

108TH CONGRESS
1ST SESSION

H. R. 1661

To provide balanced taxpayer protections in tax administrations, including elimination of abusive tax strategies, simplification of the earned income tax credit, and taxpayer protections.

IN THE HOUSE OF REPRESENTATIVES

APRIL 8, 2003

Mr. RANGEL (for himself, Mr. STARK, Mr. MATSUI, Mr. LEVIN, Mr. CARDIN, Mr. McDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. McNULTY, Mr. JEFFERSON, Mr. BECERRA, Mr. DOGGETT, Mr. SANDLIN, and Mrs. JONES of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide balanced taxpayer protections in tax administrations, including elimination of abusive tax strategies, simplification of the earned income tax credit, and taxpayer protections.

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; REFERENCE; TABLE OF CON-**
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Taxpayer and Fairness Protection Act of 2003”.

1 (b) AMENDMENT OF 1986 CODE.—Except as other-
 2 wise expressly provided, whenever in this Act an amend-
 3 ment or repeal is expressed in terms of an amendment
 4 to, or repeal of, a section or other provision, the reference
 5 shall be considered to be made to a section or other provi-
 6 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; reference; table of contents.

TITLE I—ELIMINATION OF ABUSIVE TAX STRATEGIES

Sec. 101. Findings and purpose.

Subtitle A—Tax Shelters

PART I—PROVISIONS DESIGNED TO CURTAIL TAX SHELTERS

- Sec. 111. Clarification of economic substance doctrine.
- Sec. 112. Penalty for failing to disclose reportable transaction.
- Sec. 113. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
- Sec. 114. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 115. Modifications of substantial understatement penalty for nonreportable transactions.
- Sec. 116. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
- Sec. 117. Disclosure of reportable transactions.
- Sec. 118. Modifications to penalty for failure to register tax shelters.
- Sec. 119. Modification of penalty for failure to maintain lists of investors.
- Sec. 120. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
- Sec. 121. Understatement of taxpayer's liability by income tax return preparer.
- Sec. 122. Penalty on failure to report interests in foreign financial accounts.
- Sec. 123. Frivolous tax submissions.
- Sec. 124. Regulation of individuals practicing before the Department of Treasury.
- Sec. 125. Penalty on promoters of tax shelters.
- Sec. 126. Statute of limitations for taxable years for which listed transactions not reported.
- Sec. 127. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

PART II—OTHER PROVISIONS

- Sec. 131. Limitation on transfer or importation of built-in losses.
- Sec. 132. Disallowance of certain partnership loss transfers.
- Sec. 133. No reduction of basis under section 734 in stock held by partnership in corporate partner.
- Sec. 134. Repeal of special rules for FASITS.
- Sec. 135. Expanded disallowance of deduction for interest on convertible debt.
- Sec. 136. Expanded authority to disallow tax benefits under section 269.
- Sec. 137. Modifications of certain rules relating to controlled foreign corporations.
- Sec. 138. Basis for determining loss always reduced by nontaxed portion of dividends.
- Sec. 139. Affirmation of consolidated return regulation authority.

Subtitle B—Prevention of corporate expatriation to avoid United States income tax

- Sec. 151. Prevention of corporate expatriation to avoid United States income tax.

TITLE II—SIMPLIFICATION OF EARNED INCOME TAX CREDIT

- Sec. 201. Simplification of earned income tax credit.

TITLE III—TAXPAYER PROTECTIONS AND IRS ACCOUNTABILITY

Subtitle A—Penalty and Interest Reforms

- Sec. 301. Failure to pay estimated tax penalty converted to interest charge on accumulated unpaid balance.
- Sec. 302. Abatement of interest.
- Sec. 303. Deposits made to suspend running of interest on potential underpayments.
- Sec. 304. Expansion of interest netting for individuals.
- Sec. 305. Waiver of certain penalties for first-time unintentional minor errors.
- Sec. 306. Frivolous tax submissions.
- Sec. 307. Clarification of application of Federal tax deposit penalty.

Subtitle B—Fairness of Collection Procedures

- Sec. 311. Partial payment of tax liability in installment agreements.
- Sec. 312. Extension of time for return of property.
- Sec. 313. Individuals held harmless on wrongful levy, etc., on individual retirement plan.
- Sec. 314. Seven-day threshold on tolling of statute of limitations during tax review.
- Sec. 315. Study of liens and levies.

Subtitle C—Tax Administration Reforms

- Sec. 331. Revisions relating to termination of employment of Internal Revenue Service employees for misconduct.
- Sec. 332. Confirmation of authority of tax court to apply doctrine of equitable recoupment.
- Sec. 333. Jurisdiction of Tax Court over collection due process cases.
- Sec. 334. Office of Chief Counsel review of offers in compromise.
- Sec. 335. Access of National Taxpayer Advocate to independent legal counsel.
- Sec. 336. Payment of motor fuel excise tax refunds by direct deposit.
- Sec. 337. Family business tax simplification.

- Sec. 338. Suspension of tax-exempt status of terrorist organizations.
- Sec. 339. Tax refund anticipation loans.
- Sec. 340. Fairness in tax audit coverage.

Subtitle D—Confidentiality and Disclosure

- Sec. 341. Collection activities with respect to joint return disclosable to either spouse based on oral request.
- Sec. 342. Taxpayer representatives not subject to examination on sole basis of representation of taxpayers.
- Sec. 343. Disclosure in judicial or administrative tax proceedings of return and return information of persons who are not party to such proceedings.
- Sec. 344. Prohibition of disclosure of taxpayer identification information with respect to disclosure of accepted offers-in-compromise.
- Sec. 345. Compliance by contractors with confidentiality safeguards.
- Sec. 346. Higher standards for requests for and consents to disclosure.
- Sec. 347. Notice to taxpayer concerning administrative determination of browsing; annual report.
- Sec. 348. Expanded disclosure in emergency circumstances.
- Sec. 349. Disclosure of taxpayer identity for tax refund purposes.
- Sec. 350. Disclosure to State officials of proposed actions related to section 501(c)(3) organizations.
- Sec. 351. Confidentiality of taxpayer communications with the Office of the Taxpayer Advocate.

Subtitle E—Miscellaneous

- Sec. 361. Clarification of definition of church tax inquiry.
- Sec. 362. Expansion of declaratory judgment remedy to tax-exempt organizations.
- Sec. 363. Employee misconduct report to include summary of complaints by category.
- Sec. 364. Annual report on awards of costs and certain fees in administrative and court proceedings.
- Sec. 365. Annual report on abatement of penalties.
- Sec. 366. Better means of communicating with taxpayers.
- Sec. 367. Explanation of statute of limitations and consequences of failure to file.
- Sec. 368. Amendment to Treasury auction reforms.
- Sec. 369. Enrolled agents.
- Sec. 370. Financial management service fees.
- Sec. 371. Extension of Internal Revenue Service user fees.

Subtitle F—Low-Income Taxpayer Clinics

- Sec. 381. Low-income taxpayer clinics.
- Sec. 382. Matching grants to low income return preparation clinics.

Subtitle G—Federal-State Unemployment Assistance Agreements

- Sec. 391. Applicability of certain Federal-State Agreements relating to unemployment assistance.

1 **TITLE I—ELIMINATION OF**
2 **ABUSIVE TAX STRATEGIES**

3 **SEC. 101. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—The Congress hereby finds that:

5 (1) Many corporate tax shelter transactions are
6 complicated ways of accomplishing nothing aside
7 from claimed tax benefits, and the legal opinions
8 justifying those transactions take an inappropriately
9 narrow and restrictive view of well-developed court
10 doctrines under which—

11 (A) the taxation of a transaction is deter-
12 mined in accordance with its substance and not
13 merely its form,

14 (B) transactions which have no significant
15 effect on the taxpayer's economic or beneficial
16 interests except for tax benefits are treated as
17 sham transactions and disregarded,

18 (C) transactions involving multiple steps
19 are collapsed when those steps have no substan-
20 tial economic meaning and are merely designed
21 to create tax benefits,

22 (D) transactions with no business purpose
23 are not given effect, and

24 (E) in the absence of a specific congres-
25 sional authorization, it is presumed that Con-

1 gress did not intend a transaction to result in
2 a negative tax where the taxpayer's economic
3 position or rate of return is better after tax
4 than before tax.

5 (2) Permitting aggressive and abusive tax shel-
6 ters not only results in large revenue losses but also
7 undermines voluntary compliance with the Internal
8 Revenue Code of 1986.

9 (b) PURPOSE.—The purpose of this title is to elimi-
10 nate abusive tax shelters by denying tax attributes claimed
11 to arise from transactions that do not meet a heightened
12 economic substance requirement and by repealing the pro-
13 vision that permits legal opinions to be used to avoid pen-
14 alties on tax underpayments resulting from transactions
15 without significant economic substance or business pur-
16 pose.

17 **Subtitle A—Tax Shelters**
18 **Part I—Provisions Designed to**
19 **Curtail Tax Shelters**

20 **SEC. 111. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**
21 **TRINE.**

22 (a) IN GENERAL.—Section 7701 is amended by re-
23 designating subsection (m) as subsection (n) and by in-
24 serting after subsection (l) the following new subsection:

1 “(m) CLARIFICATION OF ECONOMIC SUBSTANCE
2 DOCTRINE; ETC.—

3 “(1) GENERAL RULES.—

4 “(A) IN GENERAL.—In applying the eco-
5 nomic substance doctrine, the determination of
6 whether a transaction has economic substance
7 shall be made as provided in this paragraph.

8 “(B) DEFINITION OF ECONOMIC SUB-
9 STANCE.—For purposes of subparagraph (A)—

10 “(i) IN GENERAL.—A transaction has
11 economic substance only if—

12 “(I) the transaction changes in a
13 meaningful way (apart from Federal
14 tax effects and, if there is any Federal
15 tax effects, also apart from any for-
16 eign, State, or local tax effects) the
17 taxpayer’s economic position, and

18 “(II) the taxpayer has a substan-
19 tial nontax purpose for entering into
20 such transaction and the transaction
21 is a reasonable means of accom-
22 plishing such purpose.

23 “(ii) SPECIAL RULE WHERE TAX-
24 PAYER RELIES ON PROFIT POTENTIAL.—A
25 transaction shall not be treated as having

1 economic substance by reason of having a
2 potential for profit unless—

3 “(I) the present value of the rea-
4 sonably expected pre-tax profit from
5 the transaction is substantial in rela-
6 tion to the present value of the ex-
7 pected net tax benefits that would be
8 allowed if the transaction were re-
9 spected, and

10 “(II) the reasonably expected
11 pre-tax profit from the transaction ex-
12 ceeds a risk-free rate of return.

13 “(C) TREATMENT OF FEES AND FOREIGN
14 TAXES.—Fees and other transaction expenses
15 and foreign taxes shall be taken into account as
16 expenses in determining pre-tax profit under
17 subparagraph (B)(ii).

18 “(2) SPECIAL RULES FOR TRANSACTIONS WITH
19 TAX-INDIFFERENT PARTIES.—

20 “(A) SPECIAL RULES FOR FINANCING
21 TRANSACTIONS.—The form of a transaction
22 which is in substance the borrowing of money
23 or the acquisition of financial capital directly or
24 indirectly from a tax-indifferent party shall not
25 be respected if the present value of the deduc-

1 tions to be claimed with respect to the trans-
2 action is substantially in excess of the present
3 value of the anticipated economic returns of the
4 person lending the money or providing the fi-
5 nancial capital. A public offering shall be treat-
6 ed as a borrowing, or an acquisition of financial
7 capital, from a tax-indifferent party if it is rea-
8 sonably expected that at least 50 percent of the
9 offering will be placed with tax-indifferent par-
10 ties.

11 “(B) ARTIFICIAL INCOME SHIFTING AND
12 BASIS ADJUSTMENTS.—The form of a trans-
13 action with a tax-indifferent party shall not be
14 respected if—

15 “(i) it results in an allocation of in-
16 come or gain to the tax-indifferent party in
17 excess of such party’s economic income or
18 gain, or

19 “(ii) it results in a basis adjustment
20 or shifting of basis on account of over-
21 stating the income or gain of the tax-indif-
22 ferent party.

23 “(3) DEFINITIONS AND SPECIAL RULES.—For
24 purposes of this subsection—

1 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
2 The term ‘economic substance doctrine’ means
3 the common law doctrine under which tax bene-
4 fits under subtitle A with respect to a trans-
5 action are not allowable if the transaction does
6 not have economic substance or lacks a business
7 purpose.

8 “(B) TAX-INDIFFERENT PARTY.—The
9 term ‘tax-indifferent party’ means any person
10 or entity not subject to tax imposed by subtitle
11 A. A person shall be treated as a tax-indifferent
12 party with respect to a transaction if the items
13 taken into account with respect to the trans-
14 action have no substantial impact on such per-
15 son’s liability under subtitle A.

16 “(C) SUBSTANTIAL NONTAX PURPOSE.—In
17 applying subclause (II) of paragraph (1)(B)(i),
18 a purpose of achieving a financial accounting
19 benefit shall not be taken into account in deter-
20 mining whether a transaction has a substantial
21 nontax purpose if the origin of such financial
22 accounting benefit is a reduction of income tax.

23 “(D) EXCEPTION FOR PERSONAL TRANS-
24 ACTIONS OF INDIVIDUALS.—In the case of an
25 individual, this subsection shall apply only to

1 transactions entered into in connection with a
2 trade or business or an activity engaged in for
3 the production of income.

4 “(E) TREATMENT OF LESSORS.—In apply-
5 ing subclause (I) of paragraph (1)(B)(ii) to the
6 lessor of tangible property subject to a lease,
7 the expected net tax benefits shall not include
8 the benefits of depreciation, or any tax credit,
9 with respect to the leased property and sub-
10 clause (II) of paragraph (1)(B)(ii) shall be dis-
11 regarded in determining whether any of such
12 benefits are allowable.

13 “(4) OTHER COMMON LAW DOCTRINES NOT AF-
14 FECTED.—Except as specifically provided in this
15 subsection, the provisions of this subsection shall not
16 be construed as altering or supplanting any other
17 rule of law, and the requirements of this subsection
18 shall be construed as being in addition to any such
19 other rule of law.

20 “(5) REGULATIONS.—The Secretary shall pre-
21 scribe such regulations as may be necessary or ap-
22 propriate to carry out the purposes of this sub-
23 section. Such regulations may include exemptions
24 from the application of this subsection.”

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to transactions entered into after
3 February 13, 2003.

4 **SEC. 112. PENALTY FOR FAILING TO DISCLOSE REPORT-**
5 **ABLE TRANSACTION.**

6 (a) IN GENERAL.—Part I of subchapter B of chapter
7 68 (relating to assessable penalties) is amended by insert-
8 ing after section 6707 the following new section:

9 **“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-**
10 **ABLE TRANSACTION INFORMATION WITH RE-**
11 **TURN OR STATEMENT.**

12 “(a) IMPOSITION OF PENALTY.—Any person who
13 fails to include on any return or statement any informa-
14 tion with respect to a reportable transaction which is re-
15 quired under section 6011 to be included with such return
16 or statement shall pay a penalty in the amount determined
17 under subsection (b).

18 “(b) AMOUNT OF PENALTY.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graphs (2) and (3), the amount of the penalty under
21 subsection (a) shall be \$50,000.

22 “(2) LISTED TRANSACTION.—The amount of
23 the penalty under subsection (a) with respect to a
24 listed transaction shall be \$100,000.

1 “(3) INCREASE IN PENALTY FOR LARGE ENTI-
2 TIES AND HIGH NET WORTH INDIVIDUALS.—

3 “(A) IN GENERAL.—In the case of a fail-
4 ure under subsection (a) by—

5 “(i) a large entity, or

6 “(ii) a high net worth individual,

7 the penalty under paragraph (1) or (2) shall be
8 twice the amount determined without regard to
9 this paragraph.

10 “(B) LARGE ENTITY.—For purposes of
11 subparagraph (A), the term ‘large entity’
12 means, with respect to any taxable year, a per-
13 son (other than a natural person) with gross re-
14 ceipts in excess of \$10,000,000 for the taxable
15 year in which the reportable transaction occurs
16 or the preceding taxable year. Rules similar to
17 the rules of paragraph (2) and subparagraphs
18 (B), (C), and (D) of paragraph (3) of section
19 448(c) shall apply for purposes of this subpara-
20 graph.

21 “(C) HIGH NET WORTH INDIVIDUAL.—For
22 purposes of subparagraph (A), the term ‘high
23 net worth individual’ means, with respect to a
24 reportable transaction, a natural person whose

1 net worth exceeds \$2,000,000 immediately be-
2 fore the transaction.

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

4 “(1) REPORTABLE TRANSACTION.—The term
5 ‘reportable transaction’ means any transaction with
6 respect to which information is required to be in-
7 cluded with a return or statement because, as deter-
8 mined under regulations prescribed under section
9 6011, such transaction is of a type which the Sec-
10 retary determines as having a potential for tax
11 avoidance or evasion.

12 “(2) LISTED TRANSACTION.—Except as pro-
13 vided in regulations, the term ‘listed transaction’
14 means a reportable transaction which is the same as,
15 or substantially similar to, a transaction specifically
16 identified by the Secretary as a tax avoidance trans-
17 action for purposes of section 6011.

18 “(d) AUTHORITY TO RESCIND PENALTY.—

19 “(1) IN GENERAL.—The Commissioner of In-
20 ternal Revenue may rescind all or any portion of any
21 penalty imposed by this section with respect to any
22 violation if—

23 “(A) the violation is with respect to a re-
24 portable transaction other than a listed trans-
25 action,

1 “(B) the person on whom the penalty is
2 imposed has a history of complying with the re-
3 quirements of this title,

4 “(C) it is shown that the violation is due
5 to an unintentional mistake of fact;

6 “(D) imposing the penalty would be
7 against equity and good conscience, and

8 “(E) rescinding the penalty would promote
9 compliance with the requirements of this title
10 and effective tax administration.

11 “(2) DISCRETION.—The exercise of authority
12 under paragraph (1) shall be at the sole discretion
13 of the Commissioner and may be delegated only to
14 the head of the Office of Tax Shelter Analysis. The
15 Commissioner, in the Commissioner’s sole discretion,
16 may establish a procedure to determine if a penalty
17 should be referred to the Commissioner or the head
18 of such Office for a determination under paragraph
19 (1).

20 “(3) NO APPEAL.—Notwithstanding any other
21 provision of law, any determination under this sub-
22 section may not be reviewed in any administrative or
23 judicial proceeding.

24 “(4) RECORDS.—If a penalty is rescinded under
25 paragraph (1), the Commissioner shall place in the

1 file in the Office of the Commissioner the opinion of
2 the Commissioner or the head of the Office of Tax
3 Shelter Analysis with respect to the determination,
4 including—

5 “(A) the facts and circumstances of the
6 transaction,

7 “(B) the reasons for the rescission, and

8 “(C) the amount of the penalty rescinded.

9 “(5) REPORT.—The Commissioner shall each
10 year report to the Committee on Ways and Means
11 of the House of Representatives and the Committee
12 on Finance of the Senate—

13 “(A) a summary of the total number and
14 aggregate amount of penalties imposed, and re-
15 scinded, under this section, and

16 “(B) a description of each penalty re-
17 scinded under this subsection and the reasons
18 therefor.

19 “(e) PENALTY REPORTED TO SEC.—In the case of
20 a person—

21 “(1) which is required to file periodic reports
22 under section 13 or 15(d) of the Securities Ex-
23 change Act of 1934 or is required to be consolidated
24 with another person for purposes of such reports,
25 and

1 “(2) which—

2 “(A) is required to pay a penalty under
3 this section with respect to a listed transaction,

4 “(B) is required to pay a penalty under
5 section 6662A with respect to any reportable
6 transaction at a rate prescribed under section
7 6662A(c), or

8 “(C) is required to pay a penalty under
9 section 6662B with respect to any noneconomic
10 substance transaction,

11 the requirement to pay such penalty shall be disclosed in
12 such reports filed by such person for such periods as the
13 Secretary shall specify. Failure to make a disclosure in
14 accordance with the preceding sentence shall be treated
15 as a failure to which the penalty under subsection (b)(2)
16 applies.

17 “(f) COORDINATION WITH OTHER PENALTIES.—The
18 penalty imposed by this section is in addition to any pen-
19 alty imposed under this title.”

20 (b) CONFORMING AMENDMENT.—The table of sec-
21 tions for part I of subchapter B of chapter 68 is amended
22 by inserting after the item relating to section 6707 the
23 following:

“Sec. 6707A. Penalty for failure to include reportable transaction
information with return or statement.”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to returns and statements the due
 3 date for which is after the date of the enactment of this
 4 Act.

5 **SEC. 113. ACCURACY-RELATED PENALTY FOR LISTED**
 6 **TRANSACTIONS AND OTHER REPORTABLE**
 7 **TRANSACTIONS HAVING A SIGNIFICANT TAX**
 8 **AVOIDANCE PURPOSE.**

9 (a) IN GENERAL.—Subchapter A of chapter 68 is
 10 amended by inserting after section 6662 the following new
 11 section:

12 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PEN-**
 13 **ALTY ON UNDERSTATEMENTS WITH RESPECT**
 14 **TO REPORTABLE TRANSACTIONS.**

15 “(a) IMPOSITION OF PENALTY.—If a taxpayer has a
 16 reportable transaction understatement for any taxable
 17 year, there shall be added to the tax an amount equal to
 18 20 percent of the amount of such understatement.

19 “(b) REPORTABLE TRANSACTION UNDERSTATE-
 20 MENT.—For purposes of this section—

21 “(1) IN GENERAL.—The term ‘reportable trans-
 22 action understatement’ means the sum of—

23 “(A) the product of—

24 “(i) the amount of the increase (if
 25 any) in taxable income which results from

1 a difference between the proper tax treat-
2 ment of an item to which this section ap-
3 plies and the taxpayer's treatment of such
4 item (as shown on the taxpayer's return of
5 tax), and

6 “(ii) the highest rate of tax imposed
7 by section 1 (section 11 in the case of a
8 taxpayer which is a corporation), and

9 “(B) the amount of the decrease (if any)
10 in the aggregate amount of credits determined
11 under subtitle A which results from a difference
12 between the taxpayer's treatment of an item to
13 which this section applies (as shown on the tax-
14 payer's return of tax) and the proper tax treat-
15 ment of such item.

16 For purposes of subparagraph (A), any reduction of
17 the excess of deductions allowed for the taxable year
18 over gross income for such year, and any reduction
19 in the amount of capital losses which would (without
20 regard to section 1211) be allowed for such year,
21 shall be treated as an increase in taxable income.

22 “(2) ITEMS TO WHICH SECTION APPLIES.—This
23 section shall apply to any item which is attributable
24 to—

25 “(A) any listed transaction, and

1 “(B) any reportable transaction (other
2 than a listed transaction) if a significant pur-
3 pose of such transaction is the avoidance or
4 evasion of Federal income tax.

5 “(c) HIGHER PENALTY FOR NONDISCLOSED LISTED
6 AND OTHER AVOIDANCE TRANSACTIONS.—

7 “(1) IN GENERAL.—Subsection (a) shall be ap-
8 plied by substituting ‘30 percent’ for ‘20 percent’
9 with respect to the portion of any reportable trans-
10 action understatement with respect to which the re-
11 quirement of section 6664(d)(2)(A) is not met.

12 “(2) RULES APPLICABLE TO COMPROMISE OF
13 PENALTY.—

14 “(A) IN GENERAL.—If the 1st letter of
15 proposed deficiency which allows the taxpayer
16 an opportunity for administrative review in the
17 Internal Revenue Service Office of Appeals has
18 been sent with respect to a penalty to which
19 paragraph (1) applies, only the Commissioner
20 of Internal Revenue may compromise all or any
21 portion of such penalty.

22 “(B) APPLICABLE RULES.—The rules of
23 paragraphs (3), (4), and (5) of section
24 6707A(d) shall apply for purposes of subpara-
25 graph (A).

1 “(d) DEFINITIONS OF REPORTABLE AND LISTED
2 TRANSACTIONS.—For purposes of this section, the terms
3 ‘reportable transaction’ and ‘listed transaction’ have the
4 respective meanings given to such terms by section
5 6707A(e).

6 “(e) SPECIAL RULES.—

7 “(1) COORDINATION WITH PENALTIES, ETC.,
8 ON OTHER UNDERSTATEMENTS.—In the case of an
9 understatement (as defined in section 6662(d)(2))—

10 “(A) the amount of such understatement
11 (determined without regard to this paragraph)
12 shall be increased by the aggregate amount of
13 reportable transaction understatements and
14 noneconomic substance transaction understate-
15 ments for purposes of determining whether
16 such understatement is a substantial under-
17 statement under section 6662(d)(1), and

18 “(B) the addition to tax under section
19 6662(a) shall apply only to the excess of the
20 amount of the substantial understatement (if
21 any) after the application of subparagraph (A)
22 over the aggregate amount of reportable trans-
23 action understatements and noneconomic sub-
24 stance transaction understatements.

1 “(2) COORDINATION WITH OTHER PEN-
2 ALTIES.—

3 “(A) APPLICATION OF FRAUD PENALTY.—
4 References to an underpayment in section 6663
5 shall be treated as including references to a re-
6 portable transaction understatement and a non-
7 economic substance transaction understatement.

8 “(B) NO DOUBLE PENALTY.—This section
9 shall not apply to any portion of an understate-
10 ment on which a penalty is imposed under sec-
11 tion 6662B or 6663.

12 “(3) SPECIAL RULE FOR AMENDED RE-
13 TURNS.—Except as provided in regulations, in no
14 event shall any tax treatment included with an
15 amendment or supplement to a return of tax be
16 taken into account in determining the amount of any
17 reportable transaction understatement or non-
18 economic substance transaction understatement if
19 the amendment or supplement is filed after the ear-
20 lier of the date the taxpayer is first contacted by the
21 Secretary regarding the examination of the return or
22 such other date as is specified by the Secretary.

23 “(4) NONECONOMIC SUBSTANCE TRANSACTION
24 UNDERSTATEMENT.—For purposes of this sub-
25 section, the term ‘noneconomic substance trans-

1 action understatement' has the meaning given such
2 term by section 6662B(c).

3 “(5) CROSS REFERENCE.—

**“For reporting of section 6662A(c) penalty to the
 Securities and Exchange Commission, see section
 6707A(e).”**

4 (b) DETERMINATION OF OTHER UNDERSTATE-
5 MENTS.—Subparagraph (A) of section 6662(d)(2) is
6 amended by adding at the end the following flush sen-
7 tence:

8 “The excess under the preceding sentence shall
9 be determined without regard to items to which
10 section 6662A applies and without regard to
11 items with respect to which a penalty is im-
12 posed by section 6662B.”

13 (c) REASONABLE CAUSE EXCEPTION.—

14 (1) IN GENERAL.—Section 6664 is amended by
15 adding at the end the following new subsection:

16 “(d) REASONABLE CAUSE EXCEPTION FOR REPORT-
17 ABLE TRANSACTION UNDERSTATEMENTS.—

18 “(1) IN GENERAL.—No penalty shall be im-
19 posed under section 6662A with respect to any por-
20 tion of a reportable transaction understatement if it
21 is shown that there was a reasonable cause for such
22 portion and that the taxpayer acted in good faith
23 with respect to such portion.

1 “(2) SPECIAL RULES.—Paragraph (1) shall not
2 apply to any reportable transaction understatement
3 unless—

4 “(A) the relevant facts affecting the tax
5 treatment of the item are adequately disclosed
6 in accordance with the regulations prescribed
7 under section 6011,

8 “(B) there is or was substantial authority
9 for such treatment, and

10 “(C) the taxpayer reasonably believed that
11 such treatment was more likely than not the
12 proper treatment.

13 A taxpayer failing to adequately disclose in accord-
14 ance with section 6011 shall be treated as meeting
15 the requirements of subparagraph (A) if the penalty
16 for such failure was rescinded under section
17 6707A(d).

18 “(3) RULES RELATING TO REASONABLE BE-
19 LIEF.—For purposes of paragraph (2)(C)—

20 “(A) IN GENERAL.—A taxpayer shall be
21 treated as having a reasonable belief with re-
22 spect to the tax treatment of an item only if
23 such belief—

1 “(i) is based on the facts and law that
2 exist at the time the return of tax which
3 includes such tax treatment is filed, and

4 “(ii) relates solely to the taxpayer’s
5 chances of success on the merits of such
6 treatment and does not take into account
7 the possibility that a return will not be au-
8 dited, such treatment will not be raised on
9 audit, or such treatment will be resolved
10 through settlement if it is raised.

11 “(B) CERTAIN OPINIONS MAY NOT BE RE-
12 LIED UPON.—

13 “(i) IN GENERAL.—An opinion of a
14 tax advisor may not be relied upon to es-
15 tablish the reasonable belief of a taxpayer
16 if—

17 “(I) the tax advisor is described
18 in clause (ii), or

19 “(II) the opinion is described in
20 clause (iii).

21 “(ii) DISQUALIFIED TAX ADVISORS.—
22 A tax advisor is described in this clause if
23 the tax advisor—

24 “(I) is a material advisor (within
25 the meaning of section 6111(b)(1))

1 who participates in the organization,
2 management, promotion, or sale of
3 the transaction or who is related
4 (within the meaning of section 267(b)
5 or 707(b)(1)) to any person who so
6 participates,

7 “(II) is compensated directly or
8 indirectly by a material advisor with
9 respect to the transaction,

10 “(III) has a fee arrangement
11 with respect to the transaction which
12 is contingent on all or part of the in-
13 tended tax benefits from the trans-
14 action being sustained, or

15 “(IV) as determined under regu-
16 lations prescribed by the Secretary,
17 has a continuing financial interest
18 with respect to the transaction.

19 “(iii) DISQUALIFIED OPINIONS.—For
20 purposes of clause (i), an opinion is dis-
21 qualified if the opinion—

22 “(I) is based on unreasonable
23 factual or legal assumptions (includ-
24 ing assumptions as to future events),

1 “(II) unreasonably relies on rep-
2 resentations, statements, findings, or
3 agreements of the taxpayer or any
4 other person,

5 “(III) does not identify and con-
6 sider all relevant facts, or

7 “(IV) fails to meet any other re-
8 quirement as the Secretary may pre-
9 scribe.”

10 (2) CONFORMING AMENDMENT.—The heading
11 for subsection (c) of section 6664 is amended by in-
12 serting “FOR UNDERPAYMENTS” after “EXCEP-
13 TION”.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Subparagraph (C) of section 461(i)(3) is
16 amended by striking “section 6662(d)(2)(C)(iii)”
17 and inserting “section 1274(b)(3)(C)”.

18 (2) Paragraph (3) of section 1274(b) is amend-
19 ed—

20 (A) by striking “(as defined in section
21 6662(d)(2)(C)(iii))” in subparagraph (B)(i),
22 and

23 (B) by adding at the end the following new
24 subparagraph:

1 “(C) TAX SHELTER.—For purposes of sub-
 2 paragraph (B), the term ‘tax shelter’ means—
 3 “(i) a partnership or other entity,
 4 “(ii) any investment plan or arrange-
 5 ment, or
 6 “(iii) any other plan or arrangement,
 7 if a significant purpose of such partnership, en-
 8 tity, plan, or arrangement is the avoidance or
 9 evasion of Federal income tax.”

10 (3) Section 6662(d)(2) is amended by striking
 11 subparagraphs (C) and (D).

12 (4) Section 6664(c)(1) is amended by striking
 13 “this part” and inserting “section 6662 or 6663”.

14 (5) Subsection (b) of section 7525 is amended
 15 by striking “section 6662(d)(2)(C)(iii)” and insert-
 16 ing “section 1274(b)(3)(C)”.

17 (6)(A) The heading for section 6662 is amend-
 18 ed to read as follows:

19 **“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY**
 20 **ON UNDERPAYMENTS.”**

21 (B) The table of sections for part II of sub-
 22 chapter A of chapter 68 is amended by striking the
 23 item relating to section 6662 and inserting the fol-
 24 lowing new items:

 “Sec. 6662. Imposition of accuracy-related penalty on underpay-
 ments.

“Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.”

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years ending after the
3 date of the enactment of this Act.

4 **SEC. 114. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
5 **UTABLE TO TRANSACTIONS LACKING ECO-**
6 **NOMIC SUBSTANCE, ETC.**

7 (a) IN GENERAL.—Subchapter A of chapter 68 is
8 amended by inserting after section 6662A the following
9 new section:

10 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
11 **UTABLE TO TRANSACTIONS LACKING ECO-**
12 **NOMIC SUBSTANCE, ETC.**

13 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an
14 noneconomic substance transaction understatement for
15 any taxable year, there shall be added to the tax an
16 amount equal to 40 percent of the amount of such under-
17 statement.

18 “(b) REDUCTION OF PENALTY FOR DISCLOSED
19 TRANSACTIONS.—Subsection (a) shall be applied by sub-
20 stituting ‘20 percent’ for ‘40 percent’ with respect to the
21 portion of any noneconomic substance transaction under-
22 statement with respect to which the relevant facts affect-
23 ing the tax treatment of the item are adequately disclosed
24 in the return or a statement attached to the return.

1 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
2 DERSTATEMENT.—For purposes of this section—

3 “(1) IN GENERAL.—The term ‘noneconomic
4 substance transaction understatement’ means any
5 amount which would be an understatement under
6 section 6662A(b)(1) if section 6662A were applied
7 by taking into account items attributable to non-
8 economic substance transactions rather than items
9 to which section 6662A would apply without regard
10 to this paragraph.

11 “(2) NONECONOMIC SUBSTANCE TRANS-
12 ACTION.—The term ‘noneconomic substance trans-
13 action’ means any transaction if—

14 “(A) there is a lack of economic substance
15 (within the meaning of section 7701(m)(1)) for
16 the transaction giving rise to the claimed tax
17 benefit or the transaction was not respected
18 under section 7701(m)(2), or

19 “(B) the transaction fails to meet the re-
20 quirements of any similar rule of law.

21 “(d) RULES APPLICABLE TO COMPROMISE OF PEN-
22 ALTY.—

23 “(1) IN GENERAL.—If the 1st letter of pro-
24 posed deficiency which allows the taxpayer an oppor-
25 tunity for administrative review in the Internal Rev-

1 enue Service Office of Appeals has been sent with
 2 respect to a penalty to which this section applies,
 3 only the Commissioner of Internal Revenue may
 4 compromise all or any portion of such penalty.

5 “(2) APPLICABLE RULES.—The rules of para-
 6 graphs (3), (4), and (5) of section 6707A(d) shall
 7 apply for purposes of paragraph (1).

8 “(e) COORDINATION WITH OTHER PENALTIES.—Ex-
 9 cept as otherwise provided in this part, the penalty im-
 10 posed by this section shall be in addition to any other pen-
 11 alty imposed by this title.

12 “(f) CROSS REFERENCES.—

**“(1) For coordination of penalty with understate-
 ments under section 6662 and other special rules,
 see section 6662A(e).”**

**“(2) For reporting of penalty imposed under this
 section to the Securities and Exchange Commission,
 see section 6707A(e).”**

13 (b) CLERICAL AMENDMENT.—The table of sections
 14 for part II of subchapter A of chapter 68 is amended by
 15 inserting after the item relating to section 6662A the fol-
 16 lowing new item:

 “Sec. 6662B. Penalty for understatements attributable to trans-
 actions lacking economic substance, etc.”

17 (c) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to transactions entered into after
 19 February 13, 2003.

1 **SEC. 115. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**
2 **MENT PENALTY FOR NONREPORTABLE**
3 **TRANSACTIONS.**

4 (a) SUBSTANTIAL UNDERSTATEMENT OF CORPORA-
5 TIONS.—Section 6662(d)(1)(B) (relating to special rule
6 for corporations) is amended to read as follows:

7 “(B) SPECIAL RULE FOR CORPORA-
8 TIONS.—In the case of a corporation other than
9 an S corporation or a personal holding company
10 (as defined in section 542), there is a substan-
11 tial understatement of income tax for any tax-
12 able year if the amount of the understatement
13 for the taxable year exceeds the lesser of—

14 “(i) 10 percent of the tax required to
15 be shown on the return for the taxable
16 year (or, if greater, \$10,000), or

17 “(ii) \$10,000,000.”

18 (b) REDUCTION FOR UNDERSTATEMENT OF TAX-
19 PAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED
20 ITEM.—

21 (1) IN GENERAL.—Section 6662(d)(2)(B)(i)
22 (relating to substantial authority) is amended to
23 read as follows:

24 “(i) the tax treatment of any item by
25 the taxpayer if the taxpayer had reason-

1 able belief that the tax treatment was more
2 likely than not the proper treatment, or”.

3 (2) CONFORMING AMENDMENT.—Section
4 6662(d) is amended by adding at the end the fol-
5 lowing new paragraph:

6 “(3) SECRETARIAL LIST.—For purposes of this
7 subsection, section 6664(d)(2), and section
8 6694(a)(1), the Secretary may prescribe a list of po-
9 sitions for which the Secretary believes there is not
10 substantial authority or there is no reasonable belief
11 that the tax treatment is more likely than not the
12 proper tax treatment. Such list (and any revisions
13 thereof) shall be published in the Federal Register
14 or the Internal Revenue Bulletin.”

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

18 **SEC. 116. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**
19 **PRIVILEGES RELATING TO TAXPAYER COM-**
20 **MUNICATIONS.**

21 (a) IN GENERAL.—Section 7525(b) (relating to sec-
22 tion not to apply to communications regarding corporate
23 tax shelters) is amended to read as follows:

24 “(b) SECTION NOT TO APPLY TO COMMUNICATIONS
25 REGARDING TAX SHELTERS.—The privilege under sub-

1 section (a) shall not apply to any written communication
2 which is—

3 “(1) between a federally authorized tax practi-
4 tioner and—

5 “(A) any person,

6 “(B) any director, officer, employee, agent,
7 or representative of the person, or

8 “(C) any other person holding a capital or
9 profits interest in the person, and

10 “(2) in connection with the promotion of the di-
11 rect or indirect participation of the person in any
12 tax shelter (as defined in section 1274(b)(3)(C)).”

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to communications made on or
15 after the date of the enactment of this Act.

16 **SEC. 117. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

17 (a) IN GENERAL.—Section 6111 (relating to registra-
18 tion of tax shelters) is amended to read as follows:

19 **“SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

20 “(a) IN GENERAL.—Each material advisor with re-
21 spect to any reportable transaction shall make a return
22 (in such form as the Secretary may prescribe) setting
23 forth—

24 “(1) information identifying and describing the
25 transaction,

1 “(2) information describing any potential tax
2 benefits expected to result from the transaction, and

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

5 Such return shall be filed not later than the date specified
6 by the Secretary.

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

8 “(1) MATERIAL ADVISOR.—

9 “(A) IN GENERAL.—The term ‘material
10 advisor’ means any person—

11 “(i) who provides any material aid,
12 assistance, or advice with respect to orga-
13 nizing, promoting, selling, implementing,
14 or carrying out any reportable transaction,
15 and

16 “(ii) who directly or indirectly derives
17 gross income in excess of the threshold
18 amount for such aid, assistance, or advice.

19 “(B) THRESHOLD AMOUNT.—For purposes
20 of subparagraph (A), the threshold amount is—

21 “(i) \$50,000 in the case of a report-
22 able transaction substantially all of the tax
23 benefits from which are provided to nat-
24 ural persons, and

25 “(ii) \$250,000 in any other case.

1 “(2) REPORTABLE TRANSACTION.—The term
2 ‘reportable transaction’ has the meaning given to
3 such term by section 6707A(e).

4 “(c) REGULATIONS.—The Secretary may prescribe
5 regulations which provide—

6 “(1) that only 1 person shall be required to
7 meet the requirements of subsection (a) in cases in
8 which 2 or more persons would otherwise be re-
9 quired to meet such requirements,

10 “(2) exemptions from the requirements of this
11 section, and

12 “(3) such rules as may be necessary or appro-
13 priate to carry out the purposes of this section.”

14 (b) CONFORMING AMENDMENTS.—

15 (1) The item relating to section 6111 in the
16 table of sections for subchapter B of chapter 61 is
17 amended to read as follows:

 “Sec. 6111. Disclosure of reportable transactions.”

18 (2)(A) So much of section 6112 as precedes
19 subsection (c) thereof is amended to read as follows:

20 **“SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANS-**
21 **ACTIONS MUST KEEP LISTS OF ADVISEES.**

22 “(a) IN GENERAL.—Each material advisor (as de-
23 fined in section 6111) with respect to any reportable
24 transaction (as defined in section 6707A(e)) shall main-

tain, in such manner as the Secretary may by regulations prescribe, a list—

“(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

“(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.”

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting “written” before “request” in paragraph (1)(A), and

(ii) by striking “shall prescribe” in paragraph (2) and inserting “may prescribe”.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.”

(3)(A) The heading for section 6708 is amended to read as follows:

1 **“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES**
2 **WITH RESPECT TO REPORTABLE TRANS-**
3 **ACTIONS.”**

4 (B) The item relating to section 6708 in the
5 table of sections for part I of subchapter B of chap-
6 ter 68 is amended to read as follows:

“Sec. 6708. Failure to maintain lists of advisees with respect to
reportable transactions.”

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to transactions with respect to
9 which material aid, assistance, or advice referred to in sec-
10 tion 6111(b)(1)(A)(i) of the Internal Revenue Code of
11 1986 (as added by this section) is provided after the date
12 of the enactment of this Act.

13 **SEC. 118. MODIFICATIONS TO PENALTY FOR FAILURE TO**
14 **REGISTER TAX SHELTERS.**

15 (a) IN GENERAL.—Section 6707 (relating to failure
16 to furnish information regarding tax shelters) is amended
17 to read as follows:

18 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**
19 **ING REPORTABLE TRANSACTIONS.**

20 “(a) IN GENERAL.—If a person who is required to
21 file a return under section 6111(a) with respect to any
22 reportable transaction—

23 “(1) fails to file such return on or before the
24 date prescribed therefor, or

1 “(2) files false or incomplete information with
2 the Secretary with respect to such transaction,
3 such person shall pay a penalty with respect to such return
4 in the amount determined under subsection (b).

5 “(b) AMOUNT OF PENALTY.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2), the penalty imposed under subsection (a)
8 with respect to any failure shall be \$50,000.

9 “(2) LISTED TRANSACTIONS.—The penalty im-
10 posed under subsection (a) with respect to any listed
11 transaction shall be an amount equal to the greater
12 of—

13 “(A) \$200,000, or

14 “(B) 50 percent of the gross income de-
15 rived by such person with respect to aid, assist-
16 ance, or advice which is provided with respect
17 to the reportable transaction before the date the
18 return including the transaction is filed under
19 section 6111.

20 Subparagraph (B) shall be applied by substituting
21 ‘75 percent’ for ‘50 percent’ in the case of an inten-
22 tional failure or act described in subsection (a).

23 “(c) RESCISSION AUTHORITY.—The provisions of
24 section 6707A(d) (relating to authority of Commissioner

1 to rescind penalty) shall apply to any penalty imposed
2 under this section.

3 “(d) REPORTABLE AND LISTED TRANSACTIONS.—
4 The terms ‘reportable transaction’ and ‘listed transaction’
5 have the respective meanings given to such terms by sec-
6 tion 6707A(c).”.

7 (b) CLERICAL AMENDMENT.—The item relating to
8 section 6707 in the table of sections for part I of sub-
9 chapter B of chapter 68 is amended by striking “tax shel-
10 ters” and inserting “reportable transactions”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to returns the due date for which
13 is after the date of the enactment of this Act.

14 **SEC. 119. MODIFICATION OF PENALTY FOR FAILURE TO**
15 **MAINTAIN LISTS OF INVESTORS.**

16 (a) IN GENERAL.—Subsection (a) of section 6708 is
17 amended to read as follows:

18 “(a) IMPOSITION OF PENALTY.—

19 “(1) IN GENERAL.—If any person who is re-
20 quired to maintain a list under section 6112(a) fails
21 to make such list available upon written request to
22 the Secretary in accordance with section
23 6112(b)(1)(A) within 20 business days after the
24 date of the Secretary’s request, such person shall

1 pay a penalty of \$10,000 for each day of such fail-
2 ure after such 20th day.

3 “(2) REASONABLE CAUSE EXCEPTION.—No
4 penalty shall be imposed by paragraph (1) with re-
5 spect to the failure on any day if such failure is due
6 to reasonable cause.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to requests made after the date
9 of the enactment of this Act.

10 **SEC. 120. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN**
11 **CONDUCT RELATED TO TAX SHELTERS AND**
12 **REPORTABLE TRANSACTIONS.**

13 (a) IN GENERAL.—Section 7408 (relating to action
14 to enjoin promoters of abusive tax shelters, etc.) is amend-
15 ed by redesignating subsection (c) as subsection (d) and
16 by striking subsections (a) and (b) and inserting the fol-
17 lowing new subsections:

18 “(a) AUTHORITY TO SEEK INJUNCTION.—A civil ac-
19 tion in the name of the United States to enjoin any person
20 from further engaging in specified conduct may be com-
21 menced at the request of the Secretary. Any action under
22 this section shall be brought in the district court of the
23 United States for the district in which such person resides,
24 has his principal place of business, or has engaged in spec-
25 ified conduct. The court may exercise its jurisdiction over

1 such action (as provided in section 7402(a)) separate and
2 apart from any other action brought by the United States
3 against such person.

4 “(b) ADJUDICATION AND DECREE.—In any action
5 under subsection (a), if the court finds—

6 “(1) that the person has engaged in any speci-
7 fied conduct, and

8 “(2) that injunctive relief is appropriate to pre-
9 vent recurrence of such conduct,

10 the court may enjoin such person from engaging in such
11 conduct or in any other activity subject to penalty under
12 this title.

13 “(c) SPECIFIED CONDUCT.—For purposes of this
14 section, the term ‘specified conduct’ means any action, or
15 failure to take action, subject to penalty under section
16 6700, 6701, 6707, or 6708.”

17 (b) CONFORMING AMENDMENTS.—

18 (1) The heading for section 7408 is amended to
19 read as follows:

20 **“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RE-**
21 **LATED TO TAX SHELTERS AND REPORTABLE**
22 **TRANSACTIONS.”**

23 (2) The table of sections for subchapter A of
24 chapter 67 is amended by striking the item relating

1 to section 7408 and inserting the following new
2 item:

“Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.”

3 (c) **EFFECTIVE DATE.**—The amendment made by
4 this section shall take effect on the day after the date of
5 the enactment of this Act.

6 **SEC. 121. UNDERSTATEMENT OF TAXPAYER’S LIABILITY BY**
7 **INCOME TAX RETURN PREPARER.**

8 (a) **STANDARDS CONFORMED TO TAXPAYER STAND-**
9 **ARDS.**—Section 6694(a) (relating to understatements due
10 to unrealistic positions) is amended—

11 (1) by striking “realistic possibility of being
12 sustained on its merits” in paragraph (1) and in-
13 serting “reasonable belief that the tax treatment in
14 such position was more likely than not the proper
15 treatment”,

16 (2) by striking “or was frivolous” in paragraph
17 (3) and inserting “or there was no reasonable basis
18 for the tax treatment of such position”, and

19 (3) by striking “UNREALISTIC” in the heading
20 and inserting “IMPROPER”.

21 (b) **AMOUNT OF PENALTY.**—Section 6694 is amend-
22 ed—

23 (1) by striking “\$250” in subsection (a) and in-
24 serting “\$1,000”, and

1 (2) by striking “\$1,000” in subsection (b) and
2 inserting “\$5,000”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to documents prepared after the
5 date of the enactment of this Act.

6 **SEC. 122. PENALTY ON FAILURE TO REPORT INTERESTS IN**
7 **FOREIGN FINANCIAL ACCOUNTS.**

8 (a) IN GENERAL.—Section 5321(a)(5) of title 31,
9 United States Code, is amended to read as follows:

10 “(5) FOREIGN FINANCIAL AGENCY TRANS-
11 ACTION VIOLATION.—

12 “(A) PENALTY AUTHORIZED.—The Sec-
13 retary of the Treasury may impose a civil
14 money penalty on any person who violates, or
15 causes any violation of, any provision of section
16 5314.

17 “(B) AMOUNT OF PENALTY.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in subparagraph (C), the amount of
20 any civil penalty imposed under subpara-
21 graph (A) shall not exceed \$5,000.

22 “(ii) REASONABLE CAUSE EXCEP-
23 TION.—No penalty shall be imposed under
24 subparagraph (A) with respect to any vio-
25 lation if—

1 “(I) such violation was due to
2 reasonable cause, and

3 “(II) the amount of the trans-
4 action or the balance in the account
5 at the time of the transaction was
6 properly reported.

7 “(C) WILLFUL VIOLATIONS.—In the case
8 of any person willfully violating, or willfully
9 causing any violation of, any provision of sec-
10 tion 5314—

11 “(i) the maximum penalty under sub-
12 paragraph (B)(i) shall be increased to the
13 greater of—

14 “(I) \$25,000, or

15 “(II) the amount (not exceeding
16 \$100,000) determined under subpara-
17 graph (D), and

18 “(ii) subparagraph (B)(ii) shall not
19 apply.

20 “(D) AMOUNT.—The amount determined
21 under this subparagraph is—

22 “(i) in the case of a violation involving
23 a transaction, the amount of the trans-
24 action, or

1 “(ii) in the case of a violation involv-
2 ing a failure to report the existence of an
3 account or any identifying information re-
4 quired to be provided with respect to an
5 account, the balance in the account at the
6 time of the violation.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to violations occurring after the
9 date of the enactment of this Act.

10 **SEC. 123. FRIVOLOUS TAX SUBMISSIONS.**

11 (a) CIVIL PENALTIES.—Section 6702 is amended to
12 read as follows:

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

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

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

18 “(A) does not contain information on
19 which the substantial correctness of the self-as-
20 sessment may be judged, or

21 “(B) contains information that on its face
22 indicates that the self-assessment is substan-
23 tially incorrect; and

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

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

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

6 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
7 SUBMISSIONS.—

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

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

14 “(A) SPECIFIED FRIVOLOUS SUBMIS-
15 SION.—The term ‘specified frivolous submis-
16 sion’ means a specified submission if any por-
17 tion of such submission—

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

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

24 “(B) SPECIFIED SUBMISSION.—The term
25 ‘specified submission’ means—

1 “(i) a request for a hearing under—

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

5 “(II) section 6330 (relating to
6 notice and opportunity for hearing be-
7 fore levy), and

8 “(ii) an application under—

9 “(I) section 6159 (relating to
10 agreements for payment of tax liabil-
11 ity in installments),

12 “(II) section 7122 (relating to
13 compromises), or

14 “(III) section 7811 (relating to
15 taxpayer assistance orders).

16 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
17 SION.—If the Secretary provides a person with no-
18 tice that a submission is a specified frivolous sub-
19 mission and such person withdraws such submission
20 within 30 days after such notice, the penalty im-
21 posed under paragraph (1) shall not apply with re-
22 spect to such submission.

23 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
24 retary shall prescribe (and periodically revise) a list of po-
25 sitions which the Secretary has identified as being frivo-

1 lous for purposes of this subsection. The Secretary shall
2 not include in such list any position that the Secretary
3 determines meets the requirement of section
4 6662(d)(2)(B)(ii)(II).

5 “(d) REDUCTION OF PENALTY.—The Secretary may
6 reduce the amount of any penalty imposed under this sec-
7 tion if the Secretary determines that such reduction would
8 promote compliance with and administration of the Fed-
9 eral tax laws.

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

13 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
14 HEARINGS BEFORE LEVY.—

15 (1) FRIVOLOUS REQUESTS DISREGARDED.—
16 Section 6330 (relating to notice and opportunity for
17 hearing before levy) is amended by adding at the
18 end the following new subsection:

19 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—
20 Notwithstanding any other provision of this section, if the
21 Secretary determines that any portion of a request for a
22 hearing under this section or section 6320 meets the re-
23 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
24 then the Secretary may treat such portion as if it were

1 never submitted and such portion shall not be subject to
2 any further administrative or judicial review.”

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

6 (A) by striking “(A)” and inserting
7 “(A)(i)”;

8 (B) by striking “(B)” and inserting “(ii)”;

9 (C) by striking the period at the end of the
10 first sentence and inserting “; or”; and

11 (D) by inserting after subparagraph (A)(ii)
12 (as so redesignated) the following:

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

15 (3) STATEMENT OF GROUNDS.—Section
16 6330(b)(1) is amended by striking “under sub-
17 section (a)(3)(B)” and inserting “in writing under
18 subsection (a)(3)(B) and states the grounds for the
19 requested hearing”.

20 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
21 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
22 6320 is amended—

23 (1) in subsection (b)(1), by striking “under sub-
24 section (a)(3)(B)” and inserting “in writing under

1 subsection (a)(3)(B) and states the grounds for the
2 requested hearing”, and

3 (2) in subsection (c), by striking “and (e)” and
4 inserting “(e), and (g)”.

5 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
6 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
7 MENTS.—Section 7122 is amended by adding at the end
8 the following new subsection:

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

18 (e) CLERICAL AMENDMENT.—The table of sections
19 for part I of subchapter B of chapter 68 is amended by
20 striking the item relating to section 6702 and inserting
21 the following new item:

“Sec. 6702. Frivolous tax submissions.”

22 (f) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to submissions made and issues
24 raised after the date on which the Secretary first pre-

1 scribes a list under section 6702(e) of the Internal Rev-
2 enue Code of 1986, as amended by subsection (a).

3 **SEC. 124. REGULATION OF INDIVIDUALS PRACTICING BE-**
4 **FORE THE DEPARTMENT OF TREASURY.**

5 (a) CENSURE; IMPOSITION OF PENALTY.—

6 (1) IN GENERAL.—Section 330(b) of title 31,
7 United States Code, is amended—

8 (A) by inserting “, or censure,” after “De-
9 partment”, and

10 (B) by adding at the end the following new
11 flush sentence:

12 “The Secretary may impose a monetary penalty on any
13 representative described in the preceding sentence. If the
14 representative was acting on behalf of an employer or any
15 firm or other entity in connection with the conduct giving
16 rise to such penalty, the Secretary may impose a monetary
17 penalty on such employer, firm, or entity if it knew, or
18 reasonably should have known, of such conduct. Such pen-
19 alty shall not exceed the gross income derived (or to be
20 derived) from the conduct giving rise to the penalty and
21 may be in addition to, or in lieu of, any suspension, disbar-
22 ment, or censure.”

23 (2) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to actions taken after
25 the date of the enactment of this Act.

1 (b) TAX SHELTER OPINIONS, ETC.—Section 330 of
2 such title 31 is amended by adding at the end the fol-
3 lowing new subsection:

4 “(d) Nothing in this section or in any other provision
5 of law shall be construed to limit the authority of the Sec-
6 retary of the Treasury to impose standards applicable to
7 the rendering of written advice with respect to any entity,
8 transaction plan or arrangement, or other plan or arrange-
9 ment, which is of a type which the Secretary determines
10 as having a potential for tax avoidance or evasion.”

11 **SEC. 125. PENALTY ON PROMOTERS OF TAX SHELTERS.**

12 (a) PENALTY ON PROMOTING ABUSIVE TAX SHEL-
13 TERS.—Section 6700(a) is amended by adding at the end
14 the following new sentence: “Notwithstanding the first
15 sentence, if an activity with respect to which a penalty
16 imposed under this subsection involves a statement de-
17 scribed in paragraph (2)(A), the amount of the penalty
18 shall be equal to 50 percent of the gross income derived
19 (or to be derived) from such activity by the person on
20 which the penalty is imposed.”

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

1 **SEC. 126. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**
2 **FOR WHICH LISTED TRANSACTIONS NOT RE-**
3 **PORTED.**

4 (a) IN GENERAL.—Section 6501(e)(1) (relating to
5 substantial omission of items for income taxes) is amended
6 by adding at the end the following new subparagraph:

7 “(C) LISTED TRANSACTIONS.—If a tax-
8 payer fails to include on any return or state-
9 ment for any taxable year any information with
10 respect to a listed transaction (as defined in
11 section 6707A(e)(2)) which is required under
12 section 6011 to be included with such return
13 or statement, the tax for such taxable year may
14 be assessed, or a proceeding in court for collec-
15 tion of such tax may be begun without assess-
16 ment, at any time within 6 years after the time
17 the return is filed. This subparagraph shall not
18 apply to any taxable year if the time for assess-
19 ment or beginning the proceeding in court has
20 expired before the time a transaction is treated
21 as a listed transaction under section 6011.”

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to transactions after the date of
24 the enactment of this Act in taxable years ending after
25 such date.

1 **SEC. 127. DENIAL OF DEDUCTION FOR INTEREST ON UN-**
2 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**
3 **CLOSED REPORTABLE AND NONECONOMIC**
4 **SUBSTANCE TRANSACTIONS.**

5 (a) IN GENERAL.—Section 163 (relating to deduction
6 for interest) is amended by redesignating subsection (m)
7 as subsection (n) and by inserting after subsection (l) the
8 following new subsection:

9 “(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE
10 TO NONDISCLOSED REPORTABLE TRANSACTIONS AND
11 NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduc-
12 tion shall be allowed under this chapter for any interest
13 paid or accrued under section 6601 on any underpayment
14 of tax which is attributable to—

15 “(1) the portion of any reportable transaction
16 understatement (as defined in section 6662A(b))
17 with respect to which the requirement of section
18 6664(d)(2)(A) is not met, or

19 “(2) any noneconomic substance transaction
20 understatement (as defined in section 6662B(c)).”

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to transactions after the date of
23 the enactment of this Act in taxable years ending after
24 such date.

Part II—Other Provisions

1 **Part II—Other Provisions** 2 **SEC. 131. LIMITATION ON TRANSFER OR IMPORTATION OF** 3 **BUILT-IN LOSSES.**

4 (a) IN GENERAL.—Section 362 (relating to basis to
5 corporations) is amended by adding at the end the fol-
6 lowing new subsection:

7 “(e) LIMITATIONS ON BUILT-IN LOSSES.—

8 “(1) LIMITATION ON IMPORTATION OF BUILT-
9 IN LOSSES.—

10 “(A) IN GENERAL.—If in any transaction
11 described in subsection (a) or (b) there would
12 (but for this subsection) be an importation of a
13 net built-in loss, the basis of each property de-
14 scribed in subparagraph (B) which is acquired
15 in such transaction shall (notwithstanding sub-
16 sections (a) and (b)) be its fair market value
17 immediately after such transaction.

18 “(B) PROPERTY DESCRIBED.—For pur-
19 poses of subparagraph (A), property is de-
20 scribed in this paragraph if—

21 “(i) gain or loss with respect to such
22 property is not subject to tax under this
23 subtitle in the hands of the transferor im-
24 mediately before the transfer, and

1 “(ii) gain or loss with respect to such
2 property is subject to such tax in the
3 hands of the transferee immediately after
4 such transfer.

5 In any case in which the transferor is a part-
6 nership, the preceding sentence shall be applied
7 by treating each partner in such partnership as
8 holding such partner’s proportionate share of
9 the property of such partnership.

10 “(C) IMPORTATION OF NET BUILT-IN
11 LOSS.—For purposes of subparagraph (A),
12 there is an importation of a net built-in loss in
13 a transaction if the transferee’s aggregate ad-
14 justed bases of property described in subpara-
15 graph (B) which is transferred in such trans-
16 action would (but for this paragraph) exceed
17 the fair market value of such property imme-
18 diately after such transaction.”

19 “(2) LIMITATION ON TRANSFER OF BUILT-IN
20 LOSSES IN SECTION 351 TRANSACTIONS.—

21 “(A) IN GENERAL.—If—

22 “(i) property is transferred in any
23 transaction which is described in sub-
24 section (a) and which is not described in
25 paragraph (1) of this subsection, and

1 “(ii) the transferee’s aggregate ad-
2 justed bases of the property so transferred
3 would (but for this paragraph) exceed the
4 fair market value of such property imme-
5 diately after such transaction,
6 then, notwithstanding subsection (a), the trans-
7 feree’s aggregate adjusted bases of the property
8 so transferred shall not exceed the fair market
9 value of such property immediately after such
10 transaction.

11 “(B) ALLOCATION OF BASIS REDUC-
12 TION.—The aggregate reduction in basis by
13 reason of subparagraph (A) shall be allocated
14 among the property so transferred in proportion
15 to their respective built-in losses immediately
16 before the transaction.

17 “(C) EXCEPTION FOR TRANSFERS WITHIN
18 AFFILIATED GROUP.—Subparagraph (A) shall
19 not apply to any transaction if the transferor
20 owns stock in the transferee meeting the re-
21 quirements of section 1504(a)(2). In the case of
22 property to which subparagraph (A) does not
23 apply by reason of the preceding sentence, the
24 transferor’s basis in the stock received for such

1 property shall not exceed its fair market value
2 immediately after the transfer.”

3 (b) COMPARABLE TREATMENT WHERE LIQUIDA-
4 TION.—Paragraph (1) of section 334(b) (relating to liq-
5 uidation of subsidiary) is amended to read as follows:

6 “(1) IN GENERAL.—If property is received by a
7 corporate distributee in a distribution in a complete
8 liquidation to which section 332 applies (or in a
9 transfer described in section 337(b)(1)), the basis of
10 such property in the hands of such distributee shall
11 be the same as it would be in the hands of the trans-
12 feror; except that the basis of such property in the
13 hands of such distributee shall be the fair market
14 value of the property at the time of the distribu-
15 tion—

16 “(A) in any case in which gain or loss is
17 recognized by the liquidating corporation with
18 respect to such property, or

19 “(B) in any case in which the liquidating
20 corporation is a foreign corporation, the cor-
21 porate distributee is a domestic corporation,
22 and the corporate distributee’s aggregate ad-
23 justed bases of property described in section
24 362(e)(1)(B) which is distributed in such liq-
25 uidation would (but for this subparagraph) ex-

1 ceed the fair market value of such property im-
2 mediately after such liquidation.”

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

6 **SEC. 132. DISALLOWANCE OF CERTAIN PARTNERSHIP LOSS**
7 **TRANSFERS.**

8 (a) TREATMENT OF CONTRIBUTED PROPERTY WITH
9 BUILT-IN LOSS.—Paragraph (1) of section 704(c) is
10 amended by striking “and” at the end of subparagraph
11 (A), by striking the period at the end of subparagraph
12 (B) and inserting “, and”, and by adding at the end the
13 following:

14 “(C) if any property so contributed has a
15 built-in loss—

16 “(i) such built-in loss shall be taken
17 into account only in determining the
18 amount of items allocated to the contrib-
19 uting partner, and

20 “(ii) except as provided in regulations,
21 in determining the amount of items allo-
22 cated to other partners, the basis of the
23 contributed property in the hands of the
24 partnership shall be treated as being equal

1 to its fair market value immediately after
2 the contribution.

3 For purposes of subparagraph (C), the term ‘built-
4 in loss’ means the excess of the adjusted basis of the
5 property (determined without regard to subpara-
6 graph (C)(ii)) over its fair market value immediately
7 after the contribution.”

8 (b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-
9 ERTY ON TRANSFER OF PARTNERSHIP INTEREST IF
10 THERE IS SUBSTANTIAL BUILT-IN LOSS.—

11 (1) ADJUSTMENT REQUIRED.—Subsection (a)
12 of section 743 (relating to optional adjustment to
13 basis of partnership property) is amended by insert-
14 ing before the period “or unless the partnership has
15 a substantial built-in loss immediately after such
16 transfer”.

17 (2) ADJUSTMENT.—Subsection (b) of section
18 743 is amended by inserting “or with respect to
19 which there is a substantial built-in loss immediately
20 after such transfer” after “section 754 is in effect”.

21 (3) SUBSTANTIAL BUILT-IN LOSS.—Section 743
22 is amended by adding at the end the following new
23 subsection:

24 “(d) SUBSTANTIAL BUILT-IN LOSS.—

1 “(1) IN GENERAL.—For purposes of this sec-
 2 tion, a partnership has a substantial built-in loss
 3 with respect to a transfer of an interest in a part-
 4 nership if the transferee partner’s proportionate
 5 share of the adjusted basis of the partnership prop-
 6 erty exceeds by more than \$250,000 the basis of
 7 such partner’s interest in the partnership.

8 “(2) REGULATIONS.—The Secretary shall pre-
 9 scribe such regulations as may be appropriate to
 10 carry out the purposes of paragraph (1) and section
 11 734(d), including regulations aggregating related
 12 partnerships and disregarding property acquired by
 13 the partnership in an attempt to avoid such pur-
 14 poses.”

15 (4) CLERICAL AMENDMENTS.—

16 (A) The section heading for section 743 is
 17 amended to read as follows:

18 **“SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROP-**
 19 **ERTY WHERE SECTION 754 ELECTION OR**
 20 **SUBSTANTIAL BUILT-IN LOSS.”**

21 (B) The table of sections for subpart C of
 22 part II of subchapter K of chapter 1 is amend-
 23 ed by striking the item relating to section 743
 24 and inserting the following new item:

 “Sec. 743. Adjustment to basis of partnership property where sec-
 tion 754 election or substantial built-in loss.”

1 (c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED
2 PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL
3 BASIS REDUCTION.—

4 (1) ADJUSTMENT REQUIRED.—Subsection (a)
5 of section 734 (relating to optional adjustment to
6 basis of undistributed partnership property) is
7 amended by inserting before the period “or unless
8 there is a substantial basis reduction”.

9 (2) ADJUSTMENT.—Subsection (b) of section
10 734 is amended by inserting “or unless there is a
11 substantial basis reduction” after “section 754 is in
12 effect”.

13 (3) SUBSTANTIAL BASIS REDUCTION.—Section
14 734 is amended by adding at the end the following
15 new subsection:

16 “(d) SUBSTANTIAL BASIS REDUCTION.—

17 “(1) IN GENERAL.—For purposes of this sec-
18 tion, there is a substantial basis reduction with re-
19 spect to a distribution if the sum of the amounts de-
20 scribed in subparagraphs (A) and (B) of subsection
21 (b)(2) exceeds \$250,000.

22 “(2) REGULATIONS.—

“For regulations to carry out this subsection, see
section 743(d)(2).”

23 (4) CLERICAL AMENDMENTS.—

1 (A) The section heading for section 734 is
2 amended to read as follows:

3 **“SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED**
4 **PARTNERSHIP PROPERTY WHERE SECTION**
5 **754 ELECTION OR SUBSTANTIAL BASIS RE-**
6 **DUCTION.”**

7 (B) The table of sections for subpart B of
8 part II of subchapter K of chapter 1 is amend-
9 ed by striking the item relating to section 734
10 and inserting the following new item:

“Sec. 734. Adjustment to basis of undistributed partnership prop-
erty where section 754 election or substantial basis
reduction.”

11 (d) EFFECTIVE DATES.—

12 (1) SUBSECTION (a).—The amendment made
13 by subsection (a) shall apply to contributions made
14 after the date of the enactment of this Act.

15 (2) SUBSECTION (b).—The amendments made
16 by subsection (b) shall apply to transfers after the
17 date of the enactment of this Act.

18 (3) SUBSECTION (c).—The amendments made
19 by subsection (c) shall apply to distributions after
20 the date of the enactment of this Act.

1 **SEC. 133. NO REDUCTION OF BASIS UNDER SECTION 734 IN**
2 **STOCK HELD BY PARTNERSHIP IN COR-**
3 **PORATE PARTNER.**

4 (a) IN GENERAL.—Section 755 is amended by adding
5 at the end the following new subsection:

6 “(c) NO ALLOCATION OF BASIS DECREASE TO
7 STOCK OF CORPORATE PARTNER.—In making an alloca-
8 tion under subsection (a) of any decrease in the adjusted
9 basis of partnership property under section 734(b)—

10 “(1) no allocation may be made to stock in a
11 corporation which is a partner in the partnership,
12 and

13 “(2) any amount not allocable to stock by rea-
14 son of paragraph (1) shall be allocated under sub-
15 section (a) to other partnership property.

16 Gain shall be recognized to the partnership to the extent
17 that the amount required to be allocated under paragraph
18 (2) to other partnership property exceeds the aggregate
19 adjusted basis of such other property immediately before
20 the allocation required by paragraph (2).”

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

1 **SEC. 134. REPEAL OF SPECIAL RULES FOR FASITS.**

2 (a) IN GENERAL.—Part V of subchapter M of chap-
3 ter 1 (relating to financial asset securitization investment
4 trusts) is hereby repealed.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Paragraph (6) of section 56(g) is amended
7 by striking “REMIC, or FASIT” and inserting “or
8 REMIC”.

9 (2) Clause (ii) of section 382(l)(4)(B) is amend-
10 ed by striking “a REMIC to which part IV of sub-
11 chapter M applies, or a FASIT to which part V of
12 subchapter M applies,” and inserting “or a REMIC
13 to which part IV of subchapter M applies,”.

14 (3) Paragraph (1) of section 582(e) is amended
15 by striking “, and any regular interest in a
16 FASIT,”.

17 (4) Subparagraph (E) of section 856(e)(5) is
18 amended by striking the last sentence.

19 (5) Paragraph (5) of section 860G(a) is amend-
20 ed by adding “and” at the end of subparagraph (B),
21 by striking “, and” at the end of subparagraph (C)
22 and inserting a period, and by striking subparagraph
23 (D).

24 (6) Subparagraph (C) of section 1202(e)(4) is
25 amended by striking “REMIC, or FASIT” and in-
26 serting “or REMIC”.

1 (7) Subparagraph (C) of section 7701(a)(19) is
2 amended by adding “and” at the end of clause (ix),
3 by striking “, and” at the end of clause (x) and in-
4 serting a period, and by striking clause (xi).

5 (8) The table of parts for subchapter M of
6 chapter 1 is amended by striking the item relating
7 to part V.

8 (c) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 shall apply to taxable years beginning after Decem-
12 ber 31, 2003.

13 (2) EXCEPTION FOR EXISTING FASITS.—

14 (A) IN GENERAL.—Paragraph (1) shall not
15 apply to any FASIT in existence on the date of
16 the enactment of this Act.

17 (B) TRANSFER OF ADDITIONAL ASSETS
18 NOT PERMITTED.—Except as provided in regu-
19 lations prescribed by the Secretary of the
20 Treasury or the Secretary’s delegate, subpara-
21 graph (A) shall cease to apply as of the earliest
22 date after the date of the enactment of this Act
23 that any property is transferred to the FASIT.

1 **SEC. 135. EXPANDED DISALLOWANCE OF DEDUCTION FOR**
2 **INTEREST ON CONVERTIBLE DEBT.**

3 (a) IN GENERAL.—Paragraph (2) of section 163(l)
4 is amended by striking “or a related party” and inserting
5 “or equity held by the issuer (or any related party) in any
6 other person”.

7 (b) CONFORMING AMENDMENT.—Paragraph (3) of
8 section 163(l) is amended by striking “or a related party”
9 in the material preceding subparagraph (A) and inserting
10 “or any other person”.

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

14 **SEC. 136. EXPANDED AUTHORITY TO DISALLOW TAX BENE-**
15 **FITS UNDER SECTION 269.**

16 (a) IN GENERAL.—Subsection (a) of section 269 (re-
17 lating to acquisitions made to evade or avoid income tax)
18 is amended to read as follows:

19 “(a) IN GENERAL.—If—

20 “(1)(A) any person acquires stock in a corpora-
21 tion, or

22 “(B) any corporation acquires, directly or indi-
23 rectly, property of another corporation and the basis
24 of such property, in the hands of the acquiring cor-
25 poration, is determined by reference to the basis in
26 the hands of the transferor corporation, and

1 “(2) the principal purpose for which such acqui-
2 sition was made is evasion or avoidance of Federal
3 income tax by securing the benefit of a deduction,
4 credit, or other allowance,
5 then the Secretary may disallow such deduction, credit,
6 or other allowance.”

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to stock and property acquired
9 after February 13, 2003.

10 **SEC. 137. MODIFICATIONS OF CERTAIN RULES RELATING**
11 **TO CONTROLLED FOREIGN CORPORATIONS.**

12 (a) LIMITATION ON EXCEPTION FROM PFIC RULES
13 FOR UNITED STATES SHAREHOLDERS OF CONTROLLED
14 FOREIGN CORPORATIONS.—Paragraph (2) of section
15 1297(e) (relating to passive investment company) is
16 amended by adding at the end the following flush sen-
17 tence:

18 “Such term shall not include any period if there is
19 only a remote likelihood of an inclusion in gross in-
20 come under section 951(a)(1)(A)(i) of subpart F in-
21 come of such corporation for such period.”

22 (b) DETERMINATION OF PRO RATA SHARE OF SUB-
23 PART F INCOME.—Subsection (a) of section 951 (relating
24 to amounts included in gross income of United States

1 shareholders) is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(4) SPECIAL RULES FOR DETERMINING PRO
4 RATA SHARE OF SUBPART F INCOME.—The pro rata
5 share under paragraph (2) shall be determined by
6 disregarding—

7 “(A) any rights lacking substantial eco-
8 nomic effect, and

9 “(B) stock owned by a shareholder who is
10 a tax-indifferent party (as defined in section
11 7701(m)(3)) if the amount which would (but
12 for this paragraph) be allocated to such share-
13 holder does not reflect such shareholder’s eco-
14 nomic share of the earnings and profits of the
15 corporation.”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years on controlled for-
18 eign corporation beginning after February 13, 2003, and
19 to taxable years of United States shareholder in which or
20 with which such taxable years of controlled foreign cor-
21 porations end.

1 **SEC. 138. BASIS FOR DETERMINING LOSS ALWAYS RE-**
2 **DUCED BY NONTAXED PORTION OF DIVI-**
3 **DENDS.**

4 (a) IN GENERAL.—Section 1059 (relating to cor-
5 porate shareholder’s basis in stock reduced by nontaxed
6 portion of extraordinary dividends) is amended by redesignig-
7 nating subsection (g) as subsection (h) and by inserting
8 after subsection (f) the following new subsection:

9 “(g) BASIS FOR DETERMINING LOSS ALWAYS RE-
10 DUCED BY NONTAXED PORTION OF DIVIDENDS.—The
11 basis of stock in a corporation (for purposes of deter-
12 mining loss) shall be reduced by the nontaxed portion of
13 any dividend received with respect to such stock if this
14 section does not otherwise apply to such dividend.”

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to dividends received after the date
17 of the enactment of this Act.

18 **SEC. 139. AFFIRMATION OF CONSOLIDATED RETURN REGU-**
19 **LATION AUTHORITY.**

20 (a) IN GENERAL.—Section 1502 (relating to consoli-
21 dated return regulations) is amended by adding at the end
22 the following new sentence: “In prescribing such regula-
23 tions, the Secretary may prescribe rules applicable to cor-
24 porations filing consolidated returns under section 1501
25 that are different from other provisions of this title that
26 would apply if such corporations filed separate returns.”

1 (b) RESULT NOT OVERTURNED.—Notwithstanding
2 subsection (a), the Internal Revenue Code of 1986 shall
3 be construed by treating Treasury regulation § 1.1502–
4 20(c)(1)(iii) (as in effect on January 1, 2001) as being
5 inapplicable to the type of factual situation in 255 F.3d
6 1357 (Fed. Cir. 2001).

7 (c) EFFECTIVE DATE.—The provisions of this section
8 shall apply to taxable years beginning before, on, or after
9 the date of the enactment of this Act.

10 **Subtitle B—Prevention of Cor-**
11 **porate Expatriation to Avoid**
12 **United States Income Tax**

13 **SEC. 151. PREVENTION OF CORPORATE EXPATRIATION TO**
14 **AVOID UNITED STATES INCOME TAX.**

15 (a) IN GENERAL.—Paragraph (4) of section 7701(a)
16 (defining domestic) is amended to read as follows:

17 “(4) DOMESTIC.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), the term ‘domestic’ when ap-
20 plied to a corporation or partnership means cre-
21 ated or organized in the United States or under
22 the law of the United States or of any State
23 unless, in the case of a partnership, the Sec-
24 retary provides otherwise by regulations.

1 “(B) CERTAIN CORPORATIONS TREATED
2 AS DOMESTIC.—

3 “(i) IN GENERAL.—The acquiring cor-
4 poration in a corporate expatriation trans-
5 action shall be treated as a domestic cor-
6 poration.

7 “(ii) CORPORATE EXPATRIATION
8 TRANSACTION.—For purposes of this sub-
9 paragraph, the term ‘corporate expatria-
10 tion transaction’ means any transaction
11 if—

12 “(I) a nominally foreign corpora-
13 tion (referred to in this subparagraph
14 as the ‘acquiring corporation’) ac-
15 quires, as a result of such transaction,
16 directly or indirectly substantially all
17 of the properties held directly or indi-
18 rectly by a domestic corporation, and

19 “(II) immediately after the trans-
20 action, more than 80 percent of the
21 stock (by vote or value) of the acquir-
22 ing corporation is held by former
23 shareholders of the domestic corpora-
24 tion by reason of holding stock in the
25 domestic corporation.

1 “(iii) LOWER STOCK OWNERSHIP RE-
2 QUIREMENT IN CERTAIN CASES.—Sub-
3 clause (II) of clause (ii) shall be applied by
4 substituting ‘50 percent’ for ‘80 percent’
5 with respect to any nominally foreign cor-
6 poration if—

7 “(I) such corporation does not
8 have substantial business activities
9 (when compared to the total business
10 activities of the expanded affiliated
11 group) in the foreign country in which
12 or under the law of which the corpora-
13 tion is created or organized, and

14 “(II) the stock of the corporation
15 is publicly traded and the principal
16 market for the public trading of such
17 stock is in the United States.

18 “(iv) PARTNERSHIP TRANSACTIONS.—
19 The term ‘corporate expatriation trans-
20 action’ includes any transaction if—

21 “(I) a nominally foreign corpora-
22 tion (referred to in this subparagraph
23 as the ‘acquiring corporation’) ac-
24 quires, as a result of such transaction,
25 directly or indirectly properties consti-

1 tuting a trade or business of a domes-
2 tic partnership,

3 “(II) immediately after the trans-
4 action, more than 80 percent of the
5 stock (by vote or value) of the acquir-
6 ing corporation is held by former
7 partners of the domestic partnership
8 or related foreign partnerships (deter-
9 mined without regard to stock of the
10 acquiring corporation which is sold in
11 a public offering related to the trans-
12 action), and

13 “(III) the acquiring corporation
14 meets the requirements of subclauses
15 (I) and (II) of clause (iii).

16 “(v) SPECIAL RULES.—For purposes
17 of this subparagraph—

18 “(I) a series of related trans-
19 actions shall be treated as 1 trans-
20 action, and

21 “(II) stock held by members of
22 the expanded affiliated group which
23 includes the acquiring corporation
24 shall not be taken into account in de-
25 termining ownership.

1 “(vi) OTHER DEFINITIONS.—For pur-
2 poses of this subparagraph—

3 “(I) NOMINALLY FOREIGN COR-
4 PORATION.—The term ‘nominally for-
5 eign corporation’ means any corpora-
6 tion which would (but for this sub-
7 paragraph) be treated as a foreign
8 corporation.

9 “(II) EXPANDED AFFILIATED
10 GROUP.—The term ‘expanded affili-
11 ated group’ means an affiliated group
12 (as defined in section 1504(a) without
13 regard to section 1504(b)).

14 “(III) RELATED FOREIGN PART-
15 NERSHIP.—A foreign partnership is
16 related to a domestic partnership if
17 they are under common control (with-
18 in the meaning of section 482), or
19 they shared the same trademark or
20 tradename.”

21 (b) EFFECTIVE DATES.—

22 (1) IN GENERAL.—The amendment made by
23 this section shall apply to corporate expatriation
24 transactions completed after September 11, 2001.

1 (2) SPECIAL RULE.—The amendment made by
2 this section shall also apply to corporate expatriation
3 transactions completed on or before September 11,
4 2001, but only with respect to taxable years of the
5 acquiring corporation beginning after December 31,
6 2003.

7 **TITLE II—SIMPLIFICATION OF**
8 **EARNED INCOME TAX CREDIT**

9 **SEC. 201. SIMPLIFICATION OF EARNED INCOME TAX CRED-**

10 **IT.**

11 (a) REPEAL OF DENIAL OF CREDIT WHERE INVEST-
12 MENT INCOME.—Section 32 is amended by striking sub-
13 section (i).

14 (b) EARNED INCOME TO INCLUDE ONLY AMOUNTS
15 INCLUDIBLE IN GROSS INCOME.—Section 32(c)(2)(B) is
16 amended by striking “and” at the end of clause (iv), by
17 striking the period at the end of clause (v) and inserting
18 “, and”, and by adding at the end the following new
19 clause:

20 “(vi) the requirement under subparagraph
21 (A)(i) that an amount be includible in
22 gross income shall not apply if such
23 amount is exempt from tax under section
24 7873 or is derived directly from restricted
25 and allotted land under the Act of Feb-

1 ruary 8, 1887 (commonly known as the In-
2 dian General Allotment Act) (25 U.S.C.
3 331 et seq.) or from land held under Acts
4 or treaties containing an exception provi-
5 sion similar to the Indian General Allot-
6 ment Act.”

7 (c) MODIFICATION OF JOINT RETURN REQUIRE-
8 MENT.—Subsection (d) of section 32 is amended to read
9 as follows:

10 “(d) MARRIED INDIVIDUALS.—

11 “(1) IN GENERAL.—If the taxpayer is married
12 at the close of the taxable year, the credit shall be
13 allowed under subsection (a) only if the taxpayer
14 and his spouse file a joint return for the taxable
15 year.

16 “(2) MARITAL STATUS.—For purposes of para-
17 graph (1), an individual legally separated from his
18 spouse under a decree of divorce or of separate
19 maintenance shall not be considered as married.

20 “(3) CERTAIN MARRIED INDIVIDUALS LIVING
21 APART.—For purposes of paragraph (1), if—

22 “(A) an individual —

23 “(i) is married and files a separate re-
24 turn, and

1 “(ii) has a qualifying child who is a
2 son, daughter, stepson, or stepdaughter of
3 such individual, and

4 “(B) during the last 6 months of such tax-
5 able year, such individual and such individual’s
6 spouse do not have the same principal place of
7 abode,

8 such individual shall not be considered as married.”

9 (d) EXPANSION OF MATHEMATICAL ERROR AUTHOR-
10 ITY.—Paragraph (2) of section 6213(g) is amended by
11 striking “and” at the end of subparagraph (K), by striking
12 the period at the end of subparagraph (L) and inserting
13 “, and”, and by inserting after subparagraph (L) the fol-
14 lowing new subparagraph:

15 “(M) the entry on the return claiming the
16 credit under section 32 with respect to a child
17 if, according to the Federal Case Registry of
18 Child Support Orders established under section
19 453(h) of the Social Security Act, the taxpayer
20 is a noncustodial parent of such child.”

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

24 (f) PRECERTIFICATION OF EARNED INCOME CRED-
25 IT.—Nothing in any provision of law shall be construed

1 as authorizing precertification of the earned income credit
2 under section 32 of the Internal Revenue Code of 1986.

3 **TITLE III—TAXPAYER PROTEC-**
4 **TIONS AND IRS ACCOUNT-**
5 **ABILITY**

6 **Subtitle A—Penalty and Interest**
7 **Reforms**

8 **SEC. 301. FAILURE TO PAY ESTIMATED TAX PENALTY CON-**
9 **VERTED TO INTEREST CHARGE ON ACCUMU-**
10 **LATED UNPAID BALANCE.**

11 (a) PENALTY MOVED TO INTEREST CHAPTER OF
12 CODE.—The Internal Revenue Code of 1986 is amended
13 by redesignating section 6654 as section 6641 and by
14 moving section 6641 (as so redesignated) from part I of
15 subchapter A of chapter 68 to the end of subchapter E
16 of chapter 67 (as added by subsection (e)(1) of this sec-
17 tion).

18 (b) PENALTY CONVERTED TO INTEREST CHARGE.—
19 The heading and subsections (a) and (b) of section 6641
20 (as so redesignated) are amended to read as follows:

21 **“SEC. 6641. INTEREST ON FAILURE BY INDIVIDUAL TO PAY**
22 **ESTIMATED INCOME TAX.**

23 “(a) IN GENERAL.—Interest shall be paid on any un-
24 derpayment of estimated tax by an individual for a taxable
25 year for each day of such underpayment. The amount of

1 such interest for any day shall be the product of the un-
2 derpayment rate established under subsection (b)(2) mul-
3 tiplied by the amount of the underpayment.

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

6 “(1) AMOUNT.—The amount of the under-
7 payment on any day shall be the excess of—

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

11 “(B) the sum of the amounts (if any) of
12 estimated tax payments made on or before such
13 day on such required installments.

14 “(2) DETERMINATION OF INTEREST RATE.—

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

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

1 date for a required installment and ending on
2 the due date for the subsequent required in-
3 stallment (or in the case of the 4th required in-
4 stallment, the 15th day of the 4th month fol-
5 lowing the close of a taxable year).

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

10 “(3) TERMINATION OF ESTIMATED TAX INTER-
11 EST.—No day after the end of the installment un-
12 derpayment period for the 4th required installment
13 specified in paragraph (2)(B) for a taxable year
14 shall be treated as a day of underpayment with re-
15 spect to such taxable year.”.

16 (c) INCREASE IN SAFE HARBOR WHERE TAX IS
17 SMALL.—

18 (1) IN GENERAL.—Clause (i) of section
19 6641(d)(1)(B) (as so redesignated) is amended to
20 read as follows:

21 “(i) the lesser of—

22 “(I) 90 percent of the tax shown
23 on the return for the taxable year (or,
24 if no return is filed, 90 percent of the
25 tax for such year), or

1 “(II) the tax shown on the return
2 for the taxable year (or, if no return
3 is filed, the tax for such year) reduced
4 (but not below zero) by \$1,600, or”.

5 (2) CONFORMING AMENDMENT.—Subsection (e)
6 of section 6641 (as so redesignated) is amended by
7 striking paragraph (1) and redesignating paragraphs
8 (2) and (3) as paragraphs (1) and (2), respectively.

9 (d) CONFORMING AMENDMENTS.—

10 (1) Paragraphs (1) and (2) of subsection (e)
11 (as redesignated by subsection (c)(2)) and sub-
12 section (h) of section 6641 (as so designated) are
13 each amended by striking “addition to tax” each
14 place it occurs and inserting “interest”.

15 (2) Section 167(g)(5)(D) is amended by strik-
16 ing “6654” and inserting “6641”.

17 (3) Section 460(b)(1) is amended by striking
18 “6654” and inserting “6641”.

19 (4) Section 3510(b) is amended—

20 (A) by striking “section 6654” in para-
21 graph (1) and inserting “section 6641”;

22 (B) by amending paragraph (2)(B) to read
23 as follows:

24 “(B) no interest would be required to be
25 paid (but for this section) under 6641 for such

1 taxable year by reason of the \$1,600 amount
2 specified in section 6641(d)(1)(B)(i)(II).”;

3 (C) by striking “section 6654(d)(2)” in
4 paragraph (3) and inserting “section
5 6641(d)(2)”;

6 (D) by striking paragraph (4).

7 (5) Section 6201(b)(1) is amended by striking
8 “6654” and inserting “6641”.

9 (6) Section 6601(h) is amended by striking
10 “6654” and inserting “6641”.

11 (7) Section 6621(b)(2)(B) is amended by strik-
12 ing “addition to tax under section 6654” and insert-
13 ing “interest required to be paid under section
14 6641”.

15 (8) Section 6622(b) is amended—

16 (A) by striking “PENALTY FOR” in the
17 heading; and

18 (B) by striking “addition to tax under sec-
19 tion 6654 or 6655” and inserting “interest re-
20 quired to be paid under section 6641 or addi-
21 tion to tax under section 6655”.

22 (9) Section 6658(a) is amended—

23 (A) by striking “6654, or 6655” and in-
24 serting “or 6655, and no interest shall be re-
25 quired to be paid under section 6641,”; and

1 (B) by inserting “or paying interest” after
2 “the tax” in paragraph (2)(B)(ii).

3 (10) Section 6665(b) is amended—

4 (A) in the matter preceding paragraph (1)
5 by striking “, 6654,”; and

6 (B) in paragraph (2) by striking “6654
7 or”.

8 (11) Section 7203 is amended by striking “sec-
9 tion 6654 or 6655” and inserting “section 6655 or
10 interest required to be paid under section 6641”.

11 (e) CLERICAL AMENDMENTS.—

12 (1) Chapter 67 is amended by inserting after
13 subchapter D the following:

14 **“Subchapter E—Interest on Failure by**
15 **Individual to Pay Estimated Income Tax**

“Sec. 6641. Interest on failure by individual to pay estimated in-
come tax.”.

16 (2) The table of subchapters for chapter 67 is
17 amended by adding at the end the following new
18 items:

“Subchapter D. Notice requirements.

“Subchapter E. Interest on failure by individual to pay estimated
income tax.”.

19 (3) The table of sections for part I of sub-
20 chapter A of chapter 68 is amended by striking the
21 item relating to section 6654.

1 (f) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to installment payments for taxable
3 years beginning after December 31, 2003.

4 **SEC. 302. ABATEMENT OF INTEREST.**

5 (a) ABATEMENT OF INTEREST WITH RESPECT TO
6 ERRONEOUS REFUND CHECK WITHOUT REGARD TO SIZE
7 OF REFUND.—Paragraph (2) of section 6404(e) is amend-
8 ed by striking “unless—” and all that follows and insert-
9 ing “unless the taxpayer (or a related party) has in any
10 way caused such erroneous refund.”.

11 (b) ABATEMENT OF INTEREST TO EXTENT INTER-
12 EST IS ATTRIBUTABLE TO TAXPAYER RELIANCE ON
13 WRITTEN STATEMENTS OF THE IRS.—Subsection (f) of
14 section 6404 is amended—

15 (1) in the subsection heading, by striking
16 “PENALTY OR ADDITION” and inserting “INTEREST,
17 PENALTY, OR ADDITION”; and

18 (2) in paragraph (1) and in subparagraph (B)
19 of paragraph (2), by striking “penalty or addition”
20 and inserting “interest, penalty, or addition”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to interest accruing
23 on or after the date of the enactment of this Act.

1 **SEC. 303. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
 2 **TEREST ON POTENTIAL UNDERPAYMENTS.**

3 (a) IN GENERAL.—Subchapter A of chapter 67 (re-
 4 lating to interest on underpayments) is amended by add-
 5 ing at the end the following new section:

6 **“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
 7 **TEREST ON POTENTIAL UNDERPAYMENTS,**
 8 **ETC.**

9 “(a) AUTHORITY TO MAKE DEPOSITS OTHER THAN
 10 AS PAYMENT OF TAX.—A taxpayer may make a cash de-
 11 posit with the Secretary which may be used by the Sec-
 12 retary to pay any tax imposed under subtitle A or B or
 13 chapter 41, 42, 43, or 44 which has not been assessed
 14 at the time of the deposit. Such a deposit shall be made
 15 in such manner as the Secretary shall prescribe.

16 “(b) NO INTEREST IMPOSED.—To the extent that
 17 such deposit is used by the Secretary to pay tax, for pur-
 18 poses of section 6601 (relating to interest on underpay-
 19 ments), the tax shall be treated as paid when the deposit
 20 is made.

21 “(c) RETURN OF DEPOSIT.—Except in a case where
 22 the Secretary determines that collection of tax is in jeop-
 23 ardy, the Secretary shall return to the taxpayer any
 24 amount of the deposit (to the extent not used for a pay-
 25 ment of tax) which the taxpayer requests in writing.

26 “(d) PAYMENT OF INTEREST.—

1 “(1) IN GENERAL.—For purposes of section
2 6611 (relating to interest on overpayments), a de-
3 posit which is returned to a taxpayer shall be treated
4 as a payment of tax for any period to the extent
5 (and only to the extent) attributable to a disputable
6 tax for such period. Under regulations prescribed by
7 the Secretary, rules similar to the rules of section
8 6611(b)(2) shall apply.

9 “(2) DISPUTABLE TAX.—

10 “(A) IN GENERAL.—For purposes of this
11 section, the term ‘disputable tax’ means the
12 amount of tax specified at the time of the de-
13 posit as the taxpayer’s reasonable estimate of
14 the maximum amount of any tax attributable to
15 disputable items.

16 “(B) SAFE HARBOR BASED ON 30-DAY
17 LETTER.—In the case of a taxpayer who has
18 been issued a 30-day letter, the maximum
19 amount of tax under subparagraph (A) shall
20 not be less than the amount of the proposed de-
21 ficiency specified in such letter.

22 “(3) OTHER DEFINITIONS.—For purposes of
23 paragraph (2)—

1 “(A) DISPUTABLE ITEM.—The term ‘dis-
2 putable item’ means any item of income, gain,
3 loss, deduction, or credit if the taxpayer—

4 “(i) has a reasonable basis for its
5 treatment of such item, and

6 “(ii) reasonably believes that the Sec-
7 retary also has a reasonable basis for dis-
8 allowing the taxpayer’s treatment of such
9 item.

10 “(B) 30-DAY LETTER.—The term ‘30-day
11 letter’ means the first letter of proposed defi-
12 ciency which allows the taxpayer an opportunity
13 for administrative review in the Internal Rev-
14 enue Service Office of Appeals.

15 “(4) RATE OF INTEREST.—The rate of interest
16 allowable under this subsection shall be the Federal
17 short-term rate determined under section 6621(b),
18 compounded daily.

19 “(e) USE OF DEPOSITS.—

20 “(1) PAYMENT OF TAX.—Except as otherwise
21 provided by the taxpayer, deposits shall be treated
22 as used for the payment of tax in the order depos-
23 ited.

1 “(B) RETURNS OF DEPOSITS.—Deposits shall
2 be treated as returned to the taxpayer on a last-in,
3 first-out basis.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subchapter A of chapter 67 is amended by adding at
6 the end the following new item:

 “Sec. 6603. Deposits made to suspend running of interest on po-
 tential underpayments, etc.”.

7 (c) EFFECTIVE DATE.—

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

11 (2) COORDINATION WITH DEPOSITS MADE
12 UNDER REVENUE PROCEDURE 84–58.—In the case of
13 an amount held by the Secretary of the Treasury or
14 his delegate on the date of the enactment of this Act
15 as a deposit in the nature of a cash bond deposit
16 pursuant to Revenue Procedure 84–58, the date that
17 the taxpayer identifies such amount as a deposit
18 made pursuant to section 6603 of the Internal Rev-
19 enue Code (as added by this Act) shall be treated as
20 the date such amount is deposited for purposes of
21 such section 6603.

1 **SEC. 304. EXPANSION OF INTEREST NETTING FOR INDIVID-**
2 **UALS.**

3 (a) IN GENERAL.—Subsection (d) of section 6621
4 (relating to elimination of interest on overlapping periods
5 of tax overpayments and underpayments) is amended by
6 adding at the end the following: “Solely for purposes of
7 the preceding sentence, section 6611(e) shall not apply in
8 the case of an individual.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply to interest accrued after Decem-
11 ber 31, 2003.

12 **SEC. 305. WAIVER OF CERTAIN PENALTIES FOR FIRST-TIME**
13 **UNINTENTIONAL MINOR ERRORS.**

14 (a) IN GENERAL.—Section 6651 (relating to failure
15 to file tax return or to pay tax) is amended by adding
16 at the end the following new subsection:

17 “(i) TREATMENT OF FIRST-TIME UNINTENTIONAL
18 MINOR ERRORS.—

19 “(1) IN GENERAL.—In the case of a return of
20 tax imposed by subtitle A filed by an individual, the
21 Secretary may waive an addition to tax under sub-
22 section (a) if—

23 “(A) the individual has a history of compli-
24 ance with the requirements of this title,

25 “(B) it is shown that the failure is due to
26 an unintentional minor error,

1 “(C) the penalty would be grossly dis-
2 proportionate to the action or expense that
3 would have been needed to avoid the error, and
4 imposing the penalty would be against equity
5 and good conscience,

6 “(D) waiving the penalty would promote
7 compliance with the requirements of this title
8 and effective tax administration, and

9 “(E) the taxpayer took all reasonable steps
10 to remedy the error promptly after discovering
11 it.

12 “(2) EXCEPTIONS.—Paragraph (1) shall not
13 apply if—

14 “(A) the Secretary has waived any addition
15 to tax under this subsection with respect to any
16 prior failure by such individual,

17 “(B) the failure is a mathematical or cler-
18 ical error (as defined in section 6213(g)(2)), or

19 “(C) the failure is the lack of a required
20 signature.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall take effect on January 1, 2004.

23 **SEC. 306. FRIVOLOUS TAX SUBMISSIONS.**

24 (a) CIVIL PENALTIES.—Section 6702 is amended to
25 read as follows:

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

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

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

6 “(A) does not contain information on
7 which the substantial correctness of the self-as-
8 sessment may be judged, or

9 “(B) contains information that on its face
10 indicates that the self-assessment is substan-
11 tially incorrect; and

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

13 “(A) is based on a position which the Sec-
14 retary has identified as frivolous under sub-
15 section (c), or

16 “(B) reflects a desire to delay or impede
17 the administration of Federal tax laws.

18 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
19 SUBMISSIONS.—

20 “(1) IMPOSITION OF PENALTY.—Except as pro-
21 vided in paragraph (3), any person who submits a
22 specified frivolous submission shall pay a penalty of
23 \$5,000.

24 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
25 purposes of this section—

1 “(A) SPECIFIED FRIVOLOUS SUBMIS-
2 SION.—The term ‘specified frivolous submis-
3 sion’ means a specified submission if any por-
4 tion of such submission is based on a position
5 which the Secretary has identified as frivolous
6 under subsection (c).

7 “(B) SPECIFIED SUBMISSION.—The term
8 ‘specified submission’ means—

9 “(i) a request for a hearing under—

10 “(I) section 6320 (relating to no-
11 tice and opportunity for hearing upon
12 filing of notice of lien), or

13 “(II) section 6330 (relating to
14 notice and opportunity for hearing be-
15 fore levy), and

16 “(ii) an application under—

17 “(I) section 7811 (relating to
18 taxpayer assistance orders),

19 “(II) section 6159 (relating to
20 agreements for payment of tax liabil-
21 ity in installments), or

22 “(III) section 7122 (relating to
23 compromises).

24 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
25 SION.—If the Secretary provides a person with no-

1 tice that a submission is a specified frivolous sub-
2 mission and such person withdraws such submission
3 within 30 days after such notice, the penalty im-
4 posed under paragraph (1) shall not apply with re-
5 spect to such submission.

6 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
7 retary shall prescribe (and periodically revise) a list of po-
8 sitions which the Secretary has identified as being frivo-
9 lous for purposes of this subsection. The Secretary shall
10 not include in such list any position that the Secretary
11 determines meets the requirement of section
12 6662(d)(2)(B)(ii)(II).

13 “(d) REDUCTION OF PENALTY.—The Secretary may
14 reduce the amount of any penalty imposed under this sec-
15 tion if the Secretary determines that such reduction would
16 promote compliance with and administration of the Fed-
17 eral tax laws.

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

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for part I of subchapter B of chapter 68 is amended by
23 striking the item relating to section 6702 and inserting
24 the following new item:

“Sec. 6702. Frivolous tax submissions.”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to submissions made and issues
 3 raised after the date on which the Secretary first pre-
 4 scribes a list under section 6702(e) of the Internal Rev-
 5 enue Code of 1986, as amended by subsection (a).

6 **SEC. 307. CLARIFICATION OF APPLICATION OF FEDERAL**
 7 **TAX DEPOSIT PENALTY.**

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

12 **Subtitle B—Fairness of Collection**
 13 **Procedures**

14 **SEC. 311. PARTIAL PAYMENT OF TAX LIABILITY IN IN-**
 15 **STALLMENT AGREEMENTS.**

16 (a) IN GENERAL.—

17 (1) Section 6159(a) (relating to authorization
 18 of agreements) is amended—

19 (A) by striking “satisfy liability for pay-
 20 ment of” and inserting “make payment on”,
 21 and

22 (B) by inserting “full or partial” after “fa-
 23 cilitate”.

24 (2) Section 6159(c) (relating to Secretary re-
 25 quired to enter into installment agreements in cer-

1 tain cases) is amended in the matter preceding para-
2 graph (1) by inserting “full” before “payment”.

3 (b) REQUIREMENT TO REVIEW PARTIAL PAYMENT
4 AGREEMENTS EVERY TWO YEARS.—Section 6159 is
5 amended by redesignating subsections (d) and (e) as sub-
6 sections (e) and (f), respectively, and inserting after sub-
7 section (c) the following new subsection:

8 “(d) SECRETARY REQUIRED TO REVIEW INSTALL-
9 MENT AGREEMENTS FOR PARTIAL COLLECTION EVERY
10 TWO YEARS.—In the case of an agreement entered into
11 by the Secretary under subsection (a) for partial collection
12 of a tax liability, the Secretary shall review the agreement
13 at least once every 2 years.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to agreements entered into on or
16 after the date of the enactment of this Act.

17 **SEC. 312. EXTENSION OF TIME FOR RETURN OF PROPERTY.**

18 (a) EXTENSION OF TIME FOR RETURN OF PROPERTY
19 SUBJECT TO LEVY.—Subsection (b) of section 6343 (re-
20 lating to return of property) is amended by striking “9
21 months” and inserting “2 years”.

22 (b) PERIOD OF LIMITATION ON SUITS.—Subsection
23 (c) of section 6532 (relating to suits by persons other than
24 taxpayers) is amended—

1 (1) in paragraph (1) by striking “9 months”
2 and inserting “2 years”, and

3 (2) in paragraph (2) by striking “9-month” and
4 inserting “2-year”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to—

7 (1) levies made after the date of the enactment
8 of this Act, and

9 (2) levies made on or before such date if the 9-
10 month period has not expired under section 6343(b)
11 of the Internal Revenue Code of 1986 (without re-
12 gard to this section) as of such date.

13 **SEC. 313. INDIVIDUALS HELD HARMLESS ON WRONGFUL**
14 **LEVY, ETC., ON INDIVIDUAL RETIREMENT**
15 **PLAN.**

16 (a) IN GENERAL.—Section 6343 (relating to author-
17 ity to release levy and return property) is amended by add-
18 ing at the end the following new subsection:

19 “(f) INDIVIDUALS HELD HARMLESS ON WRONGFUL
20 LEVY, ETC. ON INDIVIDUAL RETIREMENT PLAN.—

21 “(1) IN GENERAL.—If the Secretary determines
22 that an individual retirement plan has been levied
23 upon in a case to which subsection (b) or (d)(2)(A)
24 applies, an amount equal to the sum of—

1 “(A) the amount of money returned by the
2 Secretary on account of such levy, and

3 “(B) interest paid under subsection (c) on
4 such amount of money,

5 may be deposited into an individual retirement plan
6 (other than an endowment contract) to which a roll-
7 over from the plan levied upon is permitted.

8 “(2) TREATMENT AS ROLLOVER.—The distribu-
9 tion on account of the levy and any deposit under
10 paragraph (1) with respect to such distribution shall
11 be treated for purposes of this title as if such dis-
12 tribution and deposit were part of a rollover de-
13 scribed in section 408(d)(3)(A)(i); except that—

14 “(A) interest paid under subsection (c)
15 shall be treated as part of such distribution and
16 as not includible in gross income,

17 “(B) the 60-day requirement in such sec-
18 tion shall be treated as met if the deposit is
19 made not later than the 60th day after the day
20 on which the individual receives an amount
21 under paragraph (1) from the Secretary, and

22 “(C) such deposit shall not be taken into
23 account under section 408(d)(3)(B).

24 “(3) REFUND, ETC., OF INCOME TAX ON
25 LEVY.—If any amount is includible in gross income

1 for a taxable year by reason of a levy referred to in
2 paragraph (1) and any portion of such amount is
3 treated as a rollover under paragraph (2), any tax
4 imposed by chapter 1 on such portion shall not be
5 assessed, and if assessed shall be abated, and if col-
6 lected shall be credited or refunded as an overpay-
7 ment made on the due date for filing the return of
8 tax for such taxable year.

9 “(4) INTEREST.—Notwithstanding subsection
10 (d), interest shall be allowed under subsection (c) in
11 a case in which the Secretary makes a determination
12 described in subsection (d)(2)(A) with respect to a
13 levy upon an individual retirement plan.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to amounts paid under subsections
16 (b), (c), and (d)(2)(A) of section 6343 of the Internal Rev-
17 enue Code of 1986 after December 31, 2003.

18 **SEC. 314. SEVEN-DAY THRESHOLD ON TOLLING OF STAT-**
19 **UTE OF LIMITATIONS DURING TAX REVIEW.**

20 (a) IN GENERAL.—Section 7811(d)(1) (relating to
21 suspension of running of period of limitation) is amended
22 by inserting after “application,” the following: “but only
23 if the date of such decision is at least 7 days after the
24 date of the taxpayer’s application”.

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

4 **SEC. 315. STUDY OF LIENS AND LEVIES.**

5 The Secretary of the Treasury, or the Secretary's del-
6 egate, shall conduct a study of the practices of the Inter-
7 nal Revenue Service concerning liens and levies. The study
8 shall examine—

9 (1) the declining use of liens and levies by the
10 Internal Revenue Service, and

11 (2) the practicality of recording liens and
12 levying against property in cases in which the cost
13 of such actions exceeds the amount to be realized
14 from such property.

15 Not later than 1 year after the date of the enactment of
16 this Act, the Secretary shall submit such study to the
17 Committee on Ways and Means of the House of Rep-
18 resentatives and the Committee on Finance of the Senate.

1 **Subtitle C—Tax Administration**
2 **Reforms**

3 **SEC. 331. REVISIONS RELATING TO TERMINATION OF EM-**
4 **PLOYMENT OF INTERNAL REVENUE SERVICE**
5 **EMPLOYEES FOR MISCONDUCT.**

6 (a) IN GENERAL.—Subchapter A of chapter 80 (re-
7 relating to application of internal revenue laws) is amended
8 by inserting after section 7804 the following new section:

9 **“SEC. 7804A. DISCIPLINARY ACTIONS FOR MISCONDUCT.**

10 “(a) DISCIPLINARY ACTIONS.—

11 “(1) IN GENERAL.—Subject to subsection (c),
12 the Commissioner shall take an action in accordance
13 with the guidelines established under paragraph (2)
14 against any employee of the Internal Revenue Serv-
15 ice if there is a final administrative or judicial deter-
16 mination that such employee committed any act or
17 omission described under subsection (b) in the per-
18 formance of the employee’s official duties or where
19 a nexus to the employee’s position exists.

20 “(2) GUIDELINES.—The Commissioner shall
21 issue guidelines for determining the appropriate level
22 of discipline, up to and including termination of em-
23 ployment, for committing any act or omission de-
24 scribed under subsection (b).

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

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

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

10 “(3) with respect to a taxpayer or taxpayer rep-
11 resentative, the willful violation of—

12 “(A) any right under the Constitution of
13 the United States;

14 “(B) any civil right established under—

15 “(i) title VI or VII of the Civil Rights
16 Act of 1964;

17 “(ii) title IX of the Education Amend-
18 ments of 1972;

19 “(iii) the Age Discrimination in Em-
20 ployment Act of 1967;

21 “(iv) the Age Discrimination Act of
22 1975;

23 “(v) section 501 or 504 of the Reha-
24 bilitation Act of 1973; or

1 “(vi) title I of the Americans with
2 Disabilities Act of 1990; or

3 “(C) the Internal Revenue Service policy
4 on unauthorized inspection of returns or return
5 information;

6 “(4) willfully falsifying or destroying documents
7 to conceal mistakes made by any employee with re-
8 spect to a matter involving a taxpayer or taxpayer
9 representative;

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

14 “(6) willful violations of this title, Department
15 of the Treasury regulations, or policies of the Inter-
16 nal Revenue Service (including the Internal Revenue
17 Manual) for the purpose of retaliating against, or
18 harassing, a taxpayer or taxpayer representative;

19 “(7) willful misuse of the provisions of section
20 6103 for the purpose of concealing information from
21 a congressional inquiry;

22 “(8) willful failure to file any return of tax re-
23 quired under this title on or before the date pre-
24 scribed therefor (including any extensions) when a

1 tax is due and owing, unless such failure is due to
2 reasonable cause and not due to willful neglect;

3 “(9) willful understatement of Federal tax li-
4 ability, unless such understatement is due to reason-
5 able cause and not due to willful neglect; and

6 “(10) threatening to audit a taxpayer, or to
7 take other action under this title, for the purpose of
8 extracting personal gain or benefit.

9 “(c) DETERMINATIONS OF COMMISSIONER.—

10 “(1) IN GENERAL.—The Commissioner may
11 take a personnel action other than a disciplinary ac-
12 tion provided for in the guidelines under subsection
13 (a)(2) for an act or omission described under sub-
14 section (b).

15 “(2) DISCRETION.—The exercise of authority
16 under paragraph (1) shall be at the sole discretion
17 of the Commissioner and may not be delegated to
18 any other officer. The Commissioner, in his sole dis-
19 cretion, may establish a procedure to determine if an
20 individual should be referred to the Commissioner
21 for a determination by the Commissioner under
22 paragraph (1).

23 “(3) NO APPEAL.—Notwithstanding any other
24 provision of law, any determination of the Commis-
25 sioner under this subsection may not be reviewed in

1 any administrative or judicial proceeding. A finding
2 that an act or omission described under subsection
3 (b) occurred may be reviewed.

4 “(d) DEFINITION.—For the purposes of the provi-
5 sions described in clauses (i), (ii), and (iv) of subsection
6 (b)(3)(B), references to a program or activity regarding
7 Federal financial assistance or an education program or
8 activity receiving Federal financial assistance shall include
9 any program or activity conducted by the Internal Rev-
10 enue Service for a taxpayer.

11 “(e) ANNUAL REPORT.—The Commissioner shall
12 submit to Congress annually a report on disciplinary ac-
13 tions under this section.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 for chapter 80 is amended by inserting after the item re-
16 lating to section 7804 the following new item:

“Sec. 7804A. Disciplinary actions for misconduct.”.

17 (c) REPEAL OF SUPERSEDED SECTION.—Section
18 1203 of the Internal Revenue Service Restructuring and
19 Reform Act of 1998 (Public Law 105–206; 112 Stat. 720)
20 is repealed.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act.

1 **SEC. 332. CONFIRMATION OF AUTHORITY OF TAX COURT**
2 **TO APPLY DOCTRINE OF EQUITABLE**
3 **RECOUPMENT.**

4 (a) CONFIRMATION OF AUTHORITY OF TAX COURT
5 TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—
6 Subsection (b) of section 6214 (relating to jurisdiction
7 over other years and quarters) is amended by adding at
8 the end the following new sentence: “Notwithstanding the
9 preceding sentence, the Tax Court may apply the doctrine
10 of equitable recoupment to the same extent that it is avail-
11 able in civil tax cases before the district courts of the
12 United States and the United States Court of Federal
13 Claims.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to any action or proceeding in the
16 Tax Court with respect to which a decision has not become
17 final (as determined under section 7481 of the Internal
18 Revenue Code of 1986) as of the date of the enactment
19 of this Act.

20 **SEC. 333. JURISDICTION OF TAX COURT OVER COLLECTION**
21 **DUE PROCESS CASES.**

22 (a) IN GENERAL.—Section 6330(d)(1) (relating to
23 judicial review of determination) is amended to read as
24 follows:

25 “(1) JUDICIAL REVIEW OF DETERMINATION.—

26 The person may, within 30 days of a determination

1 under this section, appeal such determination to the
2 Tax Court (and the Tax Court shall have jurisdic-
3 tion with respect to such matter).”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to judicial appeals filed after
6 the date of the enactment of this Act.

7 **SEC. 334. OFFICE OF CHIEF COUNSEL REVIEW OF OFFERS**
8 **IN COMPROMISE.**

9 (a) IN GENERAL.—Section 7122(b) (relating to
10 record) is amended by striking “Whenever a compromise”
11 and all that follows through “his delegate” and inserting
12 “If the Secretary determines that an opinion of the Gen-
13 eral Counsel for the Department of the Treasury, or the
14 Counsel’s delegate, is required with respect to a com-
15 promise, there shall be placed on file in the office of the
16 Secretary such opinion”.

17 (b) CONFORMING AMENDMENTS.—Section 7122(b) is
18 amended by striking the second and third sentences.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to offers-in-compromise submitted
21 or pending on or after the date of the enactment of this
22 Act.

1 **SEC. 335. ACCESS OF NATIONAL TAXPAYER ADVOCATE TO**
2 **INDEPENDENT LEGAL COUNSEL.**

3 Clause (i) of section 7803(c)(2)(D) (relating to per-
4 sonnel actions) is amended by striking “and” at the end
5 of subclause (I), by striking the period at the end of sub-
6 clause (II) and inserting “, and”, and by adding at the
7 end the following new subclause:

8 “(III) appoint a counsel in the
9 Office of the Taxpayer Advocate to re-
10 port solely to the National Taxpayer
11 Advocate.”.

12 **SEC. 336. PAYMENT OF MOTOR FUEL EXCISE TAX REFUNDS**
13 **BY DIRECT DEPOSIT.**

14 (a) IN GENERAL.—Subchapter II of chapter 33 of
15 title 31, United States Code, is amended by adding at the
16 end the following new section:

17 **“§ 3337. Payment of motor fuel excise tax refunds by**
18 **direct deposit**

19 “The Secretary of the Treasury shall make payments
20 under sections 6420, 6421, and 6427 of the Internal Rev-
21 enue Code of 1986 by electronic funds transfer (as defined
22 in section 3332(j)(1)) if the person who is entitled to the
23 payment—

24 “(1) elects to receive the payment by electronic
25 funds transfer; and

1 “(2) satisfies the requirements of section
2 3332(g) with respect to such payment at such time
3 and in such manner as the Secretary may require.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subchapter II of chapter 33 of title 31, United States
6 Code, is amended by adding at the end the following new
7 item:

 “3337. Payment of motor fuel excise tax refunds by direct deposit.”.

8 **SEC. 337. FAMILY BUSINESS TAX SIMPLIFICATION.**

9 (a) IN GENERAL.—Section 761 (defining terms for
10 purposes of partnerships) is amended by redesignating
11 subsection (f) as subsection (g) and by inserting after sub-
12 section (e) the following new subsection:

13 “(f) QUALIFIED JOINT VENTURE.—

14 “(1) IN GENERAL.—In the case of a qualified
15 joint venture conducted by a husband and wife who
16 file a joint return for the taxable year, for purposes
17 of this title—

18 “(A) such joint venture shall not be treat-
19 ed as a partnership,

20 “(B) all items of income, gain, loss, deduc-
21 tion, and credit shall be divided between the
22 spouses in accordance with their respective in-
23 terests in the venture, and

24 “(C) each spouse shall take into account
25 such spouse’s respective share of such items as

1 if they were attributable to a trade or business
2 conducted by such spouse as a sole proprietor.

3 “(2) QUALIFIED JOINT VENTURE.—For pur-
4 poses of paragraph (1), the term ‘qualified joint ven-
5 ture’ means any joint venture involving the conduct
6 of a trade or business if—

7 “(A) the only members of such joint ven-
8 ture are a husband and wife,

9 “(B) both spouses materially participate
10 (within the meaning of section 469(h) without
11 regard to paragraph (5) thereof) in such trade
12 or business, and

13 “(C) both spouses elect the application of
14 this subsection.”.

15 (b) NET EARNINGS FROM SELF-EMPLOYMENT.—

16 (1) Subsection (a) of section 1402 (defining net
17 earnings from self-employment) is amended by strik-
18 ing “and” at the end of paragraph (14), by striking
19 the period at the end of paragraph (15) and insert-
20 ing “; and”, and by inserting after paragraph (15)
21 the following new paragraph:

22 “(16) notwithstanding the preceding provisions
23 of this subsection, each spouse’s share of income or
24 loss from a qualified joint venture shall be taken
25 into account as provided in section 761(f) in deter-

1 mining net earnings from self-employment of such
2 spouse.”.

3 (2) Subsection (a) of section 211 of the Social
4 Security Act (defining net earnings from self-em-
5 ployment) is amended by striking “and” at the end
6 of paragraph (14), by striking the period at the end
7 of paragraph (15) and inserting “; and”, and by in-
8 serting after paragraph (15) the following new para-
9 graph:

10 “(16) Notwithstanding the preceding provisions
11 of this subsection, each spouse’s share of income or
12 loss from a qualified joint venture shall be taken
13 into account as provided in section 761(f) of the In-
14 ternal Revenue Code of 1986 in determining net
15 earnings from self-employment of such spouse.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2002.

19 **SEC. 338. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**
20 **RORIST ORGANIZATIONS.**

21 (a) IN GENERAL.—Section 501 (relating to exemp-
22 tion from tax on corporations, certain trusts, etc.) is
23 amended by redesignating subsection (p) as subsection (q)
24 and by inserting after subsection (o) the following new
25 subsection:

1 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-
2 RORIST ORGANIZATIONS.—

3 “(1) IN GENERAL.—The exemption from tax
4 under subsection (a) with respect to any organiza-
5 tion described in paragraph (2), and the eligibility of
6 any organization described in paragraph (2) to apply
7 for recognition of exemption under subsection (a),
8 shall be suspended during the period described in
9 paragraph (3).

10 “(2) TERRORIST ORGANIZATIONS.—An organi-
11 zation is described in this paragraph if such organi-
12 zation is designated or otherwise individually identi-
13 fied—

14 “(A) under section 212(a)(3)(B)(vi)(II) or
15 219 of the Immigration and Nationality Act as
16 a terrorist organization or foreign terrorist or-
17 ganization,

18 “(B) in or pursuant to an Executive order
19 which is related to terrorism and issued under
20 the authority of the International Emergency
21 Economic Powers Act or section 5 of the
22 United Nations Participation Act of 1945 for
23 the purpose of imposing on such organization
24 an economic or other sanction, or

1 “(C) in or pursuant to an Executive order
2 issued under the authority of any Federal law
3 if—

4 “(i) the organization is designated or
5 otherwise individually identified in or pur-
6 suant to such Executive order as sup-
7 porting or engaging in terrorist activity (as
8 defined in section 212(a)(3)(B) of the Im-
9 migration and Nationality Act) or sup-
10 porting terrorism (as defined in section
11 140(d)(2) of the Foreign Relations Author-
12 ization Act, Fiscal Years 1988 and 1989);
13 and

14 “(ii) such Executive order refers to
15 this subsection.

16 “(3) PERIOD OF SUSPENSION.—With respect to
17 any organization described in paragraph (2), the pe-
18 riod of suspension—

19 “(A) begins on the later of—

20 “(i) the date of the first publication of
21 a designation or identification described in
22 paragraph (2) with respect to such organi-
23 zation, or

24 “(ii) the date of the enactment of this
25 subsection, and

1 “(B) ends on the first date that all des-
2 ignations and identifications described in para-
3 graph (2) with respect to such organization are
4 rescinded pursuant to the law or Executive
5 order under which such designation or identi-
6 fication was made.

7 “(4) DENIAL OF DEDUCTION.—No deduction
8 shall be allowed under section 170, 545(b)(2),
9 556(b)(2), 642(e), 2055, 2106(a)(2), or 2522 for
10 any contribution to an organization described in
11 paragraph (2) during the period described in para-
12 graph (3).

13 “(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL
14 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-
15 TION.—Notwithstanding section 7428 or any other
16 provision of law, no organization or other person
17 may challenge a suspension under paragraph (1), a
18 designation or identification described in paragraph
19 (2), the period of suspension described in paragraph
20 (3), or a denial of a deduction under paragraph (4)
21 in any administrative or judicial proceeding relating
22 to the Federal tax liability of such organization or
23 other person.

24 “(6) ERRONEOUS DESIGNATION.—

25 “(A) IN GENERAL.—If—

1 “(i) the tax exemption of any organi-
2 zation described in paragraph (2) is sus-
3 pended under paragraph (1),

4 “(ii) each designation and identifica-
5 tion described in paragraph (2) which has
6 been made with respect to such organiza-
7 tion is determined to be erroneous pursu-
8 ant to the law or Executive order under
9 which such designation or identification
10 was made, and

11 “(iii) the erroneous designations and
12 identifications result in an overpayment of
13 income tax for any taxable year by such
14 organization,

15 credit or refund (with interest) with respect to
16 such overpayment shall be made.

17 “(B) WAIVER OF LIMITATIONS.—If the
18 credit or refund of any overpayment of tax de-
19 scribed in subparagraph (A)(iii) is prevented at
20 any time by the operation of any law or rule of
21 law (including res judicata), such credit or re-
22 fund may nevertheless be allowed or made if the
23 claim therefor is filed before the close of the 1-
24 year period beginning on the date of the last

1 determination described in subparagraph
2 (A)(ii).

3 “(7) NOTICE OF SUSPENSIONS.—If the tax ex-
4 emption of any organization is suspended under this
5 subsection, the Internal Revenue Service shall up-
6 date the listings of tax-exempt organizations and
7 shall publish appropriate notice to taxpayers of such
8 suspension and of the fact that contributions to such
9 organization are not deductible during the period of
10 such suspension.”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to designations made before, on,
13 or after the date of the enactment of this Act.

14 **SEC. 339. TAX REFUND ANTICIPATION LOANS.**

15 The Secretary of the Treasury may not provide any
16 direct deposit indicator with respect to a taxpayer to any
17 tax return preparer, financial institution, or other person
18 that charges taxpayers interest rates (including fees) on
19 refund anticipation loans in excess of the consumer loan
20 usury rate limit of the State in which the taxpayer is domi-
21 ciled.

22 **SEC. 340. FAIRNESS IN TAX AUDIT COVERAGE.**

23 (a) MANDATORY AUDITS OF HIGH RISK TAX-
24 PAYERS.—The Secretary of the Treasury shall conduct au-

1 dits of all taxpayers whom the Secretary determines are
2 likely to have—

3 (1) an unpaid Federal income tax liability of
4 more than \$1,000,000, or

5 (2) to have unreported income or structured
6 transactions which are considered by the Secretary
7 to be high risk.

8 (b) RATE OF AUDITS.—The Secretary of the Treas-
9 ury shall conduct audits of high income taxpayers likely
10 to owe taxes at a rate which is not less than the rate at
11 which the Secretary conducts audits of low income tax-
12 payers likely to owe taxes.

13 **Subtitle D—Confidentiality and**
14 **Disclosure**

15 **SEC. 341. COLLECTION ACTIVITIES WITH RESPECT TO**
16 **JOINT RETURN DISCLOSABLE TO EITHER**
17 **SPOUSE BASED ON ORAL REQUEST.**

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

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

1 **SEC. 342. TAXPAYER REPRESENTATIVES NOT SUBJECT TO**
2 **EXAMINATION ON SOLE BASIS OF REPRESENTATION OF TAXPAYERS.**
3

4 (a) IN GENERAL.—Paragraph (1) of section 6103(h)
5 (relating to disclosure to certain Federal officers and em-
6 ployees for purposes of tax administration, etc.) is amend-
7 ed—

8 (1) by striking “Returns” and inserting the fol-
9 lowing:

10 “(A) IN GENERAL.—Returns”, and

11 (2) by adding at the end the following new sub-
12 paragraph:

13 “(B) TAXPAYER REPRESENTATIVES.—Not-
14 withstanding subparagraph (A), the return of
15 the representative of a taxpayer whose return is
16 being examined by an officer or employee of the
17 Department of the Treasury shall not be open
18 to inspection by such officer or employee on the
19 sole basis of the representative’s relationship to
20 the taxpayer unless a supervisor of such officer
21 or employee has approved the inspection of the
22 return of such representative on a basis other
23 than by reason of such relationship.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall take effect on the date which is 180 days
26 after the date of the enactment of this Act.

1 **SEC. 343. DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE**
2 **TAX PROCEEDINGS OF RETURN AND RETURN**
3 **INFORMATION OF PERSONS WHO ARE NOT**
4 **PARTY TO SUCH PROCEEDINGS.**

5 (a) IN GENERAL.—Paragraph (4) of section 6103(h)
6 (relating to disclosure to certain Federal officers and em-
7 ployees for purposes of tax administration, etc.) is amend-
8 ed by adding at the end the following new subparagraph:

9 “(B) DISCLOSURE IN JUDICIAL OR ADMIN-
10 ISTRATIVE TAX PROCEEDINGS OF RETURN AND
11 RETURN INFORMATION OF PERSONS NOT PARTY
12 TO SUCH PROCEEDINGS.—

13 “(i) NOTICE.—Return or return infor-
14 mation of any person who is not a party to
15 a judicial or administrative proceeding de-
16 scribed in this paragraph shall not be dis-
17 closed under clause (ii) or (iii) of subpara-
18 graph (A) until after the Secretary makes
19 a reasonable effort to give notice to such
20 person and an opportunity for such person
21 to request the deletion of matter from such
22 return or return information, including any
23 of the items referred to in paragraphs (1)
24 through (7) of section 6110(c). Such notice
25 shall include a statement of the issue or
26 issues the resolution of which is the reason

1 such return or return information is
2 sought. In the case of S corporations, part-
3 nerships, estates, and trusts, such notice
4 shall be made at the entity level.

5 “(ii) DISCLOSURE LIMITED TO PERTI-
6 NENT PORTION.—The only portion of a re-
7 turn or return information described in
8 clause (i) which may be disclosed under
9 subparagraph (A) is that portion of such
10 return or return information that directly
11 relates to the resolution of an issue in such
12 proceeding.

13 “(iii) EXCEPTIONS.—Clause (i) shall
14 not apply—

15 “(I) to any civil action under sec-
16 tion 7407, 7408, or 7409,

17 “(II) to any ex parte proceeding
18 for obtaining a search warrant, order
19 for entry on premises or safe deposit
20 boxes, or similar ex parte proceeding,

21 “(III) to disclosure of third party
22 return information by indictment or
23 criminal information, or

24 “(IV) if the Attorney General or
25 the Attorney General’s delegate deter-

1 mines that the application of such
2 clause would seriously impair a crimi-
3 nal tax investigation or proceeding.”.

4 (b) CONFORMING AMENDMENTS.—Paragraph (4) of
5 section 6103(h) is amended by—

6 (1) by striking “PROCEEDINGS.—A return” and
7 inserting “PROCEEDINGS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), a return”;

10 (2) by redesignating subparagraphs (A), (B),
11 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-
12 spectively; and

13 (3) in the matter following clause (iv) (as so re-
14 designated), by striking “subparagraph (A), (B), or
15 (C)” and inserting “clause (i), (ii), or (iii)” and by
16 moving such matter 2 ems to the right.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to proceedings commenced after
19 the date of the enactment of this Act.

20 **SEC. 344. PROHIBITION OF DISCLOSURE OF TAXPAYER**
21 **IDENTIFICATION INFORMATION WITH RE-**
22 **SPECT TO DISCLOSURE OF ACCEPTED OF-**
23 **FERS-IN-COMPROMISE.**

24 (a) GENERAL.—Paragraph (1) of section 6103(k)
25 (relating to disclosure of certain returns and return infor-

1 mation for tax administrative purposes) is amended by in-
2 serting “(other than the taxpayer’s address and TIN)”
3 after “Return information”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to disclosures made after the date
6 of the enactment of this Act.

7 **SEC. 345. COMPLIANCE BY CONTRACTORS WITH CONFIDEN-**
8 **TIALITY SAFEGUARDS.**

9 (a) IN GENERAL.—Section 6103(p) (relating to State
10 law requirements) is amended by adding at the end the
11 following new paragraph:

12 “(9) DISCLOSURE TO CONTRACTORS AND
13 OTHER AGENTS.—Notwithstanding any other provi-
14 sion of this section, no return or return information
15 shall be disclosed to any contractor or other agent
16 of a Federal, State, or local agency unless such
17 agency, to the satisfaction of the Secretary—

18 “(A) has requirements in effect which re-
19 quire each such contractor or other agent which
20 would have access to returns or return informa-
21 tion to provide safeguards (within the meaning
22 of paragraph (4)) to protect the confidentiality
23 of such returns or return information,

24 “(B) agrees to conduct an annual, on-site
25 review (mid-point review in the case of con-

1 tracts of less than 1 year in duration) of each
2 such contractor or other agent to determine
3 compliance with such requirements,

4 “(C) submits the findings of the most re-
5 cent review conducted under subparagraph (B)
6 to the Secretary as part of the report required
7 by paragraph (4)(E), and

8 “(D) certifies to the Secretary for the most
9 recent annual period that each such contractor
10 or other agent is in compliance with all such re-
11 quirements.

12 The certification required by subparagraph (D) shall
13 include the name and address of each contractor and
14 other agent, a description of the contract of the con-
15 tractor or other agent with the agency, and the du-
16 ration of such contract.”

17 (b) CONFORMING AMENDMENT.—Subparagraph (B)
18 of section 6103(p)(8) is amended by inserting “or para-
19 graph (9)” after “subparagraph (A)”.

20 (c) EFFECTIVE DATE.—

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply to disclosures made after De-
23 cember 31, 2003.

24 (2) CERTIFICATIONS.—The first certification
25 under section 6103(p)(9)(D) of the Internal Revenue

1 Code of 1986, as added by subsection (a), shall be
2 made with respect to calendar year 2004.

3 **SEC. 346. HIGHER STANDARDS FOR REQUESTS FOR AND**
4 **CONSENTS TO DISCLOSURE.**

5 (a) IN GENERAL.—Subsection (c) of section 6103
6 (relating to disclosure of returns and return information
7 to designee of taxpayer) is amended by adding at the end
8 the following new paragraphs:

9 “(2) REQUIREMENTS FOR VALID REQUESTS
10 AND CONSENTS.—A request for or consent to disclo-
11 sure under paragraph (1) shall only be valid for pur-
12 poses of this section, sections 7213, 7213A, and
13 7431 if—

14 “(A) at the time of execution, such request
15 or consent designates a recipient of such disclo-
16 sure and is dated, and

17 “(B) at the time such request or consent
18 is submitted to the Secretary, the submitter of
19 such request or consent certifies, under penalty
20 of perjury, that such request or consent com-
21 plied with subparagraph (A).

22 “(3) RESTRICTIONS ON PERSONS OBTAINING
23 INFORMATION.—Any person shall, as a condition for
24 receiving return or return information under para-
25 graph (1)—

1 “(A) ensure that such return and return
2 information is kept confidential,

3 “(B) use such return and return informa-
4 tion only for the purpose for which it was re-
5 quested, and

6 “(C) not disclose such return and return
7 information except to accomplish the purpose
8 for which it was requested, unless a separate
9 consent from the taxpayer is obtained.

10 “(4) REQUIREMENTS FOR FORM PRESCRIBED
11 BY SECRETARY.—For purposes of this subsection,
12 the Secretary shall prescribe a form for requests and
13 consents which shall—

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

17 “(B) state that if the taxpayer believes
18 there is an attempt to coerce him to sign an in-
19 complete or blank form, the taxpayer should re-
20 port the matter to the Treasury Inspector Gen-
21 eral for Tax Administration, and

22 “(C) contain the address and telephone
23 number of the Treasury Inspector General for
24 Tax Administration.”.

1 (b) REPORT.—Not later than 18 months after the
2 date of the enactment of this Act, the Treasury Inspector
3 General for Tax Administration shall submit a report to
4 the Congress on compliance with the designation and cer-
5 tification requirements applicable to requests for or con-
6 sent to disclosure of returns and return information under
7 section 6103(c) of the Internal Revenue Code of 1986, as
8 amended by subsection (a). Such report shall—

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

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

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

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

18 (2) include such recommendations that the
19 Treasury Inspector General for Tax Administration
20 considers necessary or appropriate to better achieve
21 the purposes of this section.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Section 6103(c) is amended by striking
24 “TAXPAYER.—The Secretary” and inserting “TAX-
25 PAYER.—

1 “(1) IN GENERAL.—The Secretary”.

2 (2) Section 7213(a)(1) is amended by striking
3 “section 6103(n)” and inserting “subsections (c)
4 and (n) of section 6103”.

5 (3) Section 7213A(a)(1)(B) is amended by
6 striking “subsection (l)(18) or (n) of section 6103”
7 and inserting “subsection (c), (l)(18), or (n) of sec-
8 tion 6103”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to requests and consents made
11 after 3 months after the date of the enactment of this
12 Act.

13 **SEC. 347. NOTICE TO TAXPAYER CONCERNING ADMINIS-**
14 **TRATIVE DETERMINATION OF BROWSING; AN-**
15 **NUAL REPORT.**

16 (a) NOTICE TO TAXPAYER.—Subsection (e) of section
17 7431 (relating to notification of unlawful inspection and
18 disclosure) is amended by adding at the end the following:
19 “The Secretary shall also notify such taxpayer if the
20 Treasury Inspector General for Tax Administration sub-
21 stantiates that such taxpayer’s return or return informa-
22 tion was inspected or disclosed in violation of any of the
23 provisions specified in paragraph (1), (2), or (3).”.

1 (b) REPORTS.—Subsection (p) of section 6103 (relat-
2 ing to procedure and recordkeeping), is amended by add-
3 ing at the end the following new paragraph:

4 “(10) REPORT ON UNAUTHORIZED DISCLOSURE
5 AND INSPECTION.—As part of the report required by
6 paragraph (3)(C) for each calendar year, the Sec-
7 retary shall furnish information regarding the unau-
8 thorized disclosure and inspection of returns and re-
9 turn information, including the number, status, and
10 results of—

11 “(A) administrative investigations,

12 “(B) civil lawsuits brought under section
13 7431 (including the amounts for which such
14 lawsuits were settled and the amounts of dam-
15 ages awarded), and

16 “(C) criminal prosecutions.”.

17 (c) EFFECTIVE DATE.—

18 (1) NOTICE.—The amendment made by sub-
19 section (a) shall apply to determinations made after
20 the date of the enactment of this Act.

21 (2) REPORTS.—The amendment made by sub-
22 section (b) shall apply to calendar years ending after
23 the date of the enactment of this Act.

1 **SEC. 348. EXPANDED DISCLOSURE IN EMERGENCY CIR-**
2 **CUMSTANCES.**

3 (a) IN GENERAL.—Section 6103(i)(3)(B) (relating to
4 danger of death or physical injury) is amended by striking
5 “or State” and inserting “, State, or local”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall take effect on the date of the enactment
8 of this Act.

9 **SEC. 349. DISCLOSURE OF TAXPAYER IDENTITY FOR TAX**
10 **REFUND PURPOSES.**

11 (a) IN GENERAL.—Paragraph (1) of section 6103(m)
12 (relating to disclosure of taxpayer identity information) is
13 amended by striking “and other media” and by inserting
14 “, other media, and through any other means of mass
15 communication,”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 this section shall take effect on the date of the enactment
18 of this Act.

19 **SEC. 350. DISCLOSURE TO STATE OFFICIALS OF PROPOSED**
20 **ACTIONS RELATED TO SECTION 501(c)(3) OR-**
21 **GANIZATIONS.**

22 (a) IN GENERAL.—Subsection (c) of section 6104 is
23 amended by striking paragraph (2) and inserting the fol-
24 lowing new paragraphs:

25 “(2) DISCLOSURE OF PROPOSED ACTIONS.—

1 “(A) SPECIFIC NOTIFICATIONS.—In the
2 case of an organization to which paragraph (1)
3 applies, the Secretary may disclose to the ap-
4 propriate State officer—

5 “(i) a notice of proposed refusal to
6 recognize such organization as an organi-
7 zation described in section 501(c)(3) or a
8 notice of proposed revocation of such orga-
9 nization’s recognition as an organization
10 exempt from taxation,

11 “(ii) the issuance of a letter of pro-
12 posed deficiency of tax imposed under sec-
13 tion 507 or chapter 41 or 42, and

14 “(iii) the names, addresses, and tax-
15 payer identification numbers of organiza-
16 tions that have applied for recognition as
17 organizations described in section
18 501(c)(3).

19 “(B) ADDITIONAL DISCLOSURES.—Returns
20 and return information of organizations with
21 respect to which information is disclosed under
22 subparagraph (A) may be made available for in-
23 spection by or disclosed to an appropriate State
24 officer.

1 “(C) PROCEDURES FOR DISCLOSURE.—In-
2 formation may be inspected or disclosed under
3 subparagraph (A) or (B) only—

4 “(i) upon written request by an ap-
5 propriate State officer, and

6 “(ii) for the purpose of, and only to
7 the extent necessary in, the administration
8 of State laws regulating such organiza-
9 tions.

10 Such information may only be inspected by or
11 disclosed to a person other than the appropriate
12 State officer if such person is an officer or em-
13 ployee of the State and is designated by the ap-
14 propriate State officer to receive the returns or
15 return information under this paragraph on be-
16 half of the appropriate State officer.

17 “(D) DISCLOSURES OTHER THAN BY RE-
18 QUEST.—The Secretary may make available for
19 inspection or disclose returns and return infor-
20 mation of an organization to which paragraph
21 (1) applies to an appropriate State officer of
22 any State if the Secretary determines that such
23 inspection or disclosure may facilitate the reso-
24 lution of State or Federal issues relating to the
25 tax-exempt status of such organization.

1 “(3) USE IN ADMINISTRATIVE AND JUDICIAL
2 CIVIL PROCEEDINGS.—Returns and return informa-
3 tion disclosed pursuant to this subsection may be
4 disclosed in administrative and judicial civil pro-
5 ceedings pertaining to the enforcement of State laws
6 regulating such organizations in a manner pre-
7 scribed by the Secretary similar to that for tax ad-
8 ministration proceedings under section 6103(h)(4).

9 “(4) NO DISCLOSURE IF IMPAIRMENT.—Re-
10 turns and return information shall not be disclosed
11 under this subsection, or in any proceeding described
12 in paragraph (3), to the extent that the Secretary
13 determines that such disclosure would seriously im-
14 pair Federal tax administration.

15 “(5) DEFINITIONS.—For purposes of this sub-
16 section—

17 “(A) RETURN AND RETURN INFORMA-
18 TION.—The terms ‘return’ and ‘return informa-
19 tion’ have the respective meanings given to such
20 terms by section 6103(b).

21 “(B) APPROPRIATE STATE OFFICER.—The
22 term ‘appropriate State officer’ means—

23 “(i) the State attorney general, or

1 “(ii) any other State official charged
2 with overseeing organizations of the type
3 described in section 501(c)(3).”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Subparagraph (A) of section 6103(p)(3) is
6 amended by inserting “and section 6104(c)” after
7 “section” in the first sentence.

8 (2) Paragraph (4) of section 6103(p) is amend-
9 ed—

10 (A) in the matter preceding subparagraph
11 (A), by inserting “, or any appropriate State of-
12 ficer (as defined in section 6104(c)),” before
13 “or any other person”,

14 (B) in subparagraph (F)(i), by inserting
15 “or any appropriate State officer (as defined in
16 section 6104(c)),” before “or any other per-
17 son”, and

18 (C) in the matter following subparagraph
19 (F), by inserting “, an appropriate State officer
20 (as defined in section 6104(c)),” after “includ-
21 ing an agency” each place it appears.

22 (3) Paragraph (2) of section 7213(a) is amend-
23 ed by inserting “or under section 6104(c)” after
24 “6103”.

1 (4) Paragraph (2) of section 7213A(a) is
2 amended by inserting “or 6104(c)” after “6103”.

3 (5) Paragraph (2) of section 7431(a) is amend-
4 ed by inserting “(including any disclosure in viola-
5 tion of section 6104(c))” after “6103”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect on the date of the enactment
8 of this Act but shall not apply to requests made before
9 such date.

10 **SEC. 351. CONFIDENTIALITY OF TAXPAYER COMMUNICA-**
11 **TIONS WITH THE OFFICE OF THE TAXPAYER**
12 **ADVOCATE.**

13 (a) IN GENERAL.—Subsection (c) of section 7803 is
14 amended by adding at the end the following new para-
15 graph:

16 “(5) CONFIDENTIALITY OF TAXPAYER INFOR-

17 MATION.—
18 “(A) IN GENERAL.—To the extent author-
19 ized by the National Taxpayer Advocate or pur-
20 suant to guidance issued under subparagraph
21 (B), any officer or employee of the Office of the
22 Taxpayer Advocate may withhold from the In-
23 ternal Revenue Service and the Department of
24 Justice any information provided by, or regard-
25 ing contact with, any taxpayer.

1 “(B) ISSUANCE OF GUIDANCE.—In con-
2 sultation with the Chief Counsel for the Inter-
3 nal Revenue Service and subject to the approval
4 of the Commissioner of Internal Revenue, the
5 National Taxpayer Advocate may issue guid-
6 ance regarding the circumstances (including
7 with respect to litigation) under which, and the
8 persons to whom, employees of the Office of the
9 Taxpayer Advocate shall not disclose informa-
10 tion obtained from a taxpayer. To the extent to
11 which any provision of the Internal Revenue
12 Manual would require greater disclosure by em-
13 ployees of the Office of the Taxpayer Advocate
14 than the disclosure required under such guid-
15 ance, such provision shall not apply.

16 “(C) EMPLOYEE PROTECTION.—Section
17 7214(a)(8) shall not apply to any failure to re-
18 port knowledge or information if—

19 “(i) such failure to report is author-
20 ized under subparagraph (A), and

21 “(ii) such knowledge or information is
22 not of fraud committed by a person
23 against the United States under any rev-
24 enue law.”.

1 (b) CONFORMING AMENDMENT.—Subparagraph (A)
2 of section 7803(c)(4) is amended by inserting “and” at
3 the end of clause (ii), by striking “; and” at the end of
4 clause (iii) and inserting a period, and by striking clause
5 (iv).

6 **Subtitle E—Miscellaneous**

7 **SEC. 361. CLARIFICATION OF DEFINITION OF CHURCH TAX** 8 **INQUIRY.**

9 Subsection (i) of section 7611 (relating to section not
10 to apply to criminal investigations, etc.) is amended by
11 striking “or” at the end of paragraph (4), by striking the
12 period at the end of paragraph (5) and inserting “, or”,
13 and by inserting after paragraph (5) the following:

14 “(6) information provided by the Secretary re-
15 lated to the standards for exemption from tax under
16 this title and the requirements under this title relat-
17 ing to unrelated business taxable income.”.

18 **SEC. 362. EXPANSION OF DECLARATORY JUDGMENT REM-** 19 **EDY TO TAX-EXEMPT ORGANIZATIONS.**

20 (a) IN GENERAL.—Paragraph (1) of section 7428(a)
21 (relating to creation of remedy) is amended—

22 (1) in subparagraph (B) by inserting after
23 “509(a))” the following: “or as a private operating
24 foundation (as defined in section 4942(j)(3))”; and

1 (2) by amending subparagraph (C) to read as
2 follows:

3 “(C) with respect to the initial qualifica-
4 tion or continuing qualification of an organiza-
5 tion as an organization described in subsection
6 (c) (other than paragraph (3)) or (d) of section
7 501 which is exempt from tax under section
8 501(a), or”.

9 (b) COURT JURISDICTION.—Subsection (a) of section
10 7428 is amended in the material following paragraph (2)
11 by striking “United States Tax Court, the United States
12 Claims Court, or the district court of the United States
13 for the District of Columbia” and inserting the following:
14 “United States Tax Court (in the case of any such deter-
15 mination or failure) or the United States Claims Court
16 or the district court of the United States for the District
17 of Columbia (in the case of a determination or failure with
18 respect to an issue referred to in subparagraph (A) or (B)
19 of paragraph (1)),”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to pleadings filed with respect to
22 determinations (or requests for determinations) made
23 after the date of the enactment of this Act.

1 **SEC. 363. EMPLOYEE MISCONDUCT REPORT TO INCLUDE**
2 **SUMMARY OF COMPLAINTS BY CATEGORY.**

3 (a) IN GENERAL.—Clause (ii) of section
4 7803(d)(2)(A) is amended by inserting before the semi-
5 colon at the end the following: “, including a summary
6 (by category) of the 10 most common complaints made
7 and the number of such common complaints”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall apply with respect to reporting periods
10 ending after the date of the enactment of this Act.

11 **SEC. 364. ANNUAL REPORT ON AWARDS OF COSTS AND**
12 **CERTAIN FEES IN ADMINISTRATIVE AND**
13 **COURT PROCEEDINGS.**

14 Not later than 3 months after the close of each Fed-
15 eral fiscal year after fiscal year 2003, the Treasury In-
16 spector General for Tax Administration shall submit a re-
17 port to Congress which specifies for such year—

18 (1) the number of payments made by the
19 United States pursuant to section 7430 of the Inter-
20 nal Revenue Code of 1986 (relating to awarding of
21 costs and certain fees);

22 (2) the amount of each such payment;

23 (3) an analysis of any administrative issue giv-
24 ing rise to such payments; and

25 (4) changes (if any) which will be implemented
26 as a result of such analysis and other changes (if

1 any) recommended by the Treasury Inspector Gen-
2 eral for Tax Administration as a result of such anal-
3 ysis.

4 **SEC. 365. ANNUAL REPORT ON ABATEMENT OF PENALTIES.**

5 Not later than 6 months after the close of each Fed-
6 eral fiscal year after fiscal year 2003, the Treasury In-
7 spector General for Tax Administration shall submit a re-
8 port to Congress on abatements of penalties under the In-
9 ternal Revenue Code of 1986 during such year, including
10 information on the reasons and criteria for such abate-
11 ments.

12 **SEC. 366. BETTER MEANS OF COMMUNICATING WITH TAX-**
13 **PAYERS.**

14 Not later than 18 months after the date of the enact-
15 ment of this Act, the Treasury Inspector General for Tax
16 Administration shall submit a report to Congress evalu-
17 ating whether technological advances, such as e-mail and
18 facsimile transmission, permit the use of alternative
19 means for the Internal Revenue Service to communicate
20 with taxpayers.

21 **SEC. 367. EXPLANATION OF STATUTE OF LIMITATIONS AND**
22 **CONSEQUENCES OF FAILURE TO FILE.**

23 The Secretary of the Treasury or the Secretary's del-
24 egate shall, as soon as practicable but not later than 180
25 days after the date of the enactment of this Act, revise

1 the statement required by section 6227 of the Omnibus
2 Taxpayer Bill of Rights (Internal Revenue Service Publi-
3 cation No. 1), and any instructions booklet accompanying
4 a general income tax return form for taxable years begin-
5 ning after 2002 (including forms 1040, 1040A, 1040EZ,
6 and any similar or successor forms relating thereto), to
7 provide for an explanation of—

8 (1) the limitations imposed by section 6511 of
9 the Internal Revenue Code of 1986 on credits and
10 refunds; and

11 (2) the consequences under such section 6511
12 of the failure to file a return of tax.

13 **SEC. 368. AMENDMENT TO TREASURY AUCTION REFORMS.**

14 (a) **IN GENERAL.**—Clause (i) of section 202(c)(4)(B)
15 of the Government Securities Act Amendments of 1993
16 (31 U.S.C. 3121 note) is amended by inserting before the
17 semicolon “(or, if earlier, at the time the Secretary re-
18 leases the minutes of the meeting in accordance with para-
19 graph (2))”.

20 (b) **EFFECTIVE DATE.**—The amendment made by
21 subsection (a) shall apply to meetings held after the date
22 of the enactment of this Act.

1 **SEC. 369. ENROLLED AGENTS.**

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

5 **“SEC. 7528. ENROLLED AGENTS.**

6 “(a) IN GENERAL.—The Secretary may prescribe
7 such regulations as may be necessary to regulate the con-
8 duct of enrolled agents in regards to their practice before
9 the Internal Revenue Service.

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

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for chapter 77 is amended by adding at the end the fol-
17 lowing new item:

“Sec. 7528. Enrolled agents.”.

18 (c) PRIOR REGULATIONS.—Nothing in the amend-
19 ments made by this section shall be construed to have any
20 effect on part 10 of title 31, Code of Federal Regulations,
21 or any other Federal rule or regulation issued before the
22 date of the enactment of this Act.

23 **SEC. 370. FINANCIAL MANAGEMENT SERVICE FEES.**

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

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

18 **SEC. 371. EXTENSION OF INTERNAL REVENUE SERVICE**

19 **USER FEES.**

20 (a) IN GENERAL.—Chapter 77 (relating to miscella-
21 neous provisions) is amended by adding at the end the
22 following new section:

23 **“SEC. 7529. INTERNAL REVENUE SERVICE USER FEES.**

24 “(a) GENERAL RULE.—The Secretary shall establish
25 a program requiring the payment of user fees for—

1 “(1) requests to the Internal Revenue Service
2 for ruling letters, opinion letters, and determination
3 letters, and

4 “(2) other similar requests.

5 “(b) PROGRAM CRITERIA.—

6 “(1) IN GENERAL.—The fees charged under the
7 program required by subsection (a)—

8 “(A) shall vary according to categories (or
9 subcategories) established by the Secretary,

10 “(B) shall be determined after taking into
11 account the average time for (and difficulty of)
12 complying with requests in each category (and
13 subcategory), and

14 “(C) shall be payable in advance.

15 “(2) EXEMPTIONS, ETC.—

16 “(A) IN GENERAL.—The Secretary shall
17 provide for such exemptions (and reduced fees)
18 under such program as the Secretary deter-
19 mines to be appropriate.

20 “(B) EXEMPTION FOR CERTAIN REQUESTS
21 REGARDING PENSION PLANS.—The Secretary
22 shall not require payment of user fees under
23 such program for requests for determination
24 letters with respect to the qualified status of a
25 pension benefit plan maintained solely by 1 or

1 more eligible employers or any trust which is
2 part of the plan. The preceding sentence shall
3 not apply to any request—

4 “(i) made after the later of—

5 “(I) the fifth plan year the pen-
6 sion benefit plan is in existence, or

7 “(II) the end of any remedial
8 amendment period with respect to the
9 plan beginning within the first 5 plan
10 years, or

11 “(ii) made by the sponsor of any pro-
12 totype or similar plan which the sponsor
13 intends to market to participating employ-
14 ers.

15 “(C) DEFINITIONS AND SPECIAL RULES.—

16 For purposes of subparagraph (B)—

17 “(i) PENSION BENEFIT PLAN.—The
18 term ‘pension benefit plan’ means a pen-
19 sion, profit-sharing, stock bonus, annuity,
20 or employee stock ownership plan.

21 “(ii) ELIGIBLE EMPLOYER.—The
22 term ‘eligible employer’ means an eligible
23 employer (as defined in section
24 408(p)(2)(C)(i)(I)) which has at least 1
25 employee who is not a highly compensated

1 employee (as defined in section 414(q))
 2 and is participating in the plan. The deter-
 3 mination of whether an employer is an eli-
 4 gible employer under subparagraph (B)
 5 shall be made as of the date of the request
 6 described in such subparagraph.

7 “(iii) DETERMINATION OF AVERAGE
 8 FEES CHARGED.—For purposes of any de-
 9 termination of average fees charged, any
 10 request to which subparagraph (B) applies
 11 shall not be taken into account.

12 “(3) AVERAGE FEE REQUIREMENT.—The aver-
 13 age fee charged under the program required by sub-
 14 section (a) shall not be less than the amount deter-
 15 mined under the following table:

“Category	Average Fee
Employee plan ruling and opinion	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

16 “(c) TERMINATION.—No fee shall be imposed under
 17 this section with respect to requests made after September
 18 30, 2013.”.

19 (b) CONFORMING AMENDMENTS.—

1 (b) PROMOTION OF CLINICS.—Section 7526(c) is
2 amended by adding at the end the following new para-
3 graph:

4 “(6) PROMOTION OF CLINICS.—The Secretary
5 is authorized to promote the benefits of and encour-
6 age the use of low-income taxpayer clinics through
7 the use of mass communications, referrals, and other
8 means.”.

9 (c) USE OF GRANTS FOR OVERHEAD EXPENSES
10 PROHIBITED.—Section 7526(c), as amended by sub-
11 section (b), is further amended by adding at the end the
12 following new paragraph:

13 “(7) USE OF GRANTS FOR OVERHEAD EX-
14 PENSES PROHIBITED.—No grant made under this
15 section may be used for the general overhead ex-
16 penses of any institution sponsoring a qualified low-
17 income taxpayer clinic.”.

18 (d) ELIGIBLE CLINICS.—

19 (1) IN GENERAL.—Paragraph (2) of section
20 7526(b) is amended to read as follows:

21 “(2) ELIGIBLE CLINIC.—The term ‘eligible clin-
22 ic’ means—

23 “(A) any clinical program at an accredited
24 law, business, or accounting school in which

1 students represent low-income taxpayers in con-
2 troversies arising under this title; and

3 “(B) any organization described in section
4 501(c) and exempt from tax under section
5 501(a) which satisfies the requirements of para-
6 graph (1) through representation of taxpayers
7 or referral of taxpayers to qualified representa-
8 tives.”.

9 (2) CONFORMING AMENDMENT.—Subparagraph
10 (A) of section 7526(b)(1) is amended by striking
11 “means a clinic” and inserting “means an eligible
12 clinic”.

13 **SEC. 382. MATCHING GRANTS TO LOW INCOME RETURN**
14 **PREPARATION CLINICS.**

15 (a) IN GENERAL.—Chapter 77 (relating to miscella-
16 neous provisions) is amended by inserting after section
17 7526 the following new section:

18 **“SEC. 7526A. LOW INCOME RETURN PREPARATION CLINICS.**

19 “(a) IN GENERAL.—The Secretary may, subject to
20 the availability of appropriated funds, make grants to pro-
21 vide matching funds for the development, expansion, or
22 continuation of qualified return preparation clinics.

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

24 “(1) QUALIFIED RETURN PREPARATION CLIN-
25 IC.—

1 “(A) IN GENERAL.—The term ‘qualified
2 return preparation clinic’ means an eligible clin-
3 ic which—

4 “(i) does not charge more than a
5 nominal fee for its services (except for re-
6 imbursement of actual costs incurred), and

7 “(ii) operates programs which assist
8 low-income taxpayers in preparing and fil-
9 ing their Federal income tax returns, in-
10 cluding schedules reporting sole proprietor-
11 ship or farm income.

12 “(B) ASSISTANCE TO LOW-INCOME TAX-
13 PAYERS.—A clinic is treated as assisting low-in-
14 come taxpayers under subparagraph (A)(ii) if
15 at least 90 percent of the taxpayers assisted by
16 the clinic have incomes which do not exceed 250
17 percent of the poverty level, as determined in
18 accordance with criteria established by the Di-
19 rector of the Office of Management and Budg-
20 et.

21 “(2) ELIGIBLE CLINIC.—The term ‘eligible clin-
22 ic’ includes—

23 “(A) a clinical program at an eligible edu-
24 cational institution (as defined in section
25 529(e)(5)) which satisfies the requirements of

1 paragraph (1) through student assistance of
2 taxpayers in return preparation and filing, and

3 “(B) an organization described in section
4 501(c) and exempt from tax under section
5 501(a) which satisfies the requirements of para-
6 graph (1).

7 “(c) SPECIAL RULES AND LIMITATIONS.—

8 “(1) AGGREGATE LIMITATION.—Unless other-
9 wise provided by specific appropriation, the Sec-
10 retary shall not allocate more than \$10,000,000 per
11 year (exclusive of costs of administering the pro-
12 gram) to grants under this section.

13 “(2) OTHER APPLICABLE RULES.—Rules simi-
14 lar to the rules under paragraphs (2) through (7) of
15 section 7526(c) shall apply with respect to the
16 awarding of grants to qualified return preparation
17 clinics.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 77 is amended by inserting after the item re-
20 lating to section 7526 the following new item:

“Sec. 7526A. Low income return preparation clinics.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to grants made after the date of
23 the enactment of this Act.

1 **Subtitle G—Federal-state unem-**
2 **ployment assistance agreements**

3 **SEC. 391. APPLICABILITY OF CERTAIN FEDERAL-STATE**
4 **AGREEMENTS RELATING TO UNEMPLOY-**
5 **MENT ASSISTANCE.**

6 Effective as of May 25, 2003, section 208 of Public
7 Law 107–147 is amended—

8 (1) in subsection (a)(2), by inserting “on or”
9 after “ending”; and

10 (2) in subsection (b), by striking “May 31”
11 each place it appears and inserting “June 1”.

○