

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5719
OFFERED BY MR. RANGEL OF NEW YORK

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE, ETC.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Taxpayer Assistance and Simplification Act of 2008”.

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

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

Sec. 1. Short title, etc.

Sec. 2. Modification of penalty on understatement of taxpayer’s liability by tax return preparer.

Sec. 3. Removal of cellular telephones (or similar telecommunications equipment) from listed property.

Sec. 4. Delay of application of withholding requirement on certain governmental payments for goods and services.

Sec. 5. Elderly and disabled individuals receiving in-home care under certain government programs not subject to employment tax provisions.

Sec. 6. Referrals to low income taxpayer clinics permitted.

Sec. 7. Programs for the benefit of low-income taxpayers.

Sec. 8. EITC outreach.

Sec. 9. Prohibition on IRS debt indicators for predatory refund anticipation loans.

- Sec. 10. Study on delivery of tax refunds.
Sec. 11. Extension of time for return of property for wrongful levy.
Sec. 12. Individuals held harmless on wrongful levy, etc., on individual retirement plan.
Sec. 13. Taxpayer notification of suspected identity theft.
Sec. 14. Repeal of authority to enter into private debt collection contracts.
Sec. 15. Clarification of IRS unclaimed refund authority.
Sec. 16. Prohibition on misuse of Department of the Treasury names and symbols.
Sec. 17. Substantiation of amounts paid or distributed out of health savings account.
Sec. 18. Certain domestically controlled foreign persons performing services under contract with United States Government treated as American employers.
Sec. 19. Time for payment of corporate estimated tax.

1 **SEC. 2. MODIFICATION OF PENALTY ON UNDERSTATEMENT**
2 **OF TAXPAYER'S LIABILITY BY TAX RETURN**
3 **PREPARER.**

4 (a) IN GENERAL.—Subsection (a) of section 6694
5 (relating to understatement due to unreasonable positions)
6 is amended to read as follows:

7 “(a) UNDERSTATEMENT DUE TO UNREASONABLE
8 POSITIONS.—

9 “(1) IN GENERAL.—If a tax return preparer—

10 “(A) prepares any return or claim of re-
11 fund with respect to which any part of an un-
12 derstatement of liability is due to a position de-
13 scribed in paragraph (2), and

14 “(B) knew (or reasonably should have
15 known) of the position,

16 such tax return preparer shall pay a penalty with re-
17 spect to each such return or claim in an amount
18 equal to the greater of \$1,000 or 50 percent of the

1 income derived (or to be derived) by the tax return
2 preparer with respect to the return or claim.

3 “(2) UNREASONABLE POSITION.—

4 “(A) IN GENERAL.—Except as otherwise
5 provided in this paragraph, a position is de-
6 scribed in this paragraph unless there is or was
7 substantial authority for the position.

8 “(B) DISCLOSED POSITIONS.—If the posi-
9 tion was disclosed as provided in section
10 6662(d)(2)(B)(ii)(I) and is not a position to
11 which subparagraph (C) applies, the position is
12 described in this paragraph unless there is a
13 reasonable basis for the position.

14 “(C) TAX SHELTERS AND REPORTABLE
15 TRANSACTIONS.—If the position is with respect
16 to a tax shelter (as defined in section
17 6662(d)(2)(C)(ii)) or a reportable transaction
18 to which section 6662A applies, the position is
19 described in this paragraph unless it is reason-
20 able to believe that the position would more
21 likely than not be sustained on its merits.

22 “(3) REASONABLE CAUSE EXCEPTION.—No
23 penalty shall be imposed under this subsection if it
24 is shown that there is reasonable cause for the un-

1 derstatement and the tax return preparer acted in
2 good faith.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply—

5 (1) in the case of a position described in sub-
6 paragraph (A) or (B) of section 6694(a)(2) of the
7 Internal Revenue Code of 1986 (as amended by this
8 section), to returns prepared after May 25, 2007,
9 and

10 (2) in the case of a position described in sub-
11 paragraph (C) of such section (as amended by this
12 section), to returns prepared for taxable years end-
13 ing after the date of the enactment of this Act.

14 **SEC. 3. REMOVAL OF CELLULAR TELEPHONES (OR SIMILAR**
15 **TELECOMMUNICATIONS EQUIPMENT) FROM**
16 **LISTED PROPERTY.**

17 (a) **IN GENERAL.**—Subparagraph (A) of section
18 280F(d)(4) (defining listed property) is amended by in-
19 serting “and” at the end of clause (iv), by striking clause
20 (v), and by redesignating clause (vi) as clause (v).

21 (b) **EFFECTIVE DATE.**—The amendment made by
22 subsection (a) shall apply to taxable years beginning after
23 December 31, 2008.

1 **SEC. 4. DELAY OF APPLICATION OF WITHHOLDING RE-**
2 **QUIREMENT ON CERTAIN GOVERNMENTAL**
3 **PAYMENTS FOR GOODS AND SERVICES.**

4 (a) IN GENERAL.—Subsection (b) of section 511 of
5 the Tax Increase Prevention and Reconciliation Act of
6 2005 is amended by striking “December 31, 2010” and
7 inserting “December 31, 2011”.

8 (b) REPORT TO CONGRESS.—Not later than 6
9 months after the date of the enactment of this Act, the
10 Secretary of the Treasury shall submit to the Committee
11 on Ways and Means of the House of Representatives and
12 the Committee on Finance of the Senate a report with
13 respect to the withholding requirements of section 3402(t)
14 of the Internal Revenue Code of 1986, including a detailed
15 analysis of—

16 (1) the problems, if any, which are anticipated
17 in administering and complying with such require-
18 ments,

19 (2) the burdens, if any, that such requirements
20 will place on governments and businesses (taking
21 into account such mechanisms as may be necessary
22 to administer such requirements), and

23 (3) the application of such requirements to
24 small expenditures for services and goods by govern-
25 ments.

1 **SEC. 5. ELDERLY AND DISABLED INDIVIDUALS RECEIVING**
2 **IN-HOME CARE UNDER CERTAIN GOVERN-**
3 **MENT PROGRAMS NOT SUBJECT TO EMPLOY-**
4 **MENT TAX PROVISIONS.**

5 (a) IN GENERAL.—Chapter 25 (relating to general
6 provisions relating to employment taxes) is amended by
7 adding at the end the following new section:

8 **“SEC. 3511. ELDERLY AND DISABLED INDIVIDUALS RECEIV-**
9 **ING IN-HOME CARE UNDER CERTAIN GOV-**
10 **ERNMENT PROGRAMS.**

11 “(a) IN GENERAL.—In the case of amounts paid
12 under a home care service program to a home care service
13 provider by the fiscal administrator of such program—

14 “(1) the home care service recipient shall not be
15 liable for the payment of any taxes imposed under
16 this subtitle with respect to amounts paid for the
17 provision of services under such program, and

18 “(2) the fiscal administrator shall be so liable.

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

20 “(1) HOME CARE SERVICE PROGRAM.—The
21 term ‘home care service program’ means a State or
22 local government program—

23 “(A) any portion of which is funded with
24 Federal funds, and

1 “(B) under which domestic services are
2 provided to elderly or disabled individuals in
3 their homes.

4 Such term shall not include any program to the ex-
5 tent home care service recipients make payments to
6 the home care service providers for such in-home do-
7 mestic services.

8 “(2) HOME CARE SERVICE PROVIDER.—The
9 term ‘home care service provider’ means any indi-
10 vidual who provides domestic services to a home care
11 service recipient under a home care service program.

12 “(3) HOME CARE SERVICE RECIPIENT.—The
13 term ‘home care service recipient’ means any indi-
14 vidual receiving domestic services under a home care
15 service program.

16 “(4) FISCAL ADMINISTRATOR.—The term ‘fiscal
17 administrator’ means any person or governmental
18 entity who pays amounts under a home care service
19 program to home care service providers for the pro-
20 vision of domestic services under such program.

21 “(c) RETURNS BY FISCAL ADMINISTRATOR.—For
22 purposes of this section—

23 “(1) IN GENERAL.—Returns relating to taxes
24 imposed or amounts required to be withheld under

1 this subtitle shall be made under the identifying
2 number of the fiscal administrator.

3 “(2) IDENTIFICATION OF SERVICE RECIPI-
4 ENT.—The fiscal administrator shall, to the extent
5 required under regulations prescribed by the Sec-
6 retary, make a return setting forth—

7 “(A) the name, address, and identifying
8 number of each home care service recipient for
9 whom amounts are paid by such fiscal adminis-
10 trator under the home care services program,
11 and

12 “(B) such other information as the Sec-
13 retary may require.

14 “(d) REGULATIONS.—The Secretary may prescribe
15 such regulations or other guidance as may be necessary
16 to carry out the purposes of this section, including requir-
17 ing deposits of any tax imposed under this subtitle.”.

18 (b) SERVICE RECIPIENT IDENTIFICATION RETURN
19 TREATED AS INFORMATION RETURN.—Paragraph (3) of
20 section 6724(d) is amended by striking “and” at the end
21 of subparagraph (C)(ii), by striking the period at the end
22 of subparagraph (D)(ii) and inserting “, and”, and by
23 adding at the end the following new subparagraph:

24 “(E) any requirement under section
25 3511(c)(2).”.

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for chapter 25 is amended by adding at the end the fol-
3 lowing new item:

“Sec. 3511. Elderly and disabled individuals receiving in-home care under cer-
tain government programs.”.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to amounts paid after December
6 31, 2008.

7 **SEC. 6. REFERRALS TO LOW INCOME TAXPAYER CLINICS**
8 **PERMITTED.**

9 (a) IN GENERAL.—Subsection (c) of section 7526 of
10 the Internal Revenue Code of 1986 is amended by adding
11 at the end the following new paragraph:

12 “(6) TREASURY EMPLOYEES PERMITTED TO
13 REFER TAXPAYERS TO QUALIFIED LOW-INCOME TAX-
14 PAYER CLINICS.—Notwithstanding any other provi-
15 sion of law, officers and employees of the Depart-
16 ment of the Treasury may refer taxpayers for advice
17 and assistance to qualified low-income taxpayer clin-
18 ics receiving funding under this section.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to referrals made after the date
21 of the enactment of this Act.

1 **SEC. 7. PROGRAMS FOR THE BENEFIT OF LOW-INCOME**
2 **TAXPAYERS.**

3 (a) VOLUNTEER INCOME TAX ASSISTANCE PRO-
4 GRAMS.—Chapter 77 (relating to miscellaneous provi-
5 sions) is amended by inserting after section 7526 the fol-
6 lowing new section:

7 **“SEC. 7526A. VOLUNTEER INCOME TAX ASSISTANCE PRO-**
8 **GRAMS.**

9 “(a) IN GENERAL.—The Secretary may, subject to
10 the availability of appropriated funds, make grants to pro-
11 vide matching funds for the development, expansion, or
12 continuation of volunteer income tax assistance programs.

13 “(b) VOLUNTEER INCOME TAX ASSISTANCE PRO-
14 GRAM.—For purposes of this section, the term ‘volunteer
15 income tax assistance program’ means a program—

16 “(1) which does not charge taxpayers for its re-
17 turn preparation services,

18 “(2) which operates programs to assist low and
19 moderate-income (as determined by the Secretary)
20 taxpayers in preparing and filing their Federal in-
21 come tax returns, and

22 “(3) in which all of the volunteers who assist in
23 the preparation of Federal income tax returns meet
24 the requirements prescribed by the Secretary.

25 “(c) SPECIAL RULES AND LIMITATIONS.—

1 “(1) AGGREGATE LIMITATION.—Unless other-
2 wise provided by specific appropriation, the Sec-
3 retary shall not allocate more than \$10,000,000 per
4 year (exclusive of costs of administering the pro-
5 gram) to grants under this section.

6 “(2) OTHER APPLICABLE RULES.—Rules simi-
7 lar to the rules under paragraphs (2) through (6) of
8 section 7526(c) shall apply with respect to the
9 awarding of grants to volunteer income tax assist-
10 ance programs.”.

11 (b) INCREASE IN AUTHORIZED GRANTS FOR LOW-IN-
12 COME TAXPAYER CLINICS.—Paragraph (1) of section
13 7526(c) (relating to aggregate limitation) is amended by
14 striking “\$6,000,000” and inserting “\$10,000,000”.

15 (c) CLERICAL AMENDMENTS.—

16 (1) Section 7526(c)(5) is amended by striking
17 the last sentence by inserting “qualified” before
18 “low-income”.

19 (2) The table of sections for chapter 77 is
20 amended by inserting after the item relating to sec-
21 tion 7526 the following new item:

 “Sec. 7526A. Volunteer income tax assistance program.”.

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

1 **SEC. 8. EITC OUTREACH.**

2 (a) IN GENERAL.—Section 32 (relating to earned in-
3 come) is amended by adding at the end the following new
4 subsection:

5 “(n) NOTIFICATION OF POTENTIAL ELIGIBILITY FOR
6 CREDIT AND REFUND.—

7 “(1) IN GENERAL.—To the extent possible and
8 on an annual basis, the Secretary shall provide to
9 each taxpayer who—

10 “(A) for any preceding taxable year for
11 which credit or refund is not precluded by sec-
12 tion 6511, and

13 “(B) did not claim the credit under sub-
14 section (a) but may be allowed such credit for
15 any such taxable year based on return or return
16 information (as defined in section 6103(b))
17 available to the Secretary,
18 notice that such taxpayer may be eligible to claim
19 such credit and a refund for such taxable year.

20 “(2) NOTICE.—Notice provided under para-
21 graph (1) shall be in writing and sent to the last
22 known address of the taxpayer.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall take effect on the date of the enactment
25 of this Act.

1 **SEC. 9. PROHIBITION ON IRS DEBT INDICATORS FOR PRED-**
2 **ATORY REFUND ANTICIPATION LOANS.**

3 (a) IN GENERAL.—Subsection (f) of section 6011 (re-
4 lating to promotion of electronic filing) is amended by add-
5 ing at the end the following new paragraph:

6 “(3) PROHIBITION ON IRS DEBT INDICATORS
7 FOR PREDATORY REFUND ANTICIPATION LOANS.—

8 “(A) IN GENERAL.—In carrying out any
9 program under this subsection, the Secretary
10 shall not provide a debt indicator to any person
11 with respect to any refund anticipation loan if
12 the Secretary determines that the business
13 practices of such person involve refund anticipa-
14 tion loans and related charges and fees that are
15 predatory.

16 “(B) REFUND ANTICIPATION LOAN.—For
17 purposes of this paragraph, the term ‘refund
18 anticipation loan’ means a loan of money or of
19 any other thing of value to a taxpayer secured
20 by the taxpayer’s anticipated receipt of a Fed-
21 eral tax refund.

22 “(C) IRS DEBT INDICATOR.—For purposes
23 of this paragraph, the term ‘debt indicator’
24 means a notification provided through a tax re-
25 turn’s acknowledgment file that a refund will be
26 offset to repay debts for delinquent Federal or

1 State taxes, student loans, child support, or
2 other Federal agency debt.”.

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

6 **SEC. 10. STUDY ON DELIVERY OF TAX REFUNDS.**

7 (a) IN GENERAL.—The Secretary of the Treasury, in
8 consultation with the National Taxpayer Advocate, shall
9 conduct a study on the feasibility of delivering tax refunds
10 on debit cards, prepaid cards, and other electronic means
11 to assist individuals that do not have access to financial
12 accounts or institutions.

13 (b) REPORT.—Not later than 1 year after the date
14 of the enactment of this Act, the Secretary of the Treasury
15 shall submit a report to Congress containing the results
16 of the study conducted under subsection (a).

17 **SEC. 11. EXTENSION OF TIME FOR RETURN OF PROPERTY**
18 **FOR WRONGFUL LEVY.**

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

23 (b) PERIOD OF LIMITATION ON SUITS.—Subsection
24 (c) of section 6532 (relating to suits by persons other than
25 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. 12. 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 such individual retirement
6 plan or any other individual retirement plan (other
7 than an endowment contract) to which a rollover
8 from the plan levied upon is permitted. An amount
9 may not be deposited into a Roth IRA under the
10 preceding sentence unless the individual retirement
11 plan levied upon was a Roth IRA at the time of such
12 levy.

13 “(2) TREATMENT AS ROLLOVER.—If amounts
14 are deposited into an individual retirement plan
15 under paragraph (1) not later than the 60th day
16 after the date on which the individual receives the
17 amounts under paragraph (1)—

18 “(A) such deposit shall be treated as a
19 rollover described in section 408(d)(3)(A)(i),

20 “(B) to the extent the deposit includes in-
21 terest paid under subsection (c), such interest
22 shall not be includible in gross income, and

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

1 For purposes of subparagraph (B), an amount shall
2 be treated as interest only to the extent that the
3 amount deposited exceeds the amount of the levy.

4 “(3) REFUND, ETC., OF INCOME TAX ON
5 LEVY.—If any amount is includible in gross income
6 for a taxable year by reason of a levy referred to in
7 paragraph (1) and any portion of such amount is
8 treated as a rollover under paragraph (2), any tax
9 imposed by chapter 1 on such portion shall not be
10 assessed, and if assessed shall be abated, and if col-
11 lected shall be credited or refunded as an overpay-
12 ment made on the due date for filing the return of
13 tax for such taxable year.

14 “(4) INTEREST.—Notwithstanding subsection
15 (d), interest shall be allowed under subsection (c) in
16 a case in which the Secretary makes a determination
17 described in subsection (d)(2)(A) with respect to a
18 levy upon an individual retirement plan.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall apply to amounts paid under subsections
21 (b), (c), and (d)(2)(A) of section 6343 of the Internal Rev-
22 enue Code of 1986 after the date of the enactment of this
23 Act.

1 **SEC. 13. TAXPAYER NOTIFICATION OF SUSPECTED IDEN-**
2 **TITY THEFT.**

3 (a) IN GENERAL.—Chapter 77 (relating to miscella-
4 neous provisions) is amended by adding at the end the
5 following new section:

6 **“SEC. 7529. NOTIFICATION OF SUSPECTED IDENTITY**
7 **THEFT.**

8 “If, in the course of an investigation under the inter-
9 nal revenue laws, the Secretary determines that there was
10 or may have been an unauthorized use of the identity of
11 the taxpayer or a dependent of the taxpayer, the Secretary
12 shall, to the extent permitted by law—

13 “(1) as soon as practicable and without jeop-
14 ardizing such investigation, notify the taxpayer of
15 such determination, and

16 “(2) if any person is criminally charged by in-
17 dictment or information with respect to such unau-
18 thorized use, notify such taxpayer as soon as prac-
19 ticable of such charge.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for chapter 77 is amended by adding at the end the fol-
22 lowing new item:

“Sec. 7529. Notification of suspected identity theft.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to determinations made after the
25 date of the enactment of this Act.

1 **SEC. 14. REPEAL OF AUTHORITY TO ENTER INTO PRIVATE**
2 **DEBT COLLECTION CONTRACTS.**

3 (a) **IN GENERAL.**—Subchapter A of chapter 64 is
4 amended by striking section 6306.

5 (b) **CONFORMING AMENDMENTS.**—

6 (1) Subchapter B of chapter 76 is amended by
7 striking section 7433A.

8 (2) Section 7811 is amended by striking sub-
9 section (g).

10 (3) Section 1203 of the Internal Revenue Serv-
11 ice Restructuring Act of 1998 is amended by strik-
12 ing subsection (e).

13 (4) The table of sections for subchapter A of
14 chapter 64 is amended by striking the item relating
15 to section 6306.

16 (5) The table of sections for subchapter B of
17 chapter 76 is amended by striking the item relating
18 to section 7433A.

19 (c) **EFFECTIVE DATE.**—

20 (1) **IN GENERAL.**—Except as otherwise pro-
21 vided in this subsection, the amendments made by
22 this section shall take effect on the date of the en-
23 actment of this Act.

24 (2) **EXCEPTION FOR EXISTING CONTRACTS,**
25 **ETC.**—The amendments made by this section shall
26 not apply to any contract which was entered into be-

1 fore July 18, 2007, and is not renewed or extended
2 on or after March 1, 2008.

3 (3) UNAUTHORIZED CONTRACTS AND EXTEN-
4 SIONS TREATED AS VOID.—Any qualified tax collec-
5 tion contract (as defined in section 6306 of the In-
6 ternal Revenue Code of 1986, as in effect before its
7 repeal) which is entered into on or after July 18,
8 2007, and any extension or renewal on or after
9 March 1, 2008, of any qualified tax collection con-
10 tract (as so defined) shall be void.

11 **SEC. 15. CLARIFICATION OF IRS UNCLAIMED REFUND AU-**
12 **THORITY.**

13 Paragraph (1) of section 6103(m) (relating to tax re-
14 funds) is amended by inserting “, and through any other
15 means of mass communication,” after “media”.

16 **SEC. 16. PROHIBITION ON MISUSE OF DEPARTMENT OF**
17 **THE TREASURY NAMES AND SYMBOLS.**

18 (a) IN GENERAL.—Subsection (a) of section 333 of
19 title 31, United States Code, is amended by inserting
20 “Internet domain address,” after “solicitation,” both
21 places it appears.

22 (b) PENALTY FOR MISUSE BY ELECTRONIC
23 MEANS.—Subsections (c)(2) and (d)(1) of section 333 of
24 such Code are each amended by inserting “or any other

1 mass communications by electronic means,” after “tele-
2 cast,”.

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

6 **SEC. 17. SUBSTANTIATION OF AMOUNTS PAID OR DISTRIB-**
7 **UTED OUT OF HEALTH SAVINGS ACCOUNT.**

8 (a) IN GENERAL.—Paragraph (1) of section 223(f)
9 (relating to amounts used for qualified medical expenses)
10 is amended by inserting “(and, in the case of amounts
11 paid or distributed after December 31, 2010, substan-
12 tiated in a manner similar to the substantiation required
13 for flexible spending arrangements)” after “account bene-
14 ficiary”.

15 (b) REPORTS.—Subsection (h) of section 223 (relat-
16 ing to reports) is amended—

17 (1) by redesignating paragraphs (1) and (2) as
18 subparagraphs (A) and (B), respectively,

19 (2) by moving the text of subparagraphs (A)
20 and (B) (as so redesignated) and the last sentence
21 2 ems to the right,

22 (3) by striking “(h) REPORTS.—The Secretary
23 may require—” and inserting the following:

24 “(h) REPORTS.—

1 “(1) IN GENERAL.—The Secretary may re-
2 quire—”, and

3 (4) by adding at the end the following new
4 paragraph:

5 “(2) RELATING TO SUBSTANTIATION.—Not
6 later than January 15 of each calendar year after
7 2011, the trustee of a health savings account shall
8 make a report regarding such account to the Sec-
9 retary and the account beneficiary setting forth—

10 “(A) the name, address, and identifying
11 number of the account beneficiary, and

12 “(B) the amount paid or distributed out of
13 such account for the preceding calendar year
14 not substantiated in accordance with subsection
15 (f)(1).”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply with respect to amounts paid or
18 distributed out of health savings accounts after December
19 31, 2010.

1 **SEC. 18. CERTAIN DOMESTICALLY CONTROLLED FOREIGN**
2 **PERSONS PERFORMING SERVICES UNDER**
3 **CONTRACT WITH UNITED STATES GOVERN-**
4 **MENT TREATED AS AMERICAN EMPLOYERS.**

5 (a) FICA TAXES.—Section 3121 (relating to defini-
6 tions) is amended by adding at the end the following new
7 subsection:

8 “(z) TREATMENT OF CERTAIN FOREIGN PERSONS AS
9 AMERICAN EMPLOYERS.—

10 “(1) IN GENERAL.—If any employee of a for-
11 eign person is performing services in connection with
12 a contract between the United States Government
13 (or any instrumentality thereof) and any member of
14 any domestically controlled group of entities which
15 includes such foreign person, such foreign person
16 shall be treated for purposes of this chapter as an
17 American employer with respect to such services per-
18 formed by such employee.

19 “(2) DOMESTICALLY CONTROLLED GROUP OF
20 ENTITIES.—For purposes of this subsection—

21 “(A) IN GENERAL.—The term ‘domesti-
22 cally controlled group of entities’ means a con-
23 trolled group of entities the common parent of
24 which is a domestic corporation.

25 “(B) CONTROLLED GROUP OF ENTITIES.—
26 The term ‘controlled group of entities’ means a

1 controlled group of corporations as defined in
2 section 1563(a)(1), except that—

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

6 “(ii) the determination shall be made
7 without regard to subsections (a)(4) and
8 (b)(2) of section 1563.

9 A partnership or any other entity (other than a
10 corporation) shall be treated as a member of a
11 controlled group of entities if such entity is con-
12 trolled (within the meaning of section
13 954(d)(3)) by members of such group (includ-
14 ing any entity treated as a member of such
15 group by reason of this sentence).

16 “(3) LIABILITY OF COMMON PARENT.—In the
17 case of a foreign person who is a member of any do-
18 mestically controlled group of entities, the common
19 parent of such group shall be jointly and severally
20 liable for any tax under this chapter for which such
21 foreign person is liable by reason of this subsection,
22 and for any penalty imposed on such person by this
23 title with respect to any failure to pay such tax or
24 to file any return or statement with respect to such
25 tax or wages subject to such tax. No deduction shall

1 be allowed under this title for any liability imposed
2 by the preceding sentence.

3 “(4) COORDINATION.—Paragraph (1) shall not
4 apply to any services which are covered by an agree-
5 ment under subsection (l).

6 “(5) CROSS REFERENCE.—For relief from taxes
7 in cases covered by certain international agreements,
8 see sections 3101(c) and 3111(c).”.

9 (b) SOCIAL SECURITY BENEFITS.—Subsection (e) of
10 section 210 of the Social Security Act (42 U.S.C. 410(e))
11 is amended—

12 (1) by striking “(e) The term” and inserting
13 “(e)(1) The term”,

14 (2) by redesignating paragraphs (1) through
15 (6) as subparagraphs (A) through (F), respectively,
16 and

17 (3) by adding at the end the following new
18 paragraph:

19 “(2)(A) If any employee of a foreign person is
20 performing services in connection with a contract be-
21 tween the United States Government (or any instru-
22 mentality thereof) and any member of any domesti-
23 cally controlled group of entities which includes such
24 foreign person, such foreign person shall be treated
25 for purposes of this chapter as an American em-

1 ployer with respect to such services performed by
2 such employee.

3 “(B) For purposes of this paragraph—

4 “(i) The term ‘domestically controlled
5 group of entities’ means a controlled group of
6 entities the common parent of which is a do-
7 mestic corporation.

8 “(ii) The term ‘controlled group of entities’
9 means a controlled group of corporations as de-
10 fined in section 1563(a)(1) of the Internal Rev-
11 enue Code of 1986, except that—

12 “(I) ‘more than 50 percent’ shall be
13 substituted for ‘at least 80 percent’ each
14 place it appears therein, and

15 “(II) the determination shall be made
16 without regard to subsections (a)(4) and
17 (b)(2) of section 1563 of such Code.

18 A partnership or any other entity (other than a
19 corporation) shall be treated as a member of a
20 controlled group of entities if such entity is con-
21 trolled (within the meaning of section 954(d)(3)
22 of such Code) by members of such group (in-
23 cluding any entity treated as a member of such
24 group by reason of this sentence).”.

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

4 **SEC. 19. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
5 **TAX.**

6 The percentage under subparagraph (C) of section
7 401(1) of the Tax Increase Prevention and Reconciliation
8 Act of 2005 in effect on the date of the enactment of this
9 Act is increased by 0.25 percentage points.