsection (a) for such suc-  
9           ceeding taxable year.”.

10           (5) Section 24(b) is amended by striking para-  
11           graph (3).

12           (6) Section 24(d)(1) is amended—

13                   (A) by striking “section 26(a)(2) or sub-  
14                   section (b)(3), as the case may be” in subpara-  
15                   graph (A) and inserting “section 26(a)”, and

16                   (B) by striking “section 26(a)(2) or sub-  
17                   section (b)(3), as the case may be,” in subpara-  
18                   graph (B) and inserting “section 26(a)”.

19           (7) Section 25(e)(1)(C) is amended to read as  
20           follows:

21                   “(C) APPLICABLE TAX LIMIT.—For pur-  
22                   poses of this paragraph, the term ‘applicable  
23                   tax limit’ means the limitation imposed by sec-  
24                   tion 26(a) for the taxable year reduced by the  
25                   sum of the credits allowable under this subpart

1 (other than this section and sections 23, 25D,  
2 and 1400C).”.

3 (8) Section 25B is amended by striking sub-  
4 section (g).

5 (9) Section 25D(c) is amended to read as fol-  
6 lows:

7 “(c) CARRYFORWARD OF UNUSED CREDIT.—If the  
8 credit allowable under subsection (a) for any taxable year  
9 exceeds the limitation imposed by section 26(a) for such  
10 taxable year reduced by the sum of the credits allowable  
11 under this subpart (other than this section), such excess  
12 shall be carried to the next succeeding taxable year and  
13 added to the credit allowable under subsection (a) for such  
14 succeeding taxable year.”.

15 (10) Section 26 is amended—

16 (A) by striking subsection (c), and

17 (B) by amending subsection (a) to read as  
18 follows:

19 “(a) IN GENERAL.—The aggregate amount of credits  
20 allowable by this subpart for the taxable year shall not  
21 exceed the taxpayer’s regular tax liability for the taxable  
22 year.”.

23 (11) Sections 30B(g)(2) and 30C(d)(2) are  
24 each amended to read as follows:

1           “(2) PERSONAL CREDIT.—The credit allowed  
2           under subsection (a) (after the application of para-  
3           graph (1)) shall be treated as a credit allowable  
4           under subpart A.”.

5           (12) Subsection (c) of section 38 is amended by  
6           inserting at the end the following new paragraph:

7           “(6) TENTATIVE MINIMUM TAX.—For purposes  
8           of this part, the term ‘tentative minimum tax’ has  
9           the meaning given to such term by section 55.”.

10          (13) Section 53 is amended—

11           (A) by striking “adjusted net minimum  
12           tax” in subsection (b)(1) and inserting “tax im-  
13           posed by section 55”,

14           (B) by striking subsection (d), and

15           (C) by inserting at the end of subsection  
16           (b) the following flush sentence:

17           “For purposes of paragraph (1), the tax imposed by sec-  
18           tion 55 for taxable years beginning before January 1,  
19           2008, shall be the adjusted net minimum tax (as defined  
20           in section 53(d), as in effect before its repeal).”.

21           (14)(A) Subsection (b) of section 55 (relating  
22           to alternative minimum tax imposed) is amended to  
23           read as follows:

24           “(b) TENTATIVE MINIMUM TAX.—For purposes of  
25           this part—

1           “(1) AMOUNT OF TENTATIVE TAX.—The ten-  
2           tative minimum tax for the taxable year is—

3                   “(A) 20 percent of so much of the alter-  
4                   native minimum taxable income for the taxable  
5                   year as exceeds the exemption amount, reduced  
6                   by

7                           “(B) the alternative minimum tax foreign  
8                           tax credit for the taxable year.

9           “(2) ALTERNATIVE MINIMUM TAXABLE IN-  
10           COME.—The term ‘alternative minimum taxable in-  
11           come’ means the taxable income of the taxpayer for  
12           the taxable year—

13                   “(A) determined with the adjustments pro-  
14                   vided in section 56, and

15                           “(B) increased by the amount of the items  
16                           of tax preference described in section 57.

17           If a taxpayer is subject to the regular tax, such tax-  
18           payer shall be subject to the tax imposed by this sec-  
19           tion (and, if the regular tax is determined by ref-  
20           erence to an amount other than taxable income, such  
21           amount shall be treated as the taxable income of  
22           such taxpayer for purposes of the preceding sen-  
23           tence).”.

1           (B) Subsection (c) of section 55 is amended by  
2 striking all that follows paragraph (1) and inserting  
3 the following:

4           “(2) CROSS REFERENCE.—For provision pro-  
5 viding that portions of the general business credit  
6 are not allowable against the tax imposed by this  
7 section, see section 38(c).”.

8           (C) Subsection (d) of section 55 is amended to  
9 read as follows:

10          “(d) EXEMPTION AMOUNT.—For purposes of this  
11 section, the term ‘exemption amount’ means \$40,000 re-  
12 duced (but not below zero) by an amount equal to 25 per-  
13 cent of the amount by which the alternative minimum tax-  
14 able income of the taxpayer exceeds \$150,000.”.

15          (15)(A) Paragraph (6) of section 56(a) is  
16 amended to read as follows:

17          “(6) ADJUSTED BASIS.—The adjusted basis of  
18 any property to which paragraph (1) or (5) applies  
19 (or with respect to which there are any expenditures  
20 to which paragraph (2) applies) shall be determined  
21 on the basis of the treatment prescribed in para-  
22 graph (1), (2), or (5), whichever applies.”.

23          (B) Section 56 is amended by striking sub-  
24 section (b).



1           (C) Subsection (c) of section 56 is amended by  
2 striking so much of the subsection as precedes para-  
3 graph (1), by redesignating paragraphs (1), (2), and  
4 (3) as paragraphs (8), (9), and (10), respectively,  
5 and moving them to the end of subsection (a).

6           (D) Paragraph (8) of section 56(a), as redesign-  
7 ated by subparagraph (C), is amended by striking  
8 “subsection (g)” and inserting “subsection (e)”.

9           (E) Section 56 is amended by striking sub-  
10 section (e) and by redesignating subsections (d) and  
11 (g) as subsections (b) and (e), respectively.

12           (16)(A) Section 58 is hereby repealed.

13           (B) Clause (i) of section 56(b)(2)(A) is amend-  
14 ed by striking “and section 58”.

15           (C) Subsection (h) of section 59 is amended—

16               (i) by striking “, 465, and 1366(d)” and  
17 inserting “and 465”, and

18               (ii) by striking “56, 57, and 58” and in-  
19 serting “56 and 57”.

20           (17)(A) Subparagraph (C) of section 59(a)(1)  
21 is amended—

22               (i) by striking “subparagraph (A)(i) or  
23 (B)(i) of section 55(b)(1) (whichever applies)”  
24 and inserting “section 55(b)(1)(A)”, and

1 (ii) by striking “section 1 or 11 (whichever  
2 applies)” and inserting “section 11”.

3 (B) Paragraph (2) of section 59(a) is amended  
4 to read as follows:

5 “(2) PRE-CREDIT TENTATIVE MINIMUM TAX.—  
6 For purposes of this subsection, the term ‘pre-credit  
7 tentative minimum tax’ means the amount deter-  
8 mined under section 55(b)(1)(A).”.

9 (C) Section 59 is amended by striking sub-  
10 section (c).

11 (D) Section 59 is amended by striking sub-  
12 section (j).

13 (18) Paragraph (1) of section 59A(b) and para-  
14 graph (7) of section 382(l) are each amended by  
15 striking “section 56(d)” and inserting “section  
16 56(b)”.

17 (19) Paragraph (2) of section 641(c) is amend-  
18 ed by striking subparagraph (B) and by redesignig-  
19 nating subparagraphs (C) and (D) as subparagraphs  
20 (B) and (C), respectively.

21 (20) Subsections (b) and (c) of section 666 are  
22 each amended by striking “(other than the tax im-  
23 posed by section 55)”.

1           (21) Subsections (c)(5) and (d)(3)(B) of section  
2           772 are each amended by striking “56, 57, and 58”  
3           and inserting “56 and 57”.

4           (22) Sections 847 and 848(l) are each amended  
5           by striking “section 56(g)” and inserting “section  
6           56(c)”.

7           (23) Sections 871(b)(1) and 877(b) are each  
8           amended by striking “or 55”.

9           (24) Subsection (a) of section 897 is amended  
10          to read as follows:

11          “(a) GENERAL RULE.—For purposes of this title,  
12          gain or loss of a nonresident alien individual or a foreign  
13          corporation from the disposition of a United States real  
14          property interest shall be taken into account—

15                 “(1) in the case of a nonresident alien indi-  
16          vidual, under section 871(b)(1), or

17                 “(2) in the case of a foreign corporation, under  
18          section 882(a)(1),

19          as if the taxpayer were engaged in a trade or business  
20          within the United States during the taxable year and as  
21          if such gain or loss were effectively connected with such  
22          trade or business.”.

23          (25) Section 904 is amended by striking sub-  
24          section (i).

1           (26) The first sentence of section 911(f) is  
2           amended to read as follows: “For purposes of this  
3           chapter, if any amount is excluded from the gross  
4           income of a taxpayer under subsection (a) for any  
5           taxable year, then, notwithstanding section 1, the  
6           tax imposed by such section on the taxpayer for such  
7           taxable year shall be equal to the excess (if any)  
8           of—

9           “(1) the tax which would be imposed by such  
10          section for the taxable year if the taxpayer’s taxable  
11          income were increased by the amount excluded  
12          under subsection (a) for the taxable year, over

13          “(2) the tax which would be imposed by such  
14          section for the taxable year if the taxpayer’s taxable  
15          income were equal to the amount excluded under  
16          subsection (a) for the taxable year.”.

17          (27) Paragraph (1) of section 962(a) is amend-  
18          ed by striking “sections 1 and 55” and inserting  
19          “section 1”.

20          (28) Section 1400C(d) is amended to read as  
21          follows:

22          “(d) CARRYFORWARD OF UNUSED CREDIT.—If the  
23          credit allowable under subsection (a) for any taxable year  
24          exceeds the limitation imposed by section 26(a) for such  
25          taxable year reduced by the sum of the credits allowable

1 under this subpart (other than this section and section  
2 25D), such excess shall be carried to the next succeeding  
3 taxable year and added to the credit allowable under sub-  
4 section (a) for such succeeding taxable year.”.

5 (29) The last sentence of section 1563(a) is  
6 amended by striking “section 55(d)(3)” and insert-  
7 ing “section 55(d)”.

8 (30) Subparagraph (B) of section 6015(d)(2) is  
9 amended by striking “or 55”.

10 (31) Clause (i) of section 6654(d)(2)(C) is  
11 amended by striking “, alternative minimum taxable  
12 income,”.

13 (b) APPLICATION OF EGTRRA SUNSET.—

14 (1) Section 901 of the Economic Growth and  
15 Tax Relief Reconciliation Act of 2001 shall not  
16 apply to sections 201(d) and 303(c) of such Act.

17 (2) Section 901 of the Economic Growth and  
18 Tax Relief Reconciliation Act of 2001 shall apply  
19 to—

20 (A) the amendments made by section  
21 1023(a) to the same extent and in the same  
22 manner as section 901 of such Act applies to  
23 the amendments made by section 103 of such  
24 Act, and

1 (B) the amendments made by section  
 2 1023(b) to the same extent and in the same  
 3 manner as section 901 of such Act applies to  
 4 the amendments made by section 102 of such  
 5 Act.

6 (c) EFFECTIVE DATE.—The amendments made by  
 7 subsection (a) shall apply to taxable years beginning after  
 8 December 31, 2007.

## 9 **Subtitle B—Other Reforms**

### 10 **PART 1—PROVISIONS RELATED TO CERTAIN**

#### 11 **INVESTMENT PARTNERSHIPS**

#### 12 **SEC. 1201. INCOME OF PARTNERS FOR PERFORMING IN-** 13 **VESTMENT MANAGEMENT SERVICES TREAT-** 14 **ED AS ORDINARY INCOME RECEIVED FOR** 15 **PERFORMANCE OF SERVICES.**

16 (a) IN GENERAL.—Part I of subchapter K of chapter  
 17 1 is amended by adding at the end the following new sec-  
 18 tion:

#### 19 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-** 20 **VESTMENT MANAGEMENT SERVICES TO** 21 **PARTNERSHIP.**

22 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF  
 23 PARTNERSHIP ITEMS.—For purposes of this title, in the  
 24 case of an investment services partnership interest—

1           “(1) IN GENERAL.—Notwithstanding section  
2       702(b)—

3           “(A) any net income with respect to such  
4       interest for any partnership taxable year shall  
5       be treated as ordinary income for the perform-  
6       ance of services, and

7           “(B) any net loss with respect to such in-  
8       terest for such year, to the extent not dis-  
9       allowed under paragraph (2) for such year,  
10      shall be treated as an ordinary loss.

11          “(2) TREATMENT OF LOSSES.—

12          “(A) LIMITATION.—Any net loss with re-  
13      spect to such interest shall be allowed for any  
14      partnership taxable year only to the extent that  
15      such loss does not exceed the excess (if any)  
16      of—

17                  “(i) the aggregate net income with re-  
18      spect to such interest for all prior partner-  
19      ship taxable years, over

20                  “(ii) the aggregate net loss with re-  
21      spect to such interest not disallowed under  
22      this subparagraph for all prior partnership  
23      taxable years.

24          “(B) CARRYFORWARD.—Any net loss for  
25      any partnership taxable year which is not al-

1           lowed by reason of subparagraph (A) shall be  
2           treated as an item of loss with respect to such  
3           partnership interest for the succeeding partner-  
4           ship taxable year.

5           “(C) BASIS ADJUSTMENT.—No adjustment  
6           to the basis of a partnership interest shall be  
7           made on account of any net loss which is not  
8           allowed by reason of subparagraph (A).

9           “(D) EXCEPTION FOR BASIS ATTRIB-  
10          UTABLE TO PURCHASE OF A PARTNERSHIP IN-  
11          TEREST.—In the case of an investment services  
12          partnership interest acquired by purchase, para-  
13          graph (1)(B) shall not apply to so much of any  
14          net loss with respect to such interest for any  
15          taxable year as does not exceed the excess of—

16                 “(i) the basis of such interest imme-  
17                 diately after such purchase, over

18                 “(ii) the aggregate net loss with re-  
19                 spect to such interest to which paragraph  
20                 (1)(B) did not apply by reason of this sub-  
21                 paragraph for all prior taxable years.

22          Any net loss to which paragraph (1)(B) does  
23          not apply by reason of this subparagraph shall  
24          not be taken into account under subparagraph  
25          (A).



1           “(E) PRIOR PARTNERSHIP YEARS.—Any  
2           reference in this paragraph to prior partnership  
3           taxable years shall only include prior partner-  
4           ship taxable years to which this section applies.

5           “(3) NET INCOME AND LOSS.—For purposes of  
6           this section—

7           “(A) NET INCOME.—The term ‘net in-  
8           come’ means, with respect to any investment  
9           services partnership interest, for any partner-  
10          ship taxable year, the excess (if any) of—

11           “(i) all items of income and gain  
12          taken into account by the holder of such  
13          interest under section 702 with respect to  
14          such interest for such year, over

15           “(ii) all items of deduction and loss so  
16          taken into account.

17          “(B) NET LOSS.—The term ‘net loss’  
18          means with respect to such interest for such  
19          year, the excess (if any) of the amount de-  
20          scribed in subparagraph (A)(ii) over the amount  
21          described in subparagraph (A)(i).

22          “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

23           “(1) GAIN.—Any gain on the disposition of an  
24          investment services partnership interest shall be

1 treated as ordinary income for the performance of  
2 services.

3 “(2) LOSS.—Any loss on the disposition of an  
4 investment services partnership interest shall be  
5 treated as an ordinary loss to the extent of the ex-  
6 cess (if any) of—

7 “(A) the aggregate net income with respect  
8 to such interest for all partnership taxable  
9 years, over

10 “(B) the aggregate net loss with respect to  
11 such interest allowed under subsection (a)(2)  
12 for all partnership taxable years.

13 “(3) DISPOSITION OF PORTION OF INTEREST.—  
14 In the case of any disposition of an investment serv-  
15 ices partnership interest, the amount of net loss  
16 which otherwise would have (but for subsection  
17 (a)(2)(C)) applied to reduce the basis of such inter-  
18 est shall be disregarded for purposes of this section  
19 for all succeeding partnership taxable years.

20 “(4) DISTRIBUTIONS OF PARTNERSHIP PROP-  
21 erty.—In the case of any distribution of appre-  
22 ciated property by a partnership with respect to any  
23 investment services partnership interest, gain shall  
24 be recognized by the partnership in the same man-  
25 ner as if the partnership sold such property at fair

1 market value at the time of the distribution. For  
2 purposes of this paragraph, the term ‘appreciated  
3 property’ means any property with respect to which  
4 gain would be determined if sold as described in the  
5 preceding sentence.

6 “(5) APPLICATION OF SECTION 751.—In apply-  
7 ing section 751(a), an investment services partner-  
8 ship interest shall be treated as an inventory item.

9 “(c) INVESTMENT SERVICES PARTNERSHIP INTER-  
10 EST.—For purposes of this section—

11 “(1) IN GENERAL.—The term ‘investment serv-  
12 ices partnership interest’ means any interest in a  
13 partnership which is held by any person if such per-  
14 son provides (directly or indirectly) a substantial  
15 quantity of any of the following services with respect  
16 to the assets of the partnership in the conduct of the  
17 trade or business of providing such services:

18 “(A) Advising as to the advisability of in-  
19 vesting in, purchasing, or selling any specified  
20 asset.

21 “(B) Managing, acquiring, or disposing of  
22 any specified asset.

23 “(C) Arranging financing with respect to  
24 acquiring specified assets.

1           “(D) Any activity in support of any service  
2           described in subparagraphs (A) through (C).

3           For purposes of this paragraph, the term ‘specified  
4           asset’ means securities (as defined in section  
5           475(c)(2) without regard to the last sentence there-  
6           of), real estate, commodities (as defined in section  
7           475(e)(2)), or options or derivative contracts with  
8           respect to securities (as so defined), real estate, or  
9           commodities (as so defined).

10           “(2) EXCEPTION FOR CERTAIN CAPITAL INTER-  
11           ESTS.—

12           “(A) IN GENERAL.—If—

13                   “(i) a portion of an investment serv-  
14                   ices partnership interest is acquired on ac-  
15                   count of a contribution of invested capital,  
16                   and

17                   “(ii) the partnership makes a reason-  
18                   able allocation of partnership items be-  
19                   tween the portion of the distributive share  
20                   that is with respect to invested capital and  
21                   the portion of such distributive share that  
22                   is not with respect to invested capital,

23           then subsection (a) shall not apply to the por-  
24           tion of the distributive share that is with re-  
25           spect to invested capital. An allocation will not

1 be treated as reasonable for purposes of this  
2 subparagraph if such allocation would result in  
3 the partnership allocating a greater portion of  
4 income to invested capital than any other part-  
5 ner not providing services would have been allo-  
6 cated with respect to the same amount of in-  
7 vested capital.

8 “(B) SPECIAL RULE FOR DISPOSITIONS.—

9 In any case to which subparagraph (A) applies,  
10 subsection (b) shall not apply to any gain or  
11 loss allocable to invested capital. The portion of  
12 any gain or loss attributable to invested capital  
13 is the proportion of such gain or loss which is  
14 based on the distributive share of gain or loss  
15 that would have been allocable to invested cap-  
16 ital under subparagraph (A) if the partnership  
17 sold all of its assets immediately before the dis-  
18 position.

19 “(C) INVESTED CAPITAL.—For purposes

20 of this paragraph, the term ‘invested capital’  
21 means, the fair market value at the time of con-  
22 tribution of any money or other property con-  
23 tributed to the partnership.

24 “(D) TREATMENT OF CERTAIN LOANS.—

1                   “(i) PROCEEDS OF PARTNERSHIP  
2                   LOANS NOT TREATED AS INVESTED CAP-  
3                   ITAL OF SERVICE PROVIDING PARTNERS.—  
4                   For purposes of this paragraph, an invest-  
5                   ment services partnership interest shall not  
6                   be treated as acquired on account of a con-  
7                   tribution of invested capital to the extent  
8                   that such capital is attributable to the pro-  
9                   ceeds of any loan or other advance made or  
10                  guaranteed, directly or indirectly, by any  
11                  partner or the partnership.

12                  “(ii) LOANS FROM NONSERVICE PRO-  
13                  VIDING PARTNERS TO THE PARTNERSHIP  
14                  TREATED AS INVESTED CAPITAL.—For  
15                  purposes of this paragraph, any loan or  
16                  other advance to the partnership made or  
17                  guaranteed, directly or indirectly, by a  
18                  partner not providing services to the part-  
19                  nership shall be treated as invested capital  
20                  of such partner and amounts of income  
21                  and loss treated as allocable to invested  
22                  capital shall be adjusted accordingly.

23                  “(d) OTHER INCOME AND GAIN IN CONNECTION  
24                  WITH INVESTMENT MANAGEMENT SERVICES.—

25                  “(1) IN GENERAL.—If—

1           “(A) a person performs (directly or indi-  
2           rectly) investment management services for any  
3           entity,

4           “(B) such person holds a disqualified in-  
5           terest with respect to such entity, and

6           “(C) the value of such interest (or pay-  
7           ments thereunder) is substantially related to  
8           the amount of income or gain (whether or not  
9           realized) from the assets with respect to which  
10          the investment management services are per-  
11          formed,

12          any income or gain with respect to such interest  
13          shall be treated as ordinary income for the perform-  
14          ance of services. Rules similar to the rules of sub-  
15          section (c)(2) shall apply where such interest was ac-  
16          quired on account of invested capital in such entity.

17          “(2) DEFINITIONS.—For purposes of this sub-  
18          section—

19                 “(A) DISQUALIFIED INTEREST.—The term  
20                 ‘disqualified interest’ means, with respect to  
21                 any entity—

22                         “(i) any interest in such entity other  
23                         than indebtedness,

24                         “(ii) convertible or contingent debt of  
25                         such entity,

1           “(iii) any option or other right to ac-  
2           quire property described in clause (i) or  
3           (ii), and

4           “(iv) any derivative instrument en-  
5           tered into (directly or indirectly) with such  
6           entity or any investor in such entity.

7           Such term shall not include a partnership inter-  
8           est and shall not include stock in a taxable cor-  
9           poration.

10           “(B) TAXABLE CORPORATION.—The term  
11           ‘taxable corporation’ means—

12           “(i) a domestic C corporation, or

13           “(ii) a foreign corporation subject to a  
14           comprehensive foreign income tax (as de-  
15           fined in section 457A(d)(4)).

16           “(C) INVESTMENT MANAGEMENT SERV-  
17           ICES.—The term ‘investment management serv-  
18           ices’ means a substantial quantity of any of the  
19           services described in subsection (c)(1) which are  
20           provided in the conduct of the trade or business  
21           of providing such services.

22           “(e) REGULATIONS.—The Secretary shall prescribe  
23           such regulations as are necessary or appropriate to carry  
24           out the purposes of this section, including regulations to—



1           “(1) prevent the avoidance of the purposes of  
2 this section, and

3           “(2) coordinate this section with the other pro-  
4 visions of this subchapter.

5           “(f) CROSS REFERENCE.—For 40 percent no fault  
6 penalty on certain underpayments due to the avoidance  
7 of this section, see section 6662.”.

8           (b) APPLICATION TO REAL ESTATE INVESTMENT  
9 TRUSTS.—Subsection (c) of section 856 is amended by  
10 adding at the end the following new paragraph:

11           “(8) EXCEPTION FROM RECHARACTERIZATION  
12 OF INCOME FROM INVESTMENT SERVICES PARTNER-  
13 SHIP INTERESTS.—

14           “(A) IN GENERAL.—Paragraphs (2), (3),  
15 and (4) shall be applied without regard to sec-  
16 tion 710 (relating to special rules for partners  
17 providing investment management services to  
18 partnership).

19           “(B) SPECIAL RULE FOR PARTNERSHIPS  
20 OWNED BY REITS.—Section 7704 shall be ap-  
21 plied without regard to section 710 in the case  
22 of a partnership which meets each of the fol-  
23 lowing requirements:

24           “(i) Such partnership is treated as  
25 publicly traded under section 7704 solely

1 by reason of interests in such partnership  
2 being convertible into interests in a real es-  
3 tate investment trust which is publicly  
4 traded.

5 “(ii) 50 percent or more of the capital  
6 and profits interests of such partnership  
7 are owned, directly or indirectly, at all  
8 times during the taxable year by such real  
9 estate investment trust (determined with  
10 the application of section 267(e)).

11 “(iii) Such partnership meets the re-  
12 quirements of paragraphs (2), (3), and (4)  
13 (applied without regard to section 710).”.

14 (c) IMPOSITION OF PENALTY ON UNDERPAY-  
15 MENTS.—

16 (1) IN GENERAL.—Subsection (b) of section  
17 6662 is amended by inserting after paragraph (5)  
18 the following new paragraph:

19 “(6) The application of subsection (d) of section  
20 710 or the regulations prescribed under section  
21 710(e) to prevent the avoidance of the purposes of  
22 section 710.”.

23 (2) AMOUNT OF PENALTY.—

1 (A) IN GENERAL.—Section 6662 is amend-  
2 ed by adding at the end the following new sub-  
3 section:

4 “(i) INCREASE IN PENALTY IN CASE OF PROPERTY  
5 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-  
6 ICES.—In the case of any portion of an underpayment to  
7 which this section applies by reason of subsection (b)(6),  
8 subsection (a) shall be applied with respect to such portion  
9 by substituting ‘40 percent’ for ‘20 percent’.”.

10 (B) CONFORMING AMENDMENTS.—Sub-  
11 paragraph (B) of section 6662A(e)(2) is  
12 amended—

13 (i) by striking “section 6662(h)” and  
14 inserting “subsection (h) or (i) of section  
15 6662”, and

16 (ii) by striking “GROSS VALUATION  
17 MISSTATEMENT PENALTY” in the heading  
18 and inserting “CERTAIN INCREASED UN-  
19 DERPAYMENT PENALTIES”.

20 (3) REASONABLE CAUSE EXCEPTION NOT AP-  
21 PPLICABLE.—Subsection (c) of section 6664 is  
22 amended—

23 (A) by redesignating paragraphs (2) and  
24 (3) as paragraphs (3) and (4), respectively,

1 (B) by striking “paragraph (2)” in para-  
2 graph (4), as so redesignated, and inserting  
3 “paragraph (3)”, and

4 (C) by inserting after paragraph (1) the  
5 following new paragraph:

6 “(2) EXCEPTION.—Paragraph (1) shall not  
7 apply to any portion of an underpayment to which  
8 this section applies by reason of subsection (b)(6).”.

9 (d) CONFORMING AMENDMENTS.—

10 (1) Subsection (d) of section 731 is amended by  
11 inserting “section 710(b)(4) (relating to distribu-  
12 tions of partnership property),” before “section  
13 736”.

14 (2) Section 741 is amended by inserting “or  
15 section 710 (relating to special rules for partners  
16 providing investment management services to part-  
17 nership)” before the period at the end.

18 (3) Paragraph (13) of section 1402(a) is  
19 amended—

20 (A) by striking “other than guaranteed”  
21 and inserting “other than—

22 “(A) guaranteed”,

23 (B) by striking the semi-colon at the end  
24 and inserting “, and”, and

1 (C) by adding at the end the following new  
2 subparagraph:

3 “(B) any income treated as ordinary in-  
4 come under section 710 received by an indi-  
5 vidual who provides investment management  
6 services (as defined in section 710(d)(2));”.

7 (4) Paragraph (12) of section 211(a) of the So-  
8 cial Security Act is amended—

9 (A) by striking “other than guaranteed”  
10 and inserting “other than—

11 “(A) guaranteed”,

12 (B) by striking the semi-colon at the end  
13 and inserting “, and”, and

14 (C) by adding at the end the following new  
15 subparagraph:

16 “(B) any income treated as ordinary in-  
17 come under section 710 of the Internal Revenue  
18 Code of 1986 received by an individual who  
19 provides investment management services (as  
20 defined in section 710(d)(2) of such Code);”.

21 (5) The table of sections for part I of sub-  
22 chapter K of chapter 1 is amended by adding at the  
23 end the following new item:

“Sec. 710. Special rules for partners providing investment management services  
to partnership.”.

24 (e) EFFECTIVE DATE.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2           vided in this subsection, the amendments made by  
3           this section shall apply to taxable years ending after  
4           \_\_\_\_\_.

5           (2) PARTNERSHIP TAXABLE YEARS WHICH IN-  
6           CLUDE EFFECTIVE DATE.—In applying section  
7           710(a) of the Internal Revenue Code of 1986 (as  
8           added by this section) in the case of any partnership  
9           taxable year which includes \_\_\_\_\_, the amount  
10          of the net income referred to in such section shall  
11          be treated as being the lesser of the net income for  
12          the entire partnership taxable year or the net income  
13          determined by only taking into account items attrib-  
14          utable to the portion of the partnership taxable year  
15          which is after such date.

16          (3) DISPOSITIONS OF PARTNERSHIP INTER-  
17          ESTS.—Except as provided in paragraph (3), section  
18          710(b) of the Internal Revenue Code of 1986 (as  
19          added by this section) shall apply to dispositions and  
20          distributions after \_\_\_\_\_.

21          (4) OTHER INCOME AND GAIN IN CONNECTION  
22          WITH INVESTMENT MANAGEMENT SERVICES.—Sec-  
23          tion 710(d) of such Code (as added by this section)  
24          shall take effect on \_\_\_\_\_.

1 **SEC. 1202. NONQUALIFIED DEFERRED COMPENSATION FOR**  
2 **INVESTMENT SERVICES.**

3 (a) IN GENERAL.—Subpart B of part II of sub-  
4 chapter E of chapter 1 (relating to taxable year for which  
5 items of gross income included) is amended by inserting  
6 after section 457 the following new section:

7 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION**  
8 **FOR INVESTMENT SERVICES.**

9 “(a) IN GENERAL.—Any compensation for invest-  
10 ment services which is deferred under a nonqualified de-  
11 ferred compensation plan of a nonqualified entity shall be  
12 taken into account for purposes of this chapter when there  
13 is no substantial risk of forfeiture of the rights to such  
14 compensation.

15 “(b) NONQUALIFIED ENTITY.—For purposes of this  
16 section, the term ‘nonqualified entity’ means—

17 “(1) any foreign corporation which has invest-  
18 ment related income unless substantially all of such  
19 income is—

20 “(A) effectively connected with the conduct  
21 of a trade or business in the United States, or

22 “(B) subject to a comprehensive foreign in-  
23 come tax, and

24 “(2) any partnership which has investment re-  
25 lated income unless substantially all of such income  
26 is allocated to persons other than—

1           “(A) foreign persons with respect to whom  
2           such income is not subject to a comprehensive  
3           foreign income tax, and

4           “(B) organizations which are exempt from  
5           tax under this title.

6           “(c) ASCERTAINABILITY OF AMOUNTS OF COM-  
7 PENSATION.—

8           “(1) IN GENERAL.—If the amount of any com-  
9           pensation is not ascertainable at the time that such  
10          compensation is otherwise to be taken into account  
11          under subsection (a)—

12           “(A) such amount shall be so taken into  
13           account when ascertainable, and

14           “(B) the tax imposed under this chapter  
15           for the taxable year in which such compensation  
16           is taken into account under subparagraph (A)  
17           shall be increased by the sum of—

18           “(i) the amount of interest determined  
19           under paragraph (2), and

20           “(ii) an amount equal to 20 percent of  
21           the amount of such compensation.

22           “(2) INTEREST.—For purposes of paragraph  
23           (1)(B)(i), the interest determined under this para-  
24           graph for any taxable year is the amount of interest  
25           at the underpayment rate under section 6621 plus



1 1 percentage point on the underpayments that would  
2 have occurred had the deferred compensation been  
3 includible in gross income for the taxable year in  
4 which first deferred or, if later, the first taxable year  
5 in which such deferred compensation is not subject  
6 to a substantial risk of forfeiture.

7 “(d) OTHER DEFINITIONS AND SPECIAL RULES.—  
8 For purposes of this section—

9 “(1) INVESTMENT SERVICES.—The term ‘in-  
10 vestment services’ means all services provided during  
11 any taxable year if a substantial quantity of such  
12 services are services described in section 710(c)(1).

13 “(2) INVESTMENT RELATED INCOME.—The  
14 term ‘investment related income’ means any income  
15 attributable (directly or indirectly) to—

16 “(A) the assets with respect to which the  
17 investment services referred in subsection (a)  
18 were performed, or

19 “(B) the investment services referred to in  
20 subsection (a).

21 “(3) SUBSTANTIAL RISK OF FORFEITURE.—The  
22 rights of a person to compensation shall be treated  
23 as subject to a substantial risk of forfeiture only if  
24 such person’s rights to such compensation are condi-

1 tioned upon the future performance of substantial  
2 services by any individual.

3 “(4) COMPREHENSIVE FOREIGN INCOME TAX.—  
4 The term ‘comprehensive foreign income tax’ means,  
5 with respect to any foreign person, the income tax  
6 of a foreign country if—

7 “(A) such person is eligible for the benefits  
8 of a comprehensive income tax treaty between  
9 such foreign country and the United States, or

10 “(B) such person demonstrates to the sat-  
11 isfaction of the Secretary that such foreign  
12 country has a comprehensive income tax.

13 Such term shall not include any tax unless such tax  
14 includes rules for the deductibility of deferred com-  
15 pensation which are similar to the rules of this title.

16 “(5) NONQUALIFIED DEFERRED COMPENSA-  
17 TION PLAN.—The term ‘nonqualified deferred com-  
18 pensation plan’ has the meaning given such term  
19 under section 409A(d), except that such term shall  
20 include any plan that provides a right to compensa-  
21 tion based on the appreciation in value of a specified  
22 number of equity units of the service recipient.

23 “(6) APPLICATION OF RULES.—Rules similar to  
24 the rules of paragraphs (5) and (6) of section  
25 409A(d) shall apply.

1       “(e) REGULATIONS.—The Secretary shall prescribe  
2 such regulations as may be necessary or appropriate to  
3 carry out the purposes of this section, including regula-  
4 tions disregarding a substantial risk of forfeiture in cases  
5 where necessary to carry out the purposes of this sec-  
6 tion.”.

7       (b) CONFORMING AMENDMENT.—Section 26(b)(2) is  
8 amended by striking “and” at the end of subparagraph  
9 (S), by striking the period at the end of subparagraph (T)  
10 and inserting “, and”, and by adding at the end the fol-  
11 lowing new subparagraph:

12                       “(U) section 457A(c)(1)(B) (relating to as-  
13                       certainty of amounts of compensation).”.

14       (c) CLERICAL AMENDMENT.—The table of sections  
15 of subpart B of part II of subchapter E of chapter 1 is  
16 amended by inserting after the item relating to section  
17 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation for investment services.”.

18       (d) EFFECTIVE DATE.—

19               (1) IN GENERAL.—The amendments made by  
20 this section shall apply to taxable years beginning  
21 after December 31, 2007.

22               (2) TREATMENT AS CHANGE IN METHOD OF AC-  
23               COUNTING.—For purposes of section 481 of the In-  
24               ternal Revenue Code of 1986—

1 (A) the amendments made by this section  
 2 shall be treated as a change in method of ac-  
 3 counting which is initiated by the taxpayer and  
 4 made with the consent of the Secretary of the  
 5 Treasury, and

6 (B) the period for taking into account the  
 7 adjustments under such section by reason of  
 8 such change shall be 4 years.

9 **SEC. 1203. INDEBTEDNESS INCURRED BY A PARTNERSHIP**  
 10 **IN ACQUIRING SECURITIES AND COMMOD-**  
 11 **ITIES NOT TREATED AS ACQUISITION IN-**  
 12 **DEBTEDNESS FOR ORGANIZATIONS WHICH**  
 13 **ARE PARTNERS WITH LIMITED LIABILITY.**

14 (a) IN GENERAL.—Subsection (c) of section 514 (re-  
 15 lating to acquisition indebtedness) is amended by adding  
 16 at the end the following new paragraph:

17 “(10) SECURITIES AND COMMODITIES AC-  
 18 QUIRED BY PARTNERSHIPS IN WHICH AN ORGANIZA-  
 19 TION IS A PARTNER WITH LIMITED LIABILITY.—

20 “(A) IN GENERAL.—In the case of any or-  
 21 ganization which is a partner with limited liabil-  
 22 ity in a partnership, the term ‘acquisition in-  
 23 debtedness’ does not, for purposes of this sec-  
 24 tion, include indebtedness incurred or continued

1 by such partnership in purchasing or carrying  
2 any qualified security or commodity.

3 “(B) QUALIFIED SECURITY OR COM-  
4 MODITY.—For purposes of this paragraph, the  
5 term ‘qualified security or commodity’ means  
6 any security (as defined in section 475(c)(2)  
7 without regard to the last sentence thereof),  
8 any commodity (as defined in section  
9 475(e)(2)), or any option or derivative contract  
10 with respect to such a security or commodity.

11 “(C) APPLICATION TO TIERED PARTNER-  
12 SHIPS AND OTHER PASS-THRU ENTITIES.—  
13 Rules similar to the rules of subparagraph (A)  
14 shall apply in the case of tiered partnerships  
15 and other pass-thru entities.

16 “(D) REGULATIONS.—The Secretary may  
17 prescribe such regulations as may be necessary  
18 or appropriate to carry out the purposes of this  
19 paragraph, including regulations to prevent the  
20 abuse of this paragraph.”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 this section shall apply to taxable years beginning after  
23 the date of the enactment of this Act.

1 **SEC. 1204. APPLICATION TO PARTNERSHIP INTERESTS AND**  
2 **TAX SHARING AGREEMENTS OF RULE TREAT-**  
3 **ING CERTAIN GAIN ON SALES BETWEEN RE-**  
4 **LATED PERSONS AS ORDINARY INCOME.**

5 (a) PARTNERSHIP INTERESTS.—Subsection (a) of  
6 section 1239 is amended to read as follows:

7 “(a) TREATMENT OF GAIN AS ORDINARY INCOME.—  
8 In the case of a sale or exchange of property, directly or  
9 indirectly, between related persons, any gain recognized to  
10 the transferor shall be treated as ordinary income if—

11 “(1) such property is, in the hands of the trans-  
12 feree, of a character which is subject to the allow-  
13 ance for depreciation provided in section 167, or

14 “(2) such property is an interest in a partner-  
15 ship, but only to the extent of gain attributable to  
16 unrealized appreciation in property which is of a  
17 character subject to the allowance for depreciation  
18 provided in section 167.”.

19 (b) TAX SHARING AGREEMENTS.—Section 1239 (re-  
20 lating to gain from sale of depreciable property between  
21 certain related taxpayers) is amended by adding at the  
22 end the following new subsection:

23 “(f) APPLICATION TO TAX SHARING AGREE-  
24 MENTS.—

25 “(1) IN GENERAL.—If there is a tax sharing  
26 agreement with respect to any sale or exchange, the

1 transferee and the transferor shall be treated as re-  
 2 lated persons for purposes of this section.

3 “(2) TAX SHARING AGREEMENT.—For purposes  
 4 of this subsection, the term ‘tax sharing agreement’  
 5 means any agreement which provides for the pay-  
 6 ment to the transferor of any amount which is deter-  
 7 mined by reference to any portion of the tax benefit  
 8 realized by the transferee with respect to the depre-  
 9 ciation (or amortization) of the property trans-  
 10 ferred.”.

11 (c) EFFECTIVE DATE.—The amendment made by  
 12 this section shall apply to sales and exchanges after the  
 13 date of the enactment of this Act.

14 **PART 2—SELF-EMPLOYMENT TAX TREATMENT**  
 15 **OF CERTAIN INTEREST HOLDERS IN SERV-**  
 16 **ICE PROVIDING ENTITIES**

17 **SEC. 1211. CERTAIN SERVICE PROVIDING S CORPORATION**  
 18 **SHAREHOLDERS AND PARTNERS SUBJECT TO**  
 19 **SELF-EMPLOYMENT TAXES.**

20 (a) IN GENERAL.—Section 1402 is amended by add-  
 21 ing at the end the following new subsection:

22 “(1) SPECIAL RULES FOR SERVICE PROVIDING S  
 23 CORPORATION SHAREHOLDERS AND PARTNERS.—

24 “(1) S CORPORATION SHAREHOLDERS.—In the  
 25 case of any S corporation which is engaged in a

1 trade or business consisting primarily of the per-  
2 formance of services, any shareholder of such S cor-  
3 poration who provides substantial services with re-  
4 spect to such trade or business shall take into ac-  
5 count such shareholder's pro rata share of all items  
6 of income or loss described in section 1366 which  
7 are attributable to such trade or business in deter-  
8 mining the shareholder's net earnings from self-em-  
9 ployment.

10 “(2) PARTNERS.—In the case of any partner-  
11 ship which is engaged in a trade or business con-  
12 sisting primarily of the performance of services, sub-  
13 section (a)(13) shall not apply to any partner who  
14 provides substantial services with respect to such  
15 trade or business.

16 “(3) REGULATIONS.—The Secretary shall pre-  
17 scribe such regulations as may be necessary or ap-  
18 propriate to carry out the purposes of this sub-  
19 section, including regulations which prevent the  
20 avoidance of the purposes of this subsection through  
21 tiered entities or otherwise.

22 “(4) CROSS REFERENCE.—For employment tax  
23 treatment of wages paid to shareholders of S cor-  
24 porations, see subtitle C.”.



1 (b) CONFORMING AMENDMENT.—Section 211 of the  
2 Social Security Act is amended by adding at the end the  
3 following new subsection:

4 “(k) SPECIAL RULES FOR SERVICE PROVIDING S  
5 CORPORATION SHAREHOLDERS AND PARTNERS.—

6 “(1) S CORPORATION SHAREHOLDERS.—In the  
7 case of any S corporation which is engaged in a  
8 trade or business consisting primarily of the per-  
9 formance of services, any shareholder of such S cor-  
10 poration who provides substantial services with re-  
11 spect to such trade or business shall take into ac-  
12 count such shareholder’s pro rata share of all items  
13 of income and loss described in section 1366 of the  
14 Internal Revenue Code of 1986 which are attrib-  
15 utable to such trade or business in determining the  
16 shareholder’s net earnings from self-employment.

17 “(2) PARTNERS.—In the case of any partner-  
18 ship which is engaged in a trade or business con-  
19 sisting primarily of the performance of services, sub-  
20 section (a)(12) shall not apply to any partner who  
21 provides substantial services with respect to such  
22 trade or business.”.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2007.

1   **PART 3—BROKER REPORTING OF CUSTOMER’S**  
2           **BASIS IN SECURITIES TRANSACTIONS**  
3   **SEC. 1221. BROKER REPORTING OF CUSTOMER’S BASIS IN**  
4           **SECURITIES TRANSACTIONS.**

5           (a) IN GENERAL.—

6                   (1) BROKER REPORTING FOR SECURITIES  
7           TRANSACTIONS.—Section 6045 (relating to returns  
8           of brokers) is amended by adding at the end the fol-  
9           lowing new subsection:

10           “(g) ADDITIONAL INFORMATION REQUIRED IN THE  
11   CASE OF SECURITIES TRANSACTIONS.—

12                   “(1) IN GENERAL.—If a broker is otherwise re-  
13           quired to make a return under subsection (a) with  
14           respect to the gross proceeds of the sale of a covered  
15           security, the broker shall include in such return the  
16           information described in paragraph (2).

17                   “(2) ADDITIONAL INFORMATION REQUIRED.—

18                           “(A) IN GENERAL.—The information re-  
19           quired under paragraph (1) to be shown on a  
20           return with respect to a covered security of a  
21           customer shall include the customer’s adjusted  
22           basis in such security and whether any gain or  
23           loss with respect to such security is long-term  
24           or short-term (within the meaning of section  
25           1222).

1                   “(B) DETERMINATION OF ADJUSTED  
2 BASIS.—For purposes of subparagraph (A)—

3                   “(i) IN GENERAL.—The customer’s  
4 adjusted basis shall be determined—

5                   “(I) in the case of any stock  
6 (other than any stock in an open-end  
7 fund), in accordance with the first-in  
8 first-out method unless the customer  
9 notifies the broker by means of mak-  
10 ing an adequate identification of the  
11 stock sold or transferred,

12                   “(II) in the case of any interest  
13 in an open-end fund acquired before  
14 January 1, 2011, in accordance with  
15 any acceptable method under section  
16 1012 with respect to the account in  
17 which such interest is held,

18                   “(III) in the case of any interest  
19 in an open-end fund acquired after  
20 December 31, 2010, in accordance  
21 with the broker’s default method un-  
22 less the customer notifies the broker  
23 that he elects another acceptable  
24 method under section 1012 with re-

1                   spect to the account in which such in-  
2                   terest is held, and

3                   “(IV) in any other case, under  
4                   the method for making such deter-  
5                   mination under section 1012.

6                   “(ii) EXCEPTION FOR WASH SALES.—  
7                   Except as otherwise provided by the Sec-  
8                   retary, the customer’s adjusted basis shall  
9                   be determined without regard to section  
10                  1091 (relating to loss from wash sales of  
11                  stock or securities) unless the transactions  
12                  occur in the same account with respect to  
13                  identical securities.

14                  “(3) COVERED SECURITY.—For purposes of  
15                  this subsection—

16                  “(A) IN GENERAL.—The term ‘covered se-  
17                  curity’ means any specified security acquired on  
18                  or after the applicable date if such security—

19                          “(i) was acquired through a trans-  
20                          action in the account in which such secu-  
21                          rity is held, or

22                          “(ii) was transferred to such account  
23                          from an account in which such security  
24                          was a covered security, but only if the

1 broker received a statement under section  
2 6045A with respect to the transfer.

3 “(B) SPECIFIED SECURITY.—The term  
4 ‘specified security’ means—

5 “(i) any share of stock in a corpora-  
6 tion,

7 “(ii) any note, bond, debenture, or  
8 other evidence of indebtedness,

9 “(iii) any commodity, or contract or  
10 derivative with respect to such commodity,  
11 if the Secretary determines that adjusted  
12 basis reporting is appropriate for purposes  
13 of this subsection, and

14 “(iv) any other financial instrument  
15 with respect to which the Secretary deter-  
16 mines that adjusted basis reporting is ap-  
17 propriate for purposes of this subsection.

18 “(C) APPLICABLE DATE.—The term ‘appli-  
19 cable date’ means—

20 “(i) January 1, 2009, in the case of  
21 any specified security which is stock in a  
22 corporation, and

23 “(ii) January 1, 2011, or such later  
24 date determined by the Secretary in the  
25 case of any other specified security.

1           “(4) OPEN-END FUND.—For purposes of this  
2 subsection, the term ‘open-end fund’ means a regu-  
3 lated investment company (as defined in section  
4 851) which is offering for sale or has outstanding  
5 any redeemable security of which it is the issuer and  
6 the shares of which are not traded on an established  
7 securities exchange.

8           “(5) TREATMENT OF S CORPORATIONS.—For  
9 purposes of this section, a S corporation (other than  
10 a financial institution) shall be treated in the same  
11 manner as a partnership.”.

12           (2) BROKER INFORMATION REQUIRED WITH RE-  
13 SPECT TO PUBLICLY TRADED OPTIONS.—Section  
14 6045, as amended by subsection (a), is amended by  
15 adding at the end the following new subsection:

16           “(h) APPLICATION TO OPTIONS ON COVERED SECURITIES.—  
17

18           “(1) EXERCISE OF OPTION.—For purposes of  
19 this section, in the case of any exercise of an option  
20 on a covered security where the taxpayer is the  
21 grantor of the option and the option was acquired in  
22 the same account as the covered security, the  
23 amount received for the grant of an option on a cov-  
24 ered security shall be treated as an adjustment to  
25 gross proceeds or as an adjustment to basis, as the

1 case may be. A similar rule shall apply in the case  
2 of the exercise of an option where the taxpayer is  
3 not the grantor of the option.

4 “(2) LAPSE OR CLOSING TRANSACTION.—For  
5 purposes of this section, in the case of the lapse (or  
6 closing transaction (as defined in section  
7 1234(b)(2)(A))) of an option on a covered security  
8 where the taxpayer is the grantor of the option, this  
9 section shall apply as if the premium received for  
10 such option were gross proceeds received on the date  
11 of the lapse or closing transaction, and the cost (if  
12 any) of the closing transaction shall be taken into  
13 account as adjusted basis. A similar rule shall apply  
14 in the case of a lapse or closing transaction where  
15 the taxpayer is not the grantor of the option.

16 “(3) APPLICATION LIMITED TO OPTIONS  
17 GRANTED ON OR AFTER APPLICABLE DATE.—Para-  
18 graphs (1) and (2) shall not apply to any option on  
19 a covered security which is granted or acquired be-  
20 fore the applicable date with respect to such covered  
21 security.

22 “(4) DEFINITIONS.—For purposes of this sub-  
23 section, the terms ‘covered security’ and ‘applicable  
24 date’ shall have the meaning given such terms in  
25 subsection (g)(3).”.

1           (3) EXTENSION OF PERIOD FOR STATEMENTS  
2 SENT TO CUSTOMERS.—

3           (A) IN GENERAL.—Subsection (b) of sec-  
4 tion 6045 is amended by striking “January 31”  
5 and inserting “February 15”.

6           (B) STATEMENTS RELATED TO SUB-  
7 STITUTE PAYMENTS.—Subsection (d) of section  
8 6045 is amended—

9           (i) by striking “at such time and”,  
10 and

11           (ii) by inserting after “other item.”  
12 the following new sentence: “The written  
13 statement required under the preceding  
14 sentence shall be furnished on or before  
15 February 15 of the year following the cal-  
16 endar year during which such payment was  
17 made.”.

18           (C) OTHER STATEMENTS.—Subsection (b)  
19 of section 6045 is amended by adding at the  
20 end the following: “In the case that a substan-  
21 tial portion of the assets in the account of a  
22 customer gives rise to the requirement to fur-  
23 nish a statement under this subsection, section  
24 6042(c), 6049(c)(2)(A), or 6050N(b), any  
25 statement otherwise required to be furnished to



1           the customer with respect to any item in such  
2           account on or before January 31 shall instead  
3           be required to be furnished to such customer on  
4           or before February 15.”.

5           (b) DETERMINATION OF BASIS OF CERTAIN SECURI-  
6   TIES ON ACCOUNT BY ACCOUNT METHOD.—Section 1012  
7   (relating to basis of property–cost) is amended—

8           (1) by striking “The basis of property” and in-  
9           serting the following:

10          “(a) IN GENERAL.—The basis of property”,

11           (2) by striking “The cost of real property” and  
12          inserting the following:

13          “(b) SPECIAL RULE FOR APPORTIONED REAL ES-  
14   TATE TAXES.—The cost of real property”, and

15           (3) by adding at the end the following new sub-  
16          section:

17          “(c) DETERMINATIONS BY ACCOUNT.—

18           “(1) IN GENERAL.—In the case of the sale, ex-  
19          change, or other disposition of a specified security  
20          on or after the applicable date, the conventions pre-  
21          scribed by regulations under this section shall be ap-  
22          plied on an account by account basis.

23           “(2) APPLICATION TO OPEN-END FUNDS.—

24           “(A) IN GENERAL.—Except as provided in  
25          subparagraph (B), any stock in an open-end

1 fund acquired before January 1, 2009, shall be  
2 treated as a separate account from any such  
3 stock acquired on or after such date.

4 “(B) ELECTION BY OPEN-END FUND FOR  
5 TREATMENT AS SINGLE ACCOUNT.—If an open-  
6 end fund elects (at such time and in such form  
7 and manner as the Secretary may prescribe) to  
8 have this subparagraph apply with respect to  
9 one or more of its stockholders—

10 “(i) subparagraph (A) shall not apply  
11 with respect to any stock in such fund held  
12 by such stockholders, and

13 “(ii) all stock in such fund which is  
14 held by such stockholders shall be treated  
15 as covered securities described in section  
16 6045(g)(3) without regard to the date of  
17 the acquisition of such stock.

18 “(3) DEFINITIONS.—For purposes of this sec-  
19 tion, the terms ‘specified security’, ‘applicable date’,  
20 and ‘open-end fund’ shall have the meaning given  
21 such terms in section 6045(g).”.

22 (c) INFORMATION BY TRANSFERORS TO AID BRO-  
23 KERS.—

1           (1) IN GENERAL.—Subpart B of part III of  
2           subchapter A of chapter 61 is amended by inserting  
3           after section 6045 the following new section:

4   **“SEC. 6045A. INFORMATION REQUIRED IN CONNECTION**  
5                           **WITH TRANSFERS OF COVERED SECURITIES**  
6                           **TO BROKERS.**

7           “(a) FURNISHING OF INFORMATION.—Every applica-  
8           ble person which transfers to a broker (as defined in sec-  
9           tion 6045(c)(1)) a security which is a covered security (as  
10          defined in section 6045(g)(3)) in the hands of such appli-  
11          cable person shall furnish to such broker a written state-  
12          ment in such manner and setting forth such information  
13          as the Secretary may by regulations prescribe for purposes  
14          of enabling such broker to meet the requirements of sec-  
15          tion 6045(g).

16          “(b) APPLICABLE PERSON.—For purposes of sub-  
17          section (a), the term ‘applicable person’ means—

18                  “(1) any broker (as defined in section  
19                  6045(c)(1)), and

20                  “(2) any other person as provided by the Sec-  
21                  retary in regulations.

22          “(c) TIME FOR FURNISHING STATEMENT.—Any  
23          statement required by subsection (a) shall be furnished  
24          not later than the earlier of—

1           “(1) 45 days after the date of the transfer de-  
2           scribed in subsection (a), or

3           “(2) January 15 of the year following the cal-  
4           endar year during which such transfer occurred.”.

5           (2) ASSESSABLE PENALTIES.—Paragraph (2)  
6           of section 6724(d) (defining payee statement) is  
7           amended by redesignating subparagraphs (I)  
8           through (CC) as subparagraphs (J) through (DD),  
9           respectively, and by inserting after subparagraph  
10          (H) the following new subparagraph:

11                  “(I) section 6045A (relating to information  
12                  required in connection with transfers of covered  
13                  securities to brokers).”.

14          (3) CLERICAL AMENDMENT.—The table of sec-  
15          tions for subpart B of part III of subchapter A of  
16          chapter 61 is amended by inserting after the item  
17          relating to section 6045 the following new item:

                “Sec. 6045A. Information required in connection with transfers of covered se-  
                curities to brokers.”.

18          (d) ADDITIONAL ISSUER INFORMATION TO AID BRO-  
19          KERS.—

20                  (1) IN GENERAL.—Subpart B of part III of  
21                  subchapter A of chapter 61 of the Internal Revenue  
22                  Code of 1986, as amended by subsection (b), is  
23                  amended by inserting after section 6045A the fol-  
24                  lowing new section:

1 **“SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING**  
2 **BASIS OF SPECIFIED SECURITIES.**

3 “(a) IN GENERAL.—According to the forms or regu-  
4 lations prescribed by the Secretary, any issuer of a speci-  
5 fied security shall make a return setting forth—

6 “(1) a description of any organizational action  
7 which affects the basis of such specified security of  
8 such issuer,

9 “(2) the quantitative effect on the basis of such  
10 specified security resulting from such action, and

11 “(3) such other information as the Secretary  
12 may prescribe.

13 “(b) TIME FOR FILING RETURN.—Any return re-  
14 quired by subsection (a) shall be filed not later than the  
15 earlier of—

16 “(1) 45 days after the date of the action de-  
17 scribed in subsection (a), or

18 “(2) January 31 of the year following the cal-  
19 endar year during which such action occurred.

20 “(c) STATEMENTS TO BE FURNISHED TO HOLDERS  
21 OF SPECIFIED SECURITIES OR THEIR NOMINEES.—Ac-  
22 cording to the forms or regulations prescribed by the Sec-  
23 retary, every person required to make a return under sub-  
24 section (a) with respect to a specified security shall furnish  
25 to the nominee with respect to the specified security (or

1 certificate holder if there is no nominee) a written state-  
2 ment showing—

3           “(1) the name, address, and phone number of  
4           the information contact of the person required to  
5           make such return,

6           “(2) the information required to be shown on  
7           such return with respect to such security, and

8           “(3) such other information as the Secretary  
9           may prescribe.

10 The written statement required under the preceding sen-  
11 tence shall be furnished to the holder on or before January  
12 31 of the year following the calendar year during which  
13 the action described in subsection (a) occurred.

14           “(d) SPECIFIED SECURITY.—For purposes of this  
15 section, the term ‘specified security’ has the meaning given  
16 such term by section 6045(g)(3)(B). No return shall be  
17 required under this section with respect to actions de-  
18 scribed in subsection (a) with respect to a specified secu-  
19 rity which occur before the applicable date (as defined in  
20 section 6045(g)(3)(C) with respect to such security.

21           “(e) PUBLIC REPORTING IN LIEU OF RETURN.—The  
22 Secretary may waive the requirement to file a return  
23 under subsections (a) and (c) with respect to a specified  
24 security, if the person required to make the return under  
25 subsections (a) and (c) makes publicly available, in such

1 form and manner as the Secretary determines necessary  
2 to carry out the purposes of this section—

3 “(1) the name, address, phone number, and  
4 email address of the information contact of such  
5 person, and

6 “(2) the information described in paragraphs  
7 (1), (2), and (3) of subsection (a).”.

8 (2) ASSESSABLE PENALTIES.—

9 (A) Subparagraph (B) of section  
10 6724(d)(1) of such Code (defining information  
11 return) is amended by redesignating clauses (iv)  
12 through (xix) as clauses (v) through (xx), re-  
13 spectively, and by inserting after clause (iii) the  
14 following new clause:

15 “(iv) section 6045B(a) (relating to re-  
16 turns relating to actions affecting basis of  
17 specified securities),”.

18 (B) Paragraph (2) of section 6724(d) of  
19 such Code (defining payee statement), as  
20 amended by subsection (c)(2), is amended by  
21 redesignating subparagraphs (J) through (DD)  
22 as subparagraphs (K) through (EE), respec-  
23 tively, and by inserting after subparagraph (I)  
24 the following new subparagraph:

1           “(J) subsections (d) and (e) of section  
2           6045B (relating to returns relating to actions  
3           affecting basis of specified securities).”.

4           (3) CLERICAL AMENDMENT.—The table of sec-  
5           tions for subpart B of part III of subchapter A of  
6           chapter 61 of such Code, as amended by subsection  
7           (b)(3), is amended by inserting after the item relat-  
8           ing to section 6045A the following new item:

          “Sec. 6045B. Returns relating to actions affecting basis of specified securi-  
          ties.”.

9           (e) EFFECTIVE DATE.—The amendments made by  
10          this section shall take effect on January 1, 2009.

## 11 **TITLE II—ONE-YEAR EXTENDERS**

### 12 **SEC. 2001. RESEARCH CREDIT.**

13          (a) IN GENERAL.—Subparagraph (B) of section  
14          41(h)(1) (relating to termination) is amended by striking  
15          “December 31, 2007” and inserting “December 31,  
16          2008”.

17          (b) CONFORMING AMENDMENT.—Subparagraph (D)  
18          of section 45C(b)(1) (relating to qualified clinical testing  
19          expenses) is amended by striking “December 31, 2007”  
20          and inserting “December 31, 2008”.

21          (c) EFFECTIVE DATE.—The amendments made by  
22          this section shall apply to amounts paid or incurred after  
23          December 31, 2007.



1 **SEC. 2002. INDIAN EMPLOYMENT CREDIT.**

2 (a) IN GENERAL.—Subsection (f) of section 45A (re-  
3 lating to termination) is amended by striking “December  
4 31, 2007” and inserting “December 31, 2008”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to taxable years beginning after  
7 December 31, 2007.

8 **SEC. 2003. NEW MARKETS TAX CREDIT.**

9 Subparagraph (D) of section 45D(f)(1) (relating to  
10 national limitation on amount of investments designated)  
11 is amended by striking “and 2008” and inserting “2008,  
12 and 2009”.

13 **SEC. 2004. RAILROAD TRACK MAINTENANCE.**

14 (a) IN GENERAL.—Subsection (f) of section 45G (re-  
15 lating to application of section) is amended by striking  
16 “January 1, 2008” and inserting “January 1, 2009”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to expenditures paid or incurred  
19 during taxable years beginning after December 31, 2007.

20 **SEC. 2005. MORTGAGE INSURANCE PREMIUMS TREATED AS**  
21 **INTEREST.**

22 (a) IN GENERAL.—Subclause (I) of section  
23 163(h)(3)(E)(iv) (relating to termination) is amended by  
24 striking “December 31, 2007” and inserting “December  
25 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to amounts paid or accrued after  
3 December 31, 2007.

4 **SEC. 2006. DEDUCTION FOR STATE AND LOCAL SALES**  
5 **TAXES.**

6 (a) IN GENERAL.—Subparagraph (I) of section  
7 164(b)(5) is amended by striking “January 1, 2008” and  
8 inserting “January 1, 2009”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to taxable years beginning after  
11 December 31, 2007.

12 **SEC. 2007. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**  
13 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**  
14 **AND QUALIFIED RESTAURANT PROPERTY.**

15 (a) IN GENERAL.—Clauses (iv) and (v) of section  
16 168(e)(3)(E) (relating to 15-year property) are each  
17 amended by striking “January 1, 2008” and inserting  
18 “January 1, 2009”.

19 (b) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to property placed in service after  
21 December 31, 2007.

22 **SEC. 2008. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**  
23 **TOSPORTS RACING TRACK FACILITY.**

24 (a) IN GENERAL.—Subparagraph (D) of section  
25 168(i)(15) (relating to termination) is amended by strik-

1 ing “December 31, 2007” and inserting “December 31,  
2 2008”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to property placed in service after  
5 December 31, 2007.

6 **SEC. 2009. ACCELERATED DEPRECIATION FOR BUSINESS**  
7 **PROPERTY ON INDIAN RESERVATION.**

8 (a) IN GENERAL.—Paragraph (8) of section 168(j)  
9 (relating to termination) is amended by striking “Decem-  
10 ber 31, 2007” and inserting “December 31, 2008”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to property placed in service after  
13 December 31, 2007.

14 **SEC. 2010. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
15 **COSTS.**

16 (a) IN GENERAL.—Subsection (h) of section 198 (re-  
17 lating to termination) is amended by striking “December  
18 31, 2007” and inserting “December 31, 2008”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to expenditures paid or incurred  
21 after December 31, 2007.

1 **SEC. 2011. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**  
2 **COME ATTRIBUTABLE TO DOMESTIC PRO-**  
3 **DUCTION ACTIVITIES IN PUERTO RICO.**

4 (a) IN GENERAL.—Subparagraph (C) of section  
5 199(d)(8) (relating to termination) is amended—

6 (1) by striking “first 2 taxable years” and in-  
7 serting “first 3 taxable years”, and

8 (2) by striking “January 1, 2008” and insert-  
9 ing “January 1, 2009”.

10 (b) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2007.

13 **SEC. 2012. DEDUCTION OF QUALIFIED TUITION AND RE-**  
14 **LATED EXPENSES.**

15 (a) IN GENERAL.—Subsection (e) of section 222 (re-  
16 lating to termination) is amended by striking “December  
17 31, 2007” and inserting “December 31, 2008”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to taxable years beginning after  
20 December 31, 2007.

21 **SEC. 2013. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
22 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
23 **NIZATIONS.**

24 (a) IN GENERAL.—Clause (iv) of section  
25 512(b)(13)(E) (relating to termination) is amended by

1 striking “December 31, 2007” and inserting “December  
2 31, 2008”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to payments received or accrued  
5 after December 31, 2007.

6 **SEC. 2014. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**  
7 **LATED INVESTMENT COMPANIES.**

8 (a) INTEREST-RELATED DIVIDENDS.—Subpara-  
9 graph (C) of section 871(k)(1) (defining interest-related  
10 dividend) is amended by striking “December 31, 2007”  
11 and inserting “December 31, 2008”.

12 (b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Sub-  
13 paragraph (C) of section 871(k)(2) (defining short-term  
14 capital gain dividend) is amended by striking “December  
15 31, 2007” and inserting “December 31, 2008”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to dividends with respect to taxable  
18 years of regulated investment companies beginning after  
19 December 31, 2007.

20 **SEC. 2015. EXTENSION AND MODIFICATION OF CREDIT TO**  
21 **HOLDERS OF QUALIFIED ZONE ACADEMY**  
22 **BONDS.**

23 (a) IN GENERAL.—Subsection (e) of section 1397E  
24 (relating to limitation on amount of bonds designated) is  
25 amended by striking “1998, 1999, 2000, 2001, 2002,

1 2003, 2004, 2005, 2006, and 2007” and inserting “each  
2 of calendar years 1998 through 2008”.

3 (b) MODIFICATION OF ARBITRAGE RULES.—

4 (1) IN GENERAL.—Subsection (g) of section  
5 1397E (relating to special rules relating to arbi-  
6 trage) is amended to read as follows:

7 “(g) SPECIAL RULES RELATING TO ARBITRAGE.—

8 “(1) IN GENERAL.—An issue shall be treated as  
9 meeting the requirements of this subsection if the  
10 issuer satisfies the requirements of section 148 with  
11 respect to the proceeds of the issue.

12 “(2) SPECIAL RULE FOR INVESTMENTS DURING  
13 EXPENDITURE PERIOD.—An issue shall not be treat-  
14 ed as failing to meet the requirements of paragraph  
15 (1) by reason of any investment of available project  
16 proceeds during the 5-year period described in sub-  
17 section (f)(1)(A) (including any extension of such  
18 period under subsection (f)(2)).

19 “(3) SPECIAL RULE FOR RESERVE FUNDS.—An  
20 issue shall not be treated as failing to meet the re-  
21 quirements of paragraph (1) by reason of any fund  
22 which is expected to be used to repay such issue if—

23 “(A) such fund is funded at a rate not  
24 more rapid than equal annual installments,

1           “(B) such fund is funded in a manner that  
2           such fund will not exceed the amount necessary  
3           to repay the issue if invested at the maximum  
4           rate permitted under subparagraph (C), and

5           “(C) the yield on such fund is not greater  
6           than the discount rate determined under sub-  
7           section (d)(3) with respect to the issue.”.

8           (2) APPLICATION OF AVAILABLE PROJECT PRO-  
9           CEEDS TO OTHER REQUIREMENTS.—Subsections  
10          (d)(1)(A), (d)(2)(A), (f)(1)(A), (f)(1)(B), (f)(1)(C),  
11          and (f)(3) of section 1397E are each amended by  
12          striking “proceeds” and inserting “available project  
13          proceeds”

14          (3) AVAILABLE PROJECT PROCEEDS DE-  
15          FINED.—Subsection (i) of section 1397E (relating to  
16          definitions) is amended by adding at the end the fol-  
17          lowing new paragraph:

18                 “(4) AVAILABLE PROJECT PROCEEDS.—The  
19          term ‘available project proceeds’ means—

20                         “(A) the excess of—

21                                 “(i) the proceeds from the sale of an  
22                                 issue, over

23                                 “(ii) the issuance costs financed by  
24                                 the issue (to the extent that such costs do

1 not exceed 2 percent of such proceeds),  
2 and

3 “(B) the proceeds from any investment of  
4 the excess described in subparagraph (A).”.

5 (c) EFFECTIVE DATE.—

6 (1) EXTENSION.—The amendment made by  
7 subsection (a) shall apply to obligations issued after  
8 December 31, 2007.

9 (2) MODIFICATION OF ARBITRAGE RULES.—  
10 The amendments made by subsection (b) shall apply  
11 to obligations issued after the date of the enactment  
12 of this Act.

13 **SEC. 2016. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
14 **TRICT OF COLUMBIA.**

15 (a) DESIGNATION OF ZONE.—

16 (1) IN GENERAL.—Subsection (f) of section  
17 1400 is amended by striking “2007” both places it  
18 appears and inserting “2008”.

19 (2) EFFECTIVE DATE.—The amendments made  
20 by this subsection shall apply to periods beginning  
21 after December 31, 2007.

22 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT  
23 BONDS.—



1           (1) IN GENERAL.—Subsection (b) of section  
2           1400A is amended by striking “2007” and inserting  
3           “2008”.

4           (2) EFFECTIVE DATE.—The amendment made  
5           by this subsection shall apply to bonds issued after  
6           December 31, 2007.

7           (c) ZERO PERCENT CAPITAL GAINS RATE.—

8           (1) IN GENERAL.—Subsection (b) of section  
9           1400B is amended by striking “2008” each place it  
10          appears and inserting “2009”.

11          (2) CONFORMING AMENDMENTS.—

12           (A) Section 1400B(e)(2) is amended—

13           (i) by striking “2012” and inserting  
14           “2013”, and

15           (ii) by striking “2012” in the heading  
16           thereof and inserting “2013”.

17           (B) Section 1400B(g)(2) is amended by  
18           striking “2012” and inserting “2013”.

19           (C) Section 1400F(d) is amended by strik-  
20           ing “2012” and inserting “2013”.

21          (3) EFFECTIVE DATES.—

22           (A) EXTENSION.—The amendments made  
23           by paragraph (1) shall apply to acquisitions  
24           after December 31, 2007.

1 (B) CONFORMING AMENDMENTS.—The  
2 amendments made by paragraph (2) shall take  
3 effect on the date of the enactment of this Act.

4 (d) FIRST-TIME HOMEBUYER CREDIT.—

5 (1) IN GENERAL.—Subsection (i) of section  
6 1400C is amended by striking “2008” and inserting  
7 “2009”.

8 (2) EFFECTIVE DATE.—The amendment made  
9 by this subsection shall apply to property purchased  
10 after December 31, 2007.

11 **SEC. 2017. DISCLOSURE FOR COMBINED EMPLOYMENT TAX**  
12 **REPORTING.**

13 (a) IN GENERAL.—Subparagraph (B) of section  
14 6103(d)(5) (relating to termination) is amended by strik-  
15 ing “December 31, 2007” and inserting “December 31,  
16 2008”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 this section shall apply to disclosures after December 31,  
19 2007.

20 **SEC. 2018. DISCLOSURE OF RETURN INFORMATION TO AP-**  
21 **PROPRIATE APPROPRIATE OFFICIALS OF TER-**  
22 **RORIST ACTIVITIES.**

23 (a) IN GENERAL.—Clause (iv) of section  
24 6103(i)(3)(C) (relating to termination) is amended by

1 striking “December 31, 2007” and inserting “December  
2 31, 2008”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to disclosures after December 31,  
5 2007.

6 **SEC. 2019. DISCLOSURE UPON REQUEST OF INFORMATION**  
7 **RELATING TO TERRORIST ACTIVITIES.**

8 (a) IN GENERAL.—Subparagraph (E) of section  
9 6103(i)(7) (relating to termination) is amended by strik-  
10 ing “December 31, 2007” and inserting “December 31,  
11 2008”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to disclosures after December 31,  
14 2007.

15 **SEC. 2020. DISCLOSURE OF RETURN INFORMATION TO**  
16 **CARRY OUT INCOME CONTINGENT REPAY-**  
17 **MENT OF STUDENT LOANS.**

18 (a) IN GENERAL.—Subparagraph (D) of section  
19 6103(l)(13) (relating to termination) is amended by strik-  
20 ing “December 31, 2007” and inserting “December 31,  
21 2008”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall apply to requests made after December  
24 31, 2007.

1 **SEC. 2021. AUTHORITY FOR UNDERCOVER OPERATIONS.**

2 (a) IN GENERAL.—Paragraph (6) of section 7608(c)  
3 (relating to application of section) is amended by striking  
4 “January 1, 2008” each place it appears and inserting  
5 “January 1, 2009”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall take effect on January 1, 2008.

8 **SEC. 2022. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**  
9 **CISE TAX TO PUERTO RICO AND THE VIRGIN**  
10 **ISLANDS.**

11 (a) IN GENERAL.—Paragraph (1) of section 7652(f)  
12 is amended by striking “January 1, 2008” and inserting  
13 “January 1, 2009”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to distilled spirits brought into the  
16 United States after December 31, 2007.

17 **SEC. 2023. PARITY IN THE APPLICATION OF CERTAIN LIM-**  
18 **ITS TO MENTAL HEALTH BENEFITS.**

19 (a) IN GENERAL.—Paragraph (3) of section 9812(f)  
20 (relating to application of section) is amended by striking  
21 “December 31, 2007” and inserting “December 31,  
22 2008”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to benefits for services furnished  
25 after December 31, 2007.

1 **SEC. 2024. EXTENSION OF ECONOMIC DEVELOPMENT**  
2 **CREDIT FOR AMERICAN SAMOA.**

3 (a) IN GENERAL.—Subsection (d) of section 119 of  
4 division A of the Tax Relief and Health Care Act of 2006  
5 is amended—

6 (1) by striking “first two taxable years” and in-  
7 serting “first 3 taxable years”, and

8 (2) by striking “January 1, 2008” and insert-  
9 ing “January 1, 2009”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2007.

13 **SEC. 2025. QUALIFIED CONSERVATION CONTRIBUTIONS.**

14 (a) IN GENERAL.—Clause (vi) of section  
15 170(b)(1)(E) (relating to termination) is amended by  
16 striking “December 31, 2007” and inserting “December  
17 31, 2008”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to contributions made in taxable  
20 years beginning after December 31, 2007.

21 **SEC. 2026. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
22 **TRIBUTIONS OF FOOD INVENTORY.**

23 (a) IN GENERAL.—Clause (iv) of section  
24 170(e)(3)(C) (relating to termination) is amended by  
25 striking “December 31, 2007” and inserting “December  
26 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to contributions made after De-  
3 cember 31, 2007.

4 **SEC. 2027. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
5 **TRIBUTIONS OF BOOK INVENTORY TO PUB-**  
6 **LIC SCHOOLS.**

7 (a) IN GENERAL.—Clause (iv) of section  
8 170(e)(3)(D) (relating to termination) is amended by  
9 striking “December 31, 2007” and inserting “December  
10 31, 2008”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 this section shall apply to contributions made after De-  
13 cember 31, 2007.

14 **SEC. 2028. ENHANCED DEDUCTION FOR QUALIFIED COM-**  
15 **PUTER CONTRIBUTIONS.**

16 (a) IN GENERAL.—Subparagraph (G) of section  
17 170(e)(6) (relating to termination) is amended by striking  
18 “December 31, 2007” and inserting “December 31,  
19 2008”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to contributions made during tax-  
22 able years beginning after December 31, 2007.

1 **SEC. 2029. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL**  
2 **RETIREMENT PLANS FOR CHARITABLE PUR-**  
3 **POSES.**

4 (a) IN GENERAL.—Subparagraph (F) of section  
5 408(d)(8) (relating to termination) is amended by striking  
6 “December 31, 2007” and inserting “December 31,  
7 2008”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to distributions made in taxable  
10 years beginning after December 31, 2007.

11 **SEC. 2030. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**  
12 **TIONS MAKING CHARITABLE CONTRIBU-**  
13 **TIONS OF PROPERTY.**

14 (a) IN GENERAL.—The last sentence of section  
15 1367(a)(2) (relating to decreases in basis) is amended by  
16 striking “December 31, 2007” and inserting “December  
17 31, 2008”.

18 (b) TECHNICAL AMENDMENT RELATED TO SECTION  
19 1203 OF THE PENSION PROTECTION ACT OF 2006.—Sub-  
20 section (d) of section 1366 is amended by adding at the  
21 end the following new paragraph:

22 “(4) APPLICATION OF LIMITATION ON CHARI-  
23 TABLE CONTRIBUTIONS.—In the case of any chari-  
24 table contribution of property to which the second  
25 sentence of section 1367(a)(2) applies, paragraph

1 (1) shall not apply to the extent of the excess (if  
2 any) of—

3 “(A) the shareholder’s pro rata share of  
4 such contribution, over

5 “(B) the shareholder’s pro rata share of  
6 the adjusted basis of such property.”.

7 (c) EFFECTIVE DATE.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), the amendments made by this section  
10 shall apply to contributions made in taxable years  
11 beginning after December 31, 2007.

12 (2) TECHNICAL AMENDMENT.—The amendment  
13 made by subsection (b) shall take effect as if included  
14 in the provision of the Pension Protection Act of  
15 2006 to which it relates.

16 **SEC. 2031. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**  
17 **MENTARY AND SECONDARY SCHOOL TEACH-**  
18 **ERS.**

19 (a) IN GENERAL.—Subparagraph (D) of section  
20 62(a)(2) (relating to certain expenses of elementary and  
21 secondary school teachers) is amended by striking “or  
22 2007” and inserting “2007, or 2008”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall apply to taxable years beginning after  
25 December 31, 2007.



1 **SEC. 2032. ELECTION TO INCLUDE COMBAT PAY AS EARNED**  
2 **INCOME FOR PURPOSES OF EARNED INCOME**  
3 **TAX CREDIT.**

4 (a) IN GENERAL.—Subclause (II) of section  
5 32(c)(2)(B)(vi) (defining earned income) is amended by  
6 striking “January 1, 2008” and inserting “January 1,  
7 2009”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to taxable years ending after De-  
10 cember 31, 2007.

11 **SEC. 2033. MODIFICATION OF MORTGAGE REVENUE BONDS**  
12 **FOR VETERANS.**

13 (a) QUALIFIED MORTGAGE BONDS USED TO FI-  
14 NANCE RESIDENCES FOR VETERANS WITHOUT REGARD  
15 TO FIRST-TIME HOMEBUYER REQUIREMENT.—Subpara-  
16 graph (D) of section 143(d)(2) (relating to exceptions) is  
17 amended by striking “January 1, 2008” and inserting  
18 “January 1, 2009”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to bonds issued after December  
21 31, 2007.

22 **SEC. 2034. DISTRIBUTIONS FROM RETIREMENT PLANS TO**  
23 **INDIVIDUALS CALLED TO ACTIVE DUTY.**

24 (a) IN GENERAL.—Clause (iv) of section 72(t)(2)(G)  
25 is amended by striking “December 31, 2007” and insert-  
26 ing “December 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to individuals ordered or called to  
3 active duty on or after December 31, 2007.

4 **SEC. 2035. STOCK IN RIC FOR PURPOSES OF DETERMINING**  
5 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

6 (a) IN GENERAL.—Paragraph (3) of section 2105(d)  
7 (relating to stock in a RIC) is amended by striking “De-  
8 cember 31, 2007” and inserting “December 31, 2008”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to decedents dying after December  
11 31, 2007.

12 **SEC. 2036. QUALIFIED INVESTMENT ENTITIES.**

13 (a) IN GENERAL.—Clause (ii) of section  
14 897(h)(4)(A) (relating to termination) is amended by  
15 striking “December 31, 2007” and inserting “December  
16 31, 2008”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall take effect on January 1, 2008.

19 **SEC. 2037. DISCLOSURE OF RETURN INFORMATION FOR**  
20 **CERTAIN VETERANS PROGRAMS.**

21 (a) IN GENERAL.—The last sentence of paragraph  
22 (7) of section 6103(l) is amended by striking “September  
23 30, 2008” and inserting “December 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to requests made after Sep-  
3 tember 30, 2008.

4 **TITLE III—CORPORATE TAX**  
5 **REFORM**

6 **Subtitle A—Corporate Rate**  
7 **Reduction**

8 **SEC. 3001. REDUCTION IN TOP CORPORATE MARGINAL**  
9 **RATE.**

10 (a) GENERAL RULE.—Paragraph (1) of section 11(b)  
11 (relating to amount of tax) is amended—

12 (1) by inserting “and” at the end of subpara-  
13 graph (B),

14 (2) by striking subparagraphs (C) and (D) and  
15 inserting the following:

16 “(C) 30.5 percent of so much of the tax-  
17 able income as exceeds \$75,000.”, and

18 (3) by striking “\$11,750” and all that follows  
19 and inserting “\$9,125.”.

20 (b) PERSONAL SERVICE CORPORATIONS.—Para-  
21 graph (2) of section 11(b) is amended by striking “35 per-  
22 cent” and inserting “30.5 percent”.

23 (c) CONFORMING AMENDMENTS.—Paragraphs (1)  
24 and (2) of section 1445(e) are each amended by striking  
25 “35 percent” and inserting “30.5 percent”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2008, except that the amendments made  
4 by subsection (c) shall take effect on January 1, 2009.

5 **Subtitle B—Repeal of Deduction**  
6 **for Income Attributable to Do-**  
7 **mestic Production Activities**

8 **SEC. 3101. REPEAL OF DEDUCTION FOR INCOME ATTRIB-**  
9 **UTABLE TO DOMESTIC PRODUCTION ACTIVI-**  
10 **TIES.**

11 (a) IN GENERAL.—Section 199 is repealed.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Sections 86(b)(2)(A), 135(c)(4)(A),  
14 137(b)(3)(A), 219(g)(3)(A)(ii), 221(b)(2)(C),  
15 222(b)(2)(C), 246(b)(1), and 469(i)(3)(F) are each  
16 amended by striking “199,”.

17 (2) Clauses (i)(II) and (ii)(II) of section  
18 56(d)(1)(A) are each amended by striking “and the  
19 deduction under section 199”.

20 (3) Clause (i) of section 163(j)(6)(A) is amend-  
21 ed by inserting “and” at the end of subclause (II),  
22 by striking subclause (III) and by redesignating sub-  
23 clause (IV) as subclause (III).

24 (4) Subparagraph (C) of section 170(b)(2) is  
25 amended by striking clause (iv), by redesignating

1 clause (v) as clause (iv), and by inserting “and” at  
2 the end of clause (iii).

3 (5) Subsection (d) of section 172 is amended by  
4 striking paragraph (7).

5 (6) Subsection (a) of section 613 is amended by  
6 striking “and without the deduction under section  
7 199”.

8 (7) Paragraph (1) of section 613A(d) is amend-  
9 ed by redesignating subparagraphs (C), (D), and  
10 (E) as subparagraphs (B), (C), and (D), respec-  
11 tively, and by striking subparagraph (B).

12 (8) Subsection (a) of section 1402 is amended  
13 by inserting “and” at the end of paragraph (15), by  
14 striking paragraph (16), and by redesignating para-  
15 graph (17) as paragraph (16).

16 (9) The table of sections for part VI of sub-  
17 chapter B of chapter 1 is amended by striking the  
18 item relating to section 199.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2008.

1     **Subtitle C—Provisions Related to**  
2                     **Foreign Source Income**

3     **SEC. 3201. ALLOCATION OF EXPENSES AND TAXES ON**  
4                     **BASIS OF REPATRIATION OF FOREIGN IN-**  
5                     **COME.**

6             (a) IN GENERAL.—Part III of subchapter N of chap-  
7     ter 1 is amended by inserting after subpart G the following  
8     new subpart:

9     **“Subpart H—Special Rules for Allocation of Foreign-**  
10           **Related Deductions and Foreign Tax Credits**

“Sec. 975. Deductions allocated to deferred foreign income may not offset  
United States source income.

“Sec. 976. Amount of foreign taxes computed on overall basis.

“Sec. 977. Application of subpart.

11    **“SEC. 975. DEDUCTIONS ALLOCATED TO DEFERRED FOR-**  
12                     **EIGN INCOME MAY NOT OFFSET UNITED**  
13                     **STATES SOURCE INCOME.**

14           “(a) CURRENT YEAR DEDUCTIONS.—For purposes  
15     of this chapter, foreign-related deductions for any taxable  
16     year—

17                 “(1) shall be taken into account for such tax-  
18             able year only to the extent that such deductions are  
19             allocable to currently-taxed foreign income, and

20                 “(2) to the extent not so allowed, shall be taken  
21             into account in subsequent taxable years as provided  
22             in subsection (b).

1 Foreign-related deductions shall be allocated to currently-  
2 taxed foreign income in the same proportion which cur-  
3 rently-taxed foreign income bears to the sum of currently-  
4 taxed foreign income and deferred foreign income.

5 “(b) DEDUCTIONS RELATED TO REPATRIATED DE-  
6 FERRED FOREIGN INCOME.—

7 “(1) IN GENERAL.—If there is repatriated for-  
8 eign income for a taxable year, the portion of the  
9 previously deferred deductions allocated to the repa-  
10 triated foreign income shall be taken into account  
11 for the taxable year as a deduction allocated to in-  
12 come from sources outside the United States. Any  
13 such amount shall not be included in foreign-related  
14 deductions for purposes of applying subsection (a) to  
15 such taxable year.

16 “(2) PORTION OF PREVIOUSLY DEFERRED DE-  
17 Ductions.—For purposes of paragraph (1), the por-  
18 tion of the previously deferred deductions allocated  
19 to repatriated foreign income is—

20 “(A) the amount which bears the same  
21 proportion to such deductions, as

22 “(B) the repatriated income bears to the  
23 previously deferred foreign income.

24 “(c) DEFINITIONS AND SPECIAL RULE.—For pur-  
25 poses of this section—

1           “(1) FOREIGN-RELATED DEDUCTIONS.—The  
2 term ‘foreign-related deductions’ means the total  
3 amount of deductions and expenses which would be  
4 allocated or apportioned to gross income from  
5 sources without the United States for the taxable  
6 year if both the currently-taxed foreign income and  
7 deferred foreign income were taken into account.

8           “(2) CURRENTLY-TAXED FOREIGN INCOME.—  
9 The term ‘currently-taxed foreign income’ means the  
10 amount of gross income from sources without the  
11 United States for the taxable year (determined with-  
12 out regard to repatriated foreign income for such  
13 year).

14           “(3) DEFERRED FOREIGN INCOME.—The term  
15 ‘deferred foreign income’ means the excess of—

16                   “(A) the amount that would be includible  
17 in gross income under subpart F of this part  
18 for the taxable year if—

19                           “(i) all controlled foreign corporations  
20 were treated as one controlled foreign cor-  
21 poration, and

22                           “(ii) all earnings and profits of all  
23 controlled foreign corporations were sub-  
24 part F income (as defined in section 952),  
25 over



1 “(B) the sum of—

2 “(i) all dividends received during the  
3 taxable year from controlled foreign cor-  
4 porations, plus

5 “(ii) amounts includible in gross in-  
6 come under section 951(a).

7 “(4) PREVIOUSLY DEFERRED FOREIGN IN-  
8 COME.—The term ‘previously deferred foreign in-  
9 come’ means the aggregate amount of deferred for-  
10 eign income for all prior taxable years to which this  
11 part applies, determined as of the beginning of the  
12 taxable year, reduced by the repatriated foreign in-  
13 come for all such prior taxable years.

14 “(5) REPATRIATED FOREIGN INCOME.—The  
15 term ‘repatriated foreign income’ means the amount  
16 included in gross income on account of distributions  
17 out of previously deferred foreign income.

18 “(6) PREVIOUSLY DEFERRED DEDUCTIONS.—  
19 The term ‘previously deferred deductions’ means the  
20 aggregate amount of foreign-related deductions not  
21 taken into account under subsection (a) for all prior  
22 taxable years (determined as of the beginning of the  
23 taxable year), reduced by any amounts taken into  
24 account under subsection (b) for such prior taxable  
25 years.

1           “(7) TREATMENT OF CERTAIN FOREIGN  
2 TAXES.—

3           “(A) PAID BY CONTROLLED FOREIGN COR-  
4 PORATION.—Section 78 shall not apply for pur-  
5 poses of determining currently-taxed foreign in-  
6 come and deferred foreign income.

7           “(B) PAID BY TAXPAYER.—For purposes  
8 of determining currently-taxed foreign income,  
9 gross income from sources without the United  
10 States shall be reduced by the aggregate  
11 amount of taxes described in the applicable  
12 paragraph of section 901(b) which are paid by  
13 the taxpayer (without regard to sections 902  
14 and 960) during the taxable year.

15           “(8) COORDINATION WITH SECTION 976.—In  
16 determining currently-taxed foreign income and de-  
17 ferred foreign income, the amount of deemed foreign  
18 tax credits shall be determined with regard to sec-  
19 tion 976.

20 **“SEC. 976. AMOUNT OF FOREIGN TAXES COMPUTED ON**  
21 **OVERALL BASIS.**

22           “(a) CURRENT YEAR ALLOWANCE.—For purposes of  
23 this chapter, the amount taken into account as foreign in-  
24 come taxes for any taxable year shall be an amount which

1 bears the same ratio to the total foreign income taxes for  
2 that taxable year as—

3           “(1) the currently-taxed foreign income for such  
4 taxable year, bears to

5           “(2) the sum of the currently-taxed foreign in-  
6 come and deferred foreign income for such year.

7 The portion of the total foreign income taxes for any tax-  
8 able year not taken into account under the preceding sen-  
9 tence for a taxable year shall only be taken into account  
10 as provided in subsection (b) (and shall not be taken into  
11 account for purposes of applying sections 902 and 960).

12           “(b) ALLOWANCE RELATED TO REPATRIATED DE-  
13 FERRED FOREIGN INCOME.—

14           “(1) IN GENERAL.—If there is repatriated for-  
15 eign income for any taxable year, the portion of the  
16 previously deferred foreign income taxes paid or ac-  
17 crued during such taxable year shall be taken into  
18 account for the taxable year as foreign taxes paid or  
19 accrued. Any such taxes so taken into account shall  
20 not be included in foreign income taxes for purposes  
21 of applying subsection (a) to such taxable year.

22           “(2) PORTION OF PREVIOUSLY DEFERRED FOR-  
23 EIGN INCOME TAXES.—For purposes of paragraph  
24 (1), the portion of the previously deferred foreign in-

1       come taxes allocated to repatriated deferred foreign  
2       income is—

3               “(A) the amount which bears the same  
4               proportion to such taxes, as

5               “(B) the repatriated deferred income bears  
6               to the previously deferred foreign income.

7       “(c) DEFINITIONS AND SPECIAL RULE.—For pur-  
8       poses of this section—

9               “(1) PREVIOUSLY DEFERRED FOREIGN INCOME  
10       TAXES.—The term ‘previously deferred foreign in-  
11       come taxes’ means the aggregate amount of total  
12       foreign income taxes not taken into account under  
13       subsection (a) for all prior taxable years (determined  
14       as of the beginning of the taxable year), reduced by  
15       any amounts taken into account under subsection  
16       (b) for such prior taxable years.

17              “(2) TOTAL FOREIGN INCOME TAXES.—The  
18       term ‘total foreign income taxes’ means the sum of  
19       foreign income taxes paid or accrued during the tax-  
20       able year (determined without regard to section  
21       904(c)) plus the increase in foreign income taxes  
22       that would be paid or accrued during the taxable  
23       year under sections 902 and 960 if—

1           “(A) all controlled foreign corporations  
2           were treated as one controlled foreign corpora-  
3           tion, and

4           “(B) all earnings and profits of all con-  
5           trolled foreign corporations were subpart F in-  
6           come (as defined in section 952).

7           “(3) FOREIGN INCOME TAXES.—The term ‘for-  
8           eign income taxes’ means any income, war profits, or  
9           excess profits taxes paid by the taxpayer to any for-  
10          eign country or possession of the United States.

11          “(4) CURRENTLY-TAXED FOREIGN INCOME AND  
12          DEFERRED FOREIGN INCOME.—The terms ‘cur-  
13          rently-taxed foreign income’ and ‘deferred foreign in-  
14          come’ have the meanings given such terms by sec-  
15          tion 975(e).

16 **“SEC. 977. APPLICATION OF SUBPART.**

17          “‘This subpart—

18                 “(1) shall be applied before subpart A, and

19                 “(2) shall be applied separately with respect to  
20          the categories of income specified in section  
21          904(d)(1).”.

22          (b) CLERICAL AMENDMENT.—The table of subparts  
23          for part III of subpart N of chapter 1 is amended by in-  
24          serting after the item relating to subpart G the following  
25          new item:

“SUBPART H. SPECIAL RULES FOR ALLOCATION OF FOREIGN-RELATED DEDUCTIONS AND FOREIGN TAX CREDITS.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2007.

4 **SEC. 3202. FOREIGN CURRENCY CONVERSION FOR DETER-**  
5 **MINATION OF FOREIGN TAXES AND FOREIGN**  
6 **CORPORATION’S EARNINGS AND PROFITS.**

7 (a) EARNINGS AND PROFITS AND DISTRIBUTIONS.—  
8 Paragraph (2) of section 986(b) is amended to read as  
9 follows:

10 “(2) in the case of any United States person,  
11 the earnings and profits determined under para-  
12 graph (1) shall (if necessary) be translated into dol-  
13 lars using the average exchange rate for the taxable  
14 year in which earned.”.

15 (b) PREVIOUSLY TAXED EARNINGS AND PROFITS.—  
16 Paragraph (1) of section 986(c) is amended by striking  
17 “movements in exchange rates between the times of  
18 deemed and actual distribution” and inserting “the dif-  
19 ference between the exchange rate applicable to such earn-  
20 ings and profits under subsection (b)(2) and the exchange  
21 rate at the time of the actual distribution”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to taxable years beginning after  
24 December 31, 2007.

1 **SEC. 3203. REPEAL OF WORLDWIDE ALLOCATION OF INTER-**  
2 **EST.**

3 (a) IN GENERAL.—Section 864 is amended by strik-  
4 ing subsection (f) and by redesignating subsection (g) as  
5 subsection (f).

6 (b) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2008.

9 **SEC. 3204. LIMITATION ON TREATY BENEFITS FOR CERTAIN**  
10 **DEDUCTIBLE PAYMENTS.**

11 (a) IN GENERAL.—Section 894 (relating to income  
12 affected by treaty) is amended by adding at the end the  
13 following new subsection:

14 “(d) LIMITATION ON TREATY BENEFITS FOR CER-  
15 TAIN DEDUCTIBLE PAYMENTS.—

16 “(1) IN GENERAL.—In the case of any deduct-  
17 ible related-party payment, any withholding tax im-  
18 posed under chapter 3 (and any tax imposed under  
19 subpart A or B of this part) with respect to such  
20 payment may not be reduced under any treaty of the  
21 United States unless any such withholding tax would  
22 be reduced under a treaty of the United States if  
23 such payment were made directly to the foreign par-  
24 ent corporation.

25 “(2) DEDUCTIBLE RELATED-PARTY PAY-  
26 MENT.—For purposes of this subsection, the term

1 ‘deductible related-party payment’ means any pay-  
2 ment made, directly or indirectly, by any person to  
3 any other person if the payment is allowable as a de-  
4 duction under this chapter and both persons are  
5 members of the same foreign controlled group of en-  
6 tities.

7 “(3) FOREIGN CONTROLLED GROUP OF ENTI-  
8 TIES.—For purposes of this subsection—

9 “(A) IN GENERAL.—The term ‘foreign  
10 controlled group of entities’ means a controlled  
11 group of entities the common parent of which  
12 is a foreign corporation.

13 “(B) CONTROLLED GROUP OF ENTITIES.—  
14 The term ‘controlled group of entities’ means a  
15 controlled group of corporations as defined in  
16 section 1563(a)(1), except that—

17 “(i) ‘more than 50 percent’ shall be  
18 substituted for ‘at least 80 percent’ each  
19 place it appears therein, and

20 “(ii) the determination shall be made  
21 without regard to subsections (a)(4) and  
22 (b)(2) of section 1563.

23 A partnership or any other entity (other than a  
24 corporation) shall be treated as a member of a  
25 controlled group of entities if such entity is con-



1           trolled (within the meaning of section  
2           954(d)(3)) by members of such group (includ-  
3           ing any entity treated as a member of such  
4           group by reason of this sentence).

5           “(4) FOREIGN PARENT CORPORATION.—For  
6           purposes of this subsection, the term ‘foreign parent  
7           corporation’ means, with respect to any deductible  
8           related-party payment, the common parent of the  
9           foreign controlled group of entities referred to in  
10          paragraph (3)(A).

11          “(5) REGULATIONS.—The Secretary may pre-  
12          scribe such regulations or other guidance as are nec-  
13          essary or appropriate to carry out the purposes of  
14          this subsection, including regulations or other guid-  
15          ance which provide for—

16                 “(A) the treatment of two or more persons  
17                 as members of a foreign controlled group of en-  
18                 tities if such persons would be the common par-  
19                 ent of such group if treated as one corporation,  
20                 and

21                 “(B) the treatment of any member of a  
22                 foreign controlled group of entities as the com-  
23                 mon parent of such group if such treatment is  
24                 appropriate taking into account the economic  
25                 relationships among such entities.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to payments made after the date  
3 of the enactment of this Act.

4 **Subtitle D—Modification of**  
5 **Accounting Rules**

6 **SEC. 3301. REPEAL OF LAST-IN, FIRST-OUT METHOD OF IN-**  
7 **VENTORY.**

8 (a) IN GENERAL.—Subpart D of part II of sub-  
9 chapter E of chapter 1 is amended by striking sections  
10 472 (relating to last-in, first-out inventories), 473 (relat-  
11 ing to qualified liquidations of LIFO inventories), and 474  
12 (relating to simplified dollar-value LIFO method for cer-  
13 tain small businesses).

14 (b) CONFORMING AMENDMENTS.—

15 (1)(A) Section 312(n) is amended by striking  
16 paragraph (4) and by redesignating paragraphs (5)  
17 through (8) as paragraphs (4) through (7), respec-  
18 tively.

19 (B) Section 312(n)(7), as redesignated by sub-  
20 paragraph (A), is amended—

21 (i) by striking “paragraphs (4) and (6)” in  
22 subparagraph (A) and inserting “paragraph  
23 (5)”, and

24 (ii) by striking “paragraph (5)” in sub-  
25 paragraph (B) and inserting “paragraph (4)”.

1           (C) Section 56(g)(4)(D) is amended by striking  
2 clause (iii) and by redesignating clause (iv) as clause  
3 (iii).

4           (2) Section 1363 is amended by striking sub-  
5 section (d).

6           (c) EFFECTIVE DATE.—

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

10           (2) CHANGE IN METHOD OF ACCOUNTING.—In  
11 the case of any taxpayer required by the amend-  
12 ments made by this section to change its method of  
13 accounting for its first taxable year beginning after  
14 the date of the enactment of this Act—

15           (A) such change shall be treated as initi-  
16 ated by the taxpayer,

17           (B) such change shall be treated as made  
18 with the consent of the Secretary of the Treas-  
19 ury, and

20           (C) if the net amount of the adjustments  
21 required to be taken into account by the tax-  
22 payer under section 481 of the Internal Rev-  
23 enue Code of 1986 is positive, such amount  
24 shall be taken into account over a period of 8  
25 years beginning with such first taxable year.

1 **SEC. 3302. REPEAL OF LOWER OF COST OR MARKET METH-**  
2 **OD OF INVENTORY.**

3 (a) IN GENERAL.—Section 471 is amended by redese-  
4 ignating subsection (c) as subsection (d) and by inserting  
5 after subsection (b) the following new subsection:

6 “(c) INVENTORIES TAKEN INTO ACCOUNT AT  
7 COST.—A method of determining inventories shall not be  
8 treated as clearly reflecting income unless such method  
9 provides that inventories shall be taken into account at  
10 cost.”.

11 (b) EFFECTIVE DATE.—

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

15 (2) CHANGE IN METHOD OF ACCOUNTING.—In  
16 the case of any taxpayer required by the amend-  
17 ments made by this section to change its method of  
18 accounting for its first taxable year beginning after  
19 the date of the enactment of this Act—

20 (A) such change shall be treated as initi-  
21 ated by the taxpayer,

22 (B) such change shall be treated as made  
23 with the consent of the Secretary of the Treas-  
24 ury, and

25 (C) if the net amount of the adjustments  
26 required to be taken into account by the tax-

1 payer under section 481 of the Internal Rev-  
2 enue Code of 1986 is positive, such amount  
3 shall be taken into account over a period of 8  
4 years beginning with such first taxable year.

5 **SEC. 3303. SPECIAL RULE FOR SERVICE PROVIDERS ON AC-**  
6 **CRUAL METHOD NOT APPLICABLE TO C COR-**  
7 **PORATIONS.**

8 (a) IN GENERAL.—Subparagraph (A) of section  
9 448(d)(5) is amended by inserting “(other than a C cor-  
10 poration)” after “any person”.

11 (b) EFFECTIVE DATE.—

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

15 (2) CHANGE IN METHOD OF ACCOUNTING.—In  
16 the case of any taxpayer required by the amend-  
17 ments made by this section to change its method of  
18 accounting for its first taxable year beginning after  
19 the date of the enactment of this Act—

20 (A) such change shall be treated as initi-  
21 ated by the taxpayer,

22 (B) such change shall be treated as made  
23 with the consent of the Secretary of the Treas-  
24 ury, and

1 (C) if the net amount of the adjustments  
2 required to be taken into account by the tax-  
3 payer under section 481 of the Internal Rev-  
4 enue Code of 1986 is positive, such amount  
5 shall be taken into account over a period of 8  
6 years beginning with such first taxable year.

7 **Subtitle E—Modification to**  
8 **Expensing and Depreciation Rules**

9 **SEC. 3401. SMALL BUSINESS EXPENSING PROVISIONS MADE**  
10 **PERMANENT.**

11 (a) INCREASE IN SMALL BUSINESS EXPENSING  
12 MADE PERMANENT.—Subsection (b) of section 179 is  
13 amended—

14 (1) by striking “\$25,000 (\$125,000 in the case  
15 of taxable years beginning after 2006 and before  
16 2011)” in paragraph (1) and inserting “\$125,000”,  
17 and

18 (2) by striking “\$200,000 (\$500,000 in the  
19 case of taxable years beginning after 2006 and be-  
20 fore 2011)” in paragraph (2) and inserting  
21 “\$500,000”.

22 (b) EXPENSING FOR COMPUTER SOFTWARE MADE  
23 PERMANENT.—Clause (ii) of section 179(d)(1)(A) is  
24 amended by striking “and which is placed in service in  
25 a taxable year beginning after 2002 and before 2011,”.

1 (c) INFLATION ADJUSTMENT.—Subparagraph (A) of  
2 section 179(b)(5) is amended by striking “In the case of  
3 any taxable year beginning in a calendar year after 2007  
4 and before 2011, the” and inserting “The”.

5 (d) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), the amendments made by this section  
8 shall apply to taxable years beginning after the date  
9 of the enactment of this Act.

10 (2) COMPUTER SOFTWARE.—The amendment  
11 made by subsection (b) shall apply to property  
12 placed in service after the date of the enactment of  
13 this Act.

14 **SEC. 3402. AMORTIZATION OF GOODWILL AND OTHER IN-**  
15 **TANGIBLES.**

16 (a) IN GENERAL.—Subsection (a) of section 197 (re-  
17 lating to general rule) is amended by striking “15-year”  
18 and inserting “20-year”.

19 (b) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEP-  
20 ARATELY.—Clause (i) of section 197(e)(4)(D) is amended  
21 by striking “15 years” and inserting “20 years”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to property acquired after the date  
24 of the enactment of this Act.

1                   **Subtitle F—Codification of**  
2                   **Economic Substance Doctrine**

3   **SEC. 3501. CODIFICATION OF ECONOMIC SUBSTANCE DOC-**  
4                   **TRINE.**

5           (a) IN GENERAL.—Section 7701 is amended by re-  
6   designating subsection (p) as subsection (q) and by insert-  
7   ing after subsection (o) the following new subsection:

8           “(p) CLARIFICATION OF ECONOMIC SUBSTANCE  
9   DOCTRINE.—

10           “(1) APPLICATION OF DOCTRINE.—In the case  
11   of any transaction to which the economic substance  
12   doctrine is relevant, such transaction shall be treated  
13   as having economic substance only if—

14           “(A) the transaction changes in a mean-  
15   ingful way (apart from Federal income tax ef-  
16   fects) the taxpayer’s economic position, and

17           “(B) the taxpayer has a substantial pur-  
18   pose (apart from Federal income tax effects)  
19   for entering into such transaction.

20           “(2) SPECIAL RULE WHERE TAXPAYER RELIES  
21   ON PROFIT POTENTIAL.—

22           “(A) IN GENERAL.—The potential for  
23   profit of a transaction shall be taken into ac-  
24   count in determining whether the requirements  
25   of subparagraphs (A) and (B) of paragraph (1)



1 are met with respect to the transaction only if  
2 the present value of the reasonably expected  
3 pre-tax profit from the transaction is substan-  
4 tial in relation to the present value of the ex-  
5 pected net tax benefits that would be allowed if  
6 the transaction were respected.

7 “(B) TREATMENT OF FEES AND FOREIGN  
8 TAXES.—Fees and other transaction expenses  
9 and foreign taxes shall be taken into account as  
10 expenses in determining pre-tax profit under  
11 subparagraph (A).

12 “(3) STATE AND LOCAL TAX BENEFITS.—For  
13 purposes of paragraph (1), any State or local income  
14 tax effect which is related to a Federal income tax  
15 effect shall be treated in the same manner as a Fed-  
16 eral income tax effect.

17 “(4) FINANCIAL ACCOUNTING BENEFITS.—For  
18 purposes of paragraph (1)(B), achieving a financial  
19 accounting benefit shall not be taken into account as  
20 a purpose for entering into a transaction if such  
21 transaction results in a Federal income tax benefit.

22 “(5) DEFINITIONS AND SPECIAL RULES.—For  
23 purposes of this subsection—

24 “(A) ECONOMIC SUBSTANCE DOCTRINE.—

25 The term ‘economic substance doctrine’ means

1 the common law doctrine under which tax bene-  
2 fits under subtitle A with respect to a trans-  
3 action are not allowable if the transaction does  
4 not have economic substance or lacks a business  
5 purpose.

6 “(B) EXCEPTION FOR PERSONAL TRANS-  
7 ACTIONS OF INDIVIDUALS.—In the case of an  
8 individual, paragraph (1) shall apply only to  
9 transactions entered into in connection with a  
10 trade or business or an activity engaged in for  
11 the production of income.

12 “(C) OTHER COMMON LAW DOCTRINES  
13 NOT AFFECTED.—Except as specifically pro-  
14 vided in this subsection, the provisions of this  
15 subsection shall not be construed as altering or  
16 supplanting any other rule of law, and the re-  
17 quirements of this subsection shall be construed  
18 as being in addition to any such other rule of  
19 law.

20 “(D) DETERMINATION OF APPLICATION OF  
21 DOCTRINE NOT AFFECTED.—The determination  
22 of whether the economic substance doctrine is  
23 relevant to a transaction shall be made in the  
24 same manner as if this subsection had never  
25 been enacted.

1           “(6) REGULATIONS.—The Secretary shall pre-  
2       scribe such regulations as may be necessary or ap-  
3       propriate to carry out the purposes of this sub-  
4       section. Such regulations may include exemptions  
5       from the application of this subsection.”.

6       (b) EFFECTIVE DATE.—The amendments made by  
7       this section shall apply to transactions entered into after  
8       the date of the enactment of this Act.

9       **SEC. 3502. PENALTIES FOR UNDERPAYMENTS.**

10       (a) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE  
11       TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

12           (1) IN GENERAL.—Subsection (b) of section  
13       6662, as amended by this Act, is amended by insert-  
14       ing after paragraph (6) the following new para-  
15       graph:

16           “(7) Any disallowance of claimed tax benefits  
17       by reason of a transaction lacking economic sub-  
18       stance (within the meaning of section 7701(p)) or  
19       failing to meet the requirements of any similar rule  
20       of law.”.

21           (2) INCREASED PENALTY FOR NONDISCLOSED  
22       TRANSACTIONS.—Section 6662, as amended by this  
23       Act, is amended by adding at the end the following  
24       new subsection:

1       “(j) INCREASE IN PENALTY IN CASE OF NONDIS-  
2 CLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

3               “(1) IN GENERAL.—To the extent that a por-  
4 tion of the underpayment to which this section ap-  
5 plies is attributable to one or more nondisclosed non-  
6 economic substance transactions, subsection (a) shall  
7 be applied with respect to such portion by sub-  
8 stituting ‘40 percent’ for ‘20 percent’.

9               “(2) NONDISCLOSED NONECONOMIC SUB-  
10 STANCE TRANSACTIONS.—For purposes of this sub-  
11 section, the term ‘nondisclosed noneconomic sub-  
12 stance transaction’ means any portion of a trans-  
13 action described in subsection (b)(7) with respect to  
14 which the relevant facts affecting the tax treatment  
15 are not adequately disclosed in the return nor in a  
16 statement attached to the return.

17               “(3) SPECIAL RULE FOR AMENDED RE-  
18 TURNS.—Except as provided in regulations, in no  
19 event shall any amendment or supplement to a re-  
20 turn of tax be taken into account for purposes of  
21 this subsection if the amendment or supplement is  
22 filed after the earlier of the date the taxpayer is first  
23 contacted by the Secretary regarding the examina-  
24 tion of the return or such other date as is specified  
25 by the Secretary.”.

1           (3) CONFORMING AMENDMENT.—Subparagraph  
2           (B) of section 6662A(e)(2), as amended by this Act,  
3           is amended by striking “subsection (h) or (i)” and  
4           inserting “subsections (h), (i), or (j)”.

5           (b) REASONABLE CAUSE EXCEPTION NOT APPLICA-  
6           BLE TO NONECONOMIC SUBSTANCE TRANSACTIONS, TAX  
7           SHELTERS, AND CERTAIN LARGE CORPORATIONS.—Para-  
8           graph (2) of section 6664(c), as amended by this Act, is  
9           amended—

10           (1) by striking “shall not apply to any portion”  
11           and inserting “shall not apply—

12                     “(A) to any portion”,

13           (2) by striking the period at the end and insert-  
14           ing a comma, and

15           (3) by adding at the end the following new sub-  
16           paragraphs:

17                     “(B) to any portion of an underpayment  
18                     which is attributable to one or more tax shelters  
19                     (as defined in section 6662(d)(2)(C)) or trans-  
20                     actions described in section 6662(b)(7), and

21                     “(C) to any taxpayer if such taxpayer is a  
22                     specified large corporation (as defined in section  
23                     6662(d)(2)(D)(ii)).”.

24           (c) SPECIAL UNDERSTATEMENT REDUCTION RULE  
25           FOR CERTAIN LARGE CORPORATIONS.—

1           (1) IN GENERAL.—Paragraph (2) of section  
2           6662(d) is amended by adding at the end the fol-  
3           lowing new subparagraph:

4                   “(D) SPECIAL REDUCTION RULE FOR CER-  
5           TAIN LARGE CORPORATIONS.—

6                           “(i) IN GENERAL.—In the case of any  
7                           specified large corporation—

8                                   “(I) subparagraph (B) shall not  
9                                   apply, and

10                                   “(II) the amount of the under-  
11                                   statement under subparagraph (A)  
12                                   shall be reduced by that portion of the  
13                                   understatement which is attributable  
14                                   to any item with respect to which the  
15                                   taxpayer has a reasonable belief that  
16                                   the tax treatment of such item by the  
17                                   taxpayer is more likely than not the  
18                                   proper tax treatment of such item.

19                           “(ii) SPECIFIED LARGE CORPORA-  
20                           TION.—

21                                   “(I) IN GENERAL.—For purposes  
22                                   of this subparagraph, the term ‘speci-  
23                                   fied large corporation’ means any cor-  
24                                   poration with gross receipts in excess

1 of \$100,000,000 for the taxable year  
2 involved.

3 “(II) AGGREGATION RULE.—All  
4 persons treated as a single employer  
5 under section 52(a) shall be treated as  
6 one person for purposes of subclause  
7 (I).”.

8 (2) CONFORMING AMENDMENT.—Subparagraph  
9 (C) of section 6662(d)(2) is amended by striking  
10 “Subparagraph (B)” and inserting “Subparagraphs  
11 (B) and (D)(i)(II)”.

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

## 15 **Subtitle G—Modifications to** 16 **Deductions for Dividends Received**

### 17 **SEC. 3601. MODIFICATIONS TO DEDUCTIONS FOR DIVI-** 18 **DENDS RECEIVED.**

19 (a) GENERAL REDUCTION IN PERCENTAGE OF DE-  
20 Duction.—

21 (1) IN GENERAL.—Sections 243(a)(1),  
22 243(c)(1), 244(a)(3), 244(b)(2), 245(c)(1)(B),  
23 246(b)(3)(B), and 246A(a)(1), before amendment by  
24 subsection (c), are each amended by striking “70  
25 percent” and inserting “60 percent”.

1           (2) CONFORMING AMENDMENTS.—Paragraph  
2           (2) of section 861(a), before amendment by sub-  
3           section (c), is amended by striking “100/70th” both  
4           places it appears and inserting “100/60th”.

5           (b) REDUCTION IN PERCENTAGE FOR 20-PERCENT  
6 OWNED CORPORATIONS.—

7           (1) IN GENERAL.—Sections 243(c)(1),  
8           245(c)(1)(B), 246(b)(3)(A), 246A(a)(1) is amended  
9           by striking “80 percent” and inserting “70 per-  
10          cent”.

11          (2) CONFORMING AMENDMENT.—Paragraph (2)  
12          of section 861(a) is amended by striking “100/80th”  
13          and inserting “100/70th”.

14          (c) REPEAL OF NOL EXCEPTION TO LIMITATION ON  
15 AGGREGATE DEDUCTIONS; ESTABLISHMENT OF  
16 CARRYFORWARD.—

17          (1) IN GENERAL.—Paragraph (2) of section  
18          246(b) is amended to read as follows:

19                 “(2) CARRYFORWARD.—The aggregate amount  
20                 of deductions disallowed under paragraph (1) for  
21                 any taxable year shall be treated as an increase in  
22                 the amount allowable as a deduction under section  
23                 243(a)(1) for the following taxable year (subject to  
24                 the application of paragraph (1) to such following  
25                 taxable year).”.



1 (2) CONFORMING AMENDMENTS.—

2 (A) Subsection (d) of section 172 is  
3 amended by striking paragraph (5) and by re-  
4 designating paragraph (6) as paragraph (5).

5 (B) Subparagraph (A) of section 172(b)(2)  
6 is amended by striking “paragraphs (1), (4),  
7 and (5)” and inserting “paragraphs (1) and  
8 (4)”.

9 (C) Paragraph (1) of section 246(b) is  
10 amended by striking “Except as provided in  
11 paragraph (2), the” and inserting “The”.

12 (D) Paragraph (3) of section 246(b) is  
13 amended by striking “paragraph (1)” and in-  
14 serting “paragraphs (1) and (2)”.

15 (E) Subparagraph (B) of section 805(a)(4)  
16 is amended by striking “section 1212(a)(1),”  
17 and all that follows and inserting “section  
18 1212(a)(1).”.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to taxable years beginning after  
21 December 31, 2008.

1           **Subtitle H—Other Provisions**

2   **SEC. 3701. RECOGNITION OF ORDINARY INCOME ON SALE**  
3                   **OR EXERCISE OF STOCK OPTION IN S COR-**  
4                   **PORATION WITH AN ESOP.**

5           (a) IN GENERAL.—Subpart A of part I of subchapter  
6 D of chapter 1 is amended by adding at the end the fol-  
7 lowing new section:

8   **“SEC. 409B. RECOGNITION OF ORDINARY INCOME ON SALE**  
9                   **OR EXERCISE OF STOCK OPTION IN S COR-**  
10                  **PORATION WITH AN ESOP.**

11           “(a) IN GENERAL.—If an S corporation in which an  
12 employee stock ownership plan is a stockholder grants an  
13 option with respect to its stock and such option is sold  
14 or exercised, there shall be included in the gross income  
15 of the holder of such option (determined immediately be-  
16 fore such sale or exercise) as ordinary income an amount  
17 equal to the income inclusion amount.

18           “(b) INCOME INCLUSION AMOUNT.—For purposes of  
19 this section, the term ‘income inclusion amount’ means,  
20 with respect to the holder of any option, the excess (if  
21 any) of—

22                   “(1) the sum of the net income amounts with  
23 respect to such option for all taxable years of the S  
24 corporation ending during the taxpayer’s holding pe-  
25 riod, over

1           “(2) the sum of the net loss amounts with re-  
2           spect to such option for all such taxable years.

3           “(c) NET INCOME AND LOSS AMOUNTS.—For pur-  
4           poses of this section, with respect to any taxable year of  
5           the S corporation—

6           “(1) NET INCOME AMOUNT.—The term ‘net in-  
7           come amount’ means the excess (if any) of—

8                   “(A) the pass-thru income share for such  
9                   taxable year, over

10                   “(B) the pass-thru loss share for such tax-  
11                   able year.

12           “(2) NET LOSS AMOUNT.—The term ‘net loss  
13           amount’ means the excess (if any) of the amount de-  
14           scribed in paragraph (1)(B) over the amount de-  
15           scribed in paragraph (1)(A).

16           “(d) PASS-THRU INCOME AND LOSS SHARES.—For  
17           purposes of this section, with respect to any taxable year  
18           of the S corporation—

19           “(1) PASS-THRU INCOME SHARE.—The term  
20           ‘pass-thru income share’ means the excess (if any)  
21           of—

22                   “(A) the aggregate items of income taken  
23                   into account under section 1366 by the em-  
24                   ployee stock ownership plan for such taxable  
25                   year, over

1           “(B) the aggregate items of income which  
2           would have been so taken into account if such  
3           option had been exercised upon being granted.

4           “(2) PASS-THRU LOSS SHARE.—The term  
5           ‘pass-thru loss share’ means the excess (if any) of—

6                   “(A) the aggregate items of deduction and  
7                   loss taken into account under section 1366 by  
8                   the employee stock ownership plan for such tax-  
9                   able year, over

10                   “(B) the aggregate items of deduction and  
11                   loss which would have been so taken into ac-  
12                   count if such option had been exercised upon  
13                   being granted.

14           “(e) INTEREST AT UNDERPAYMENT RATE.—

15                   “(1) IN GENERAL.—In the case of any taxpayer  
16                   who includes any amount in gross income for any  
17                   taxable year under subsection (a), the tax imposed  
18                   by this chapter on such taxpayer for such taxable  
19                   year shall be increased by interest at the under-  
20                   payment rate determined under section 6621 on the  
21                   underpayments that would have occurred had the  
22                   net income amounts with respect to each taxable  
23                   year taken into account under subsection (c) been  
24                   includible in the taxpayer’s gross income for each of

1 taxable year of the taxpayer in or with which the  
2 taxable year so taken into account ends.

3 “(2) REDUCTION FOR PREVIOUS NET LOSS  
4 AMOUNTS.—For purposes of paragraph (1), the net  
5 income amount for any taxable year shall be reduced  
6 by the excess of—

7 “(A) the aggregate net loss amounts for  
8 taxable years taken into account under sub-  
9 section (c) with respect to the taxpayer, over

10 “(B) the amount of such aggregate pre-  
11 viously taken into account under this paragraph  
12 to reduce any net income amount.

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

15 “(1) OPTION.—The term ‘option’ includes any  
16 synthetic equity described in section 409(p)(6)(C).

17 “(2) EFFECT OF STARTING OR TERMINATING  
18 AN S CORPORATION ELECTION.—With respect to any  
19 option, a corporation which is an S corporation for  
20 any taxable year which ends while such option is  
21 outstanding shall be treated for purposes of this sec-  
22 tion (other than subsection (d)) as an S corporation  
23 for all taxable years which end while such option is  
24 outstanding.

25 “(3) ADJUSTMENTS TO BASIS.—

1           “(A) INCREASE IN BASIS OF ACQUIRED  
2 STOCK.—The taxpayer’s basis in any stock ac-  
3 quired pursuant to the exercise of an option to  
4 which subsection (a) applies shall be increased  
5 by the amount included in gross income by the  
6 taxpayer under subsection (a) with respect to  
7 such option.

8           “(B) INCREASE IN BASIS OF OPTION ON  
9 SALE.—The taxpayer’s basis in any option shall  
10 be increased by the amount included in gross  
11 income by the taxpayer under subsection (a)  
12 with respect to such option.”.

13 (b) CONFORMING AMENDMENTS.—

14           (1) Section 26(b)(2), as amended by this Act,  
15 is amended by striking “and” at the end of subpara-  
16 graph (T), by striking the period at the end of sub-  
17 paragraph (U) and inserting “, and”, and by adding  
18 at the end the following new subparagraph:

19           “(V) subsection (e) of section 409B (relat-  
20 ing to interest on income recognized upon exer-  
21 cise of a stock option in an S corporation with  
22 an ESOP).”.

23           (2) Section 1016(a) is amended by striking  
24 “and” at the end of paragraph (36), by striking the  
25 period at the end of paragraph (37) and inserting “,

1 and”, and by adding at the end the following new  
2 paragraph:

3 “(38) to the extent provided in section  
4 409B(f)(3).”.

5 (3) The table of sections for subpart A of part  
6 I of subchapter D of chapter 1 is amended by add-  
7 ing at the end the following new item:

“Sec. 409B. Recognition of ordinary income on sale or exercise of stock option  
in S corporation with an ESOP.”.

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to options granted after the date  
10 of the enactment of this Act.

11 **SEC. 3702. TERMINATION OF SPECIAL RULES FOR DOMES-**  
12 **TIC INTERNATIONAL SALES CORPORATIONS.**

13 (a) IN GENERAL.—Part IV of subchapter N of chap-  
14 ter 1 (relating to domestic international sales corpora-  
15 tions) is amended by adding at the end the following new  
16 subpart:

17 **“Subpart C—Termination**

“Sec. 998. Termination of domestic international sales corporation provisions.

18 **“SEC. 998. TERMINATION OF DOMESTIC INTERNATIONAL**  
19 **SALES CORPORATION PROVISIONS.**

20 “(a) TERMINATION OF ELECTION.—Any election  
21 under section 992(b) in effect for a corporation’s last tax-  
22 able year beginning in 2007 shall be terminated effective  
23 for such corporation’s next succeeding taxable year.

1       “(b) NO NEW ELECTION.—No election may be made  
2 under section 992(b) for any taxable year beginning after  
3 December 31, 2007.

4       “(c) EFFECT OF TERMINATION.—A shareholder of a  
5 corporation whose election is terminated by reason of sub-  
6 section (a) shall be deemed to have received a distribution  
7 to which section 995(b)(2) applies. Such distribution (or  
8 any actual distribution after termination to the extent  
9 paid out of the corporation’s accumulated DISC income)  
10 shall not be treated as qualified dividend income (within  
11 the meaning of section 1(h)(11)(B)).”.

12       (b) CONFORMING AMENDMENT.—The table of con-  
13 tents for part IV of subchapter N of chapter 1 is amended  
14 by adding at the end the following new item:

“SUBPART C—TERMINATION”.

15 **SEC. 3703. TREATMENT OF SECURITIES OF A CONTROLLED**  
16 **CORPORATION EXCHANGED FOR ASSETS IN**  
17 **CERTAIN REORGANIZATIONS.**

18       (a) IN GENERAL.—Section 361 (relating to non-  
19 recognition of gain or loss to corporations; treatment of  
20 distributions) is amended by adding at the end the fol-  
21 lowing new subsection:

22       “(d) RECEIPT OF SECURITIES, ETC., IN EXCHANGE  
23 FOR ASSETS IN CERTAIN REORGANIZATIONS.—If—

24               “(1) property is transferred to a corporation  
25       (hereinafter in this subsection referred to as the



1 ‘controlled corporation’) pursuant to a plan of reor-  
2 ganization described in section 368(a)(1)(D), and

3 “(2) pursuant to such plan of reorganization,  
4 stock or securities in the controlled corporation are  
5 distributed in a transaction which qualifies under  
6 section 355,

7 then any securities and nonqualified preferred stock (as  
8 defined in section 351(g)(2)) of the controlled corporation  
9 shall be treated as other property for purposes of sub-  
10 sections (a) and (b).”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a) shall apply to distributions after the date  
13 of the enactment of this Act.

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