

[DISCUSSION DRAFT]

1 SECTION 1. SHORT TITLE; ETC.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “_____ Act of 2004”.

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.

TITLE I—PROVISIONS RELATING TO REPEAL OF EXCLUSION FOR
EXTRATERRITORIAL INCOME

Sec. 101. Repeal of exclusion for extraterritorial income.

Sec. 102. Deduction relating to income attributable to domestic production ac-
tivities.

TITLE II—INTERNATIONAL REFORMS

Sec. 201. Interest expense allocation rules.

Sec. 202. Recharacterization of overall domestic loss.

Sec. 203. Look-thru rules to apply to dividends from noncontrolled section 902
corporations.

Sec. 204. Attribution of stock ownership through partnerships to apply in de-
termining section 902 and 960 credits.

Sec. 205. Clarification of treatment of certain transfers of intangible property.

Sec. 206. United States property not to include certain assets of controlled for-
eign corporation.

Sec. 207. Election not to use average exchange rate for foreign tax paid other
than in functional currency.

Sec. 208. Repeal of withholding tax on dividends from certain foreign corpora-
tions.

Sec. 209. Provide equal treatment for interest paid by foreign partnerships and
foreign corporations.



- Sec. 210. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.
- Sec. 211. Look-thru treatment for sales of partnership interests.
- Sec. 212. Repeal of foreign personal holding company rules and foreign investment company rules.
- Sec. 213. Determination of foreign personal holding company income with respect to transactions in commodities.
- Sec. 214. Modification of exceptions under subpart F for active financing.
- Sec. 215. Foreign tax credit under alternative minimum tax.

TITLE III—RELIEF FOR AGRICULTURE AND SMALL MANUFACTURERS

- Sec. 301. Modification of depreciation allowance for aircraft.
- Sec. 302. Modification of placed in service rule for bonus depreciation property.
- Sec. 303. Payment of dividends on stock of cooperatives without reducing patronage dividends.
- Sec. 304. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
- Sec. 305. Distributions from publicly traded partnerships treated as qualifying income of regulated investment companies.
- Sec. 306. Simplification of excise tax imposed on bows and arrows.

TITLE IV—REVENUE PROVISIONS

- Sec. 401. Reinsurance of United States risks in foreign jurisdictions.
- Sec. 402. Reporting of taxable mergers and acquisitions.
- Sec. 403. Treatment of stripped interests in bond and preferred stock funds, etc.
- Sec. 404. Minimum holding period for foreign tax credit on withholding taxes on income other than dividends.
- Sec. 405. Clarification of rules for payment of estimated tax for certain deemed asset sales.
- Sec. 406. Recognition of gain from the sale of a principal residence acquired in a like-kind exchange within 5 years of sale.
- Sec. 407. Prevention of mismatching of interest and original issue discount deductions and income inclusions in transactions with related foreign persons.
- Sec. 408. Deposits made to suspend running of interest on potential underpayments.
- Sec. 409. Partial payment of tax liability in installment agreements.
- Sec. 410. Affirmation of consolidated return regulation authority.
- Sec. 411. Dye injection equipment.
- Sec. 412. Authority to inspect on-site records.
- Sec. 413. Two-party exchanges.
- Sec. 414. Extension of amortization of intangibles to sports franchises.
- Sec. 415. Modification of continuing levy on payments to Federal vendors.
- Sec. 416. Addition of vaccines against influenza to list of taxable vaccines.
- Sec. 417. Extension of IRS user fees.
- Sec. 418. Cobra fees.



1 **TITLE I—PROVISIONS RELATING**
2 **TO REPEAL OF EXCLUSION**
3 **FOR EXTRATERRITORIAL IN-**
4 **COME**

5 **SEC. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL**
6 **INCOME.**

7 (a) IN GENERAL.—Section 114 is hereby repealed.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Subpart E of part III of subchapter N of
10 chapter 1 (relating to qualifying foreign trade in-
11 come) is hereby repealed.

12 (2) The table of subparts for such part III is
13 amended by striking the item relating to subpart E.

14 (3) The table of sections for part III of sub-
15 chapter B of chapter 1 is amended by striking the
16 item relating to section 114.

17 (4) The second sentence of section
18 56(g)(4)(B)(i) is amended by striking “114 or”.

19 (5) Section 275(a) is amended—

20 (A) by inserting “or” at the end of para-
21 graph (4)(A), by striking “or” at the end of
22 paragraph (4)(B) and inserting a period, and
23 by striking subparagraph (C), and

24 (B) by striking the last sentence.



1 (6) Paragraph (3) of section 864(e) is
2 amended—

3 (A) by striking:

4 “(3) TAX-EXEMPT ASSETS NOT TAKEN INTO
5 ACCOUNT.—

6 “(A) IN GENERAL.—For purposes of”; and
7 inserting:

8 “(3) TAX-EXEMPT ASSETS NOT TAKEN INTO
9 ACCOUNT.—For purposes of”, and

10 (B) by striking subparagraph (B).

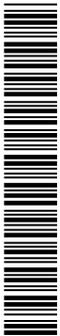
11 (7) Section 903 is amended by striking “114,
12 164(a),” and inserting “164(a)”.

13 (8) Section 999(e)(1) is amended by striking
14 “941(a)(5),”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to transactions after December 31,
17 2004.

18 (d) TRANSITIONAL RULE FOR 2005 AND 2006.—

19 (1) IN GENERAL.—In the case of transactions
20 during 2005 or 2006, the amount includible in gross
21 income by reason of the amendments made by this
22 section shall not exceed the applicable percentage of
23 the amount which would have been so included but
24 for this subsection.



1 (2) APPLICABLE PERCENTAGE.—For purposes
2 of paragraph (1), the applicable percentage shall be
3 as follows:

4 (A) For 2005, the applicable percentage
5 shall be 20 percent.

6 (B) For 2006, the applicable percentage
7 shall be 40 percent.

8 (e) REVOCATION OF ELECTION TO BE TREATED AS
9 DOMESTIC CORPORATION.—If, during the 1-year period
10 beginning on the date of the enactment of this Act, a cor-
11 poration for which an election is in effect under section
12 943(e) of the Internal Revenue Code of 1986 revokes such
13 election, no gain or loss shall be recognized with respect
14 to property treated as transferred under clause (ii) of sec-
15 tion 943(e)(4)(B) of such Code to the extent such
16 property—

17 (1) was treated as transferred under clause (i)
18 thereof, or

19 (2) was acquired during a taxable year to which
20 such election applies and before May 1, 2003, in the
21 ordinary course of its trade or business.

22 The Secretary of the Treasury (or such Secretary's dele-
23 gate) may prescribe such regulations as may be necessary
24 to prevent the abuse of the purposes of this subsection.



1 (f) BINDING CONTRACTS.—The amendments made
2 by this section shall not apply to any transaction in the
3 ordinary course of a trade or business which occurs pursu-
4 ant to a binding contract—

5 (1) which is between the taxpayer and a person
6 who is not a related person (as defined in section
7 943(b)(3) of such Code, as in effect on the day be-
8 fore the date of the enactment of this Act), and

9 (2) which is in effect on September 17, 2003,
10 and at all times thereafter.

11 For purposes of this subsection, a binding contract shall
12 include a purchase option, renewal option, or replacement
13 option which is included in such contract and which is en-
14 forceable against the seller or lessor.

15 **SEC. 102. DEDUCTION RELATING TO INCOME ATTRIB-**
16 **UTABLE TO DOMESTIC PRODUCTION ACTIVI-**
17 **TIES.**

18 (a) IN GENERAL.—Part VI of subchapter B of chap-
19 ter 1 (relating to itemized deductions for individuals and
20 corporations) is amended by adding at the end the fol-
21 lowing new section:

22 **“SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUC-**
23 **TION ACTIVITIES.**

24 **“(a) ALLOWANCE OF DEDUCTION.—**



1 “(1) IN GENERAL.—There shall be allowed as a
2 deduction an amount equal to 9 percent of the lesser
3 of—

4 “(A) the qualified production activities in-
5 come of the taxpayer for the taxable year, or

6 “(B) taxable income (determined without
7 regard to this section) for the taxable year.

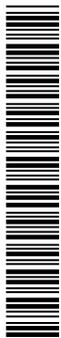
8 “(2) PHASEIN.—In the case of any taxable year
9 beginning after 2004 and before 2010, paragraph
10 (1) shall be applied by substituting for the percent-
11 age contained therein the transition percentage de-
12 termined under the following table:

“For taxable years beginning in:	The transition percentage is:
2005 or 2006	3
2007, 2008, or 2009	6.

13 “(b) DEDUCTION LIMITED TO WAGES PAID.—

14 “(1) IN GENERAL.—The amount of the deduc-
15 tion allowable under subsection (a) for any taxable
16 year shall not exceed 50 percent of the W-2 wages
17 of the employer for the taxable year.

18 “(2) W-2 WAGES.—For purposes of paragraph
19 (1), the term ‘W-2 wages’ means the sum of the ag-
20 gregate amounts the taxpayer is required to include
21 on statements under paragraphs (3) and (8) of sec-
22 tion 6051(a) with respect to employment of employ-



1 ees of the taxpayer during the calendar year ending
2 during the taxpayer's taxable year.

3 “(3) SPECIAL RULES.—

4 “(A) PASS-THRU ENTITIES.—In the case
5 of an S corporation, partnership, estate or
6 trust, or other pass-thru entity, the limitation
7 under this subsection shall apply at the entity
8 level. The preceding sentence shall not apply to
9 any entity all of the ownership interests of
10 which are held directly or indirectly by members
11 of the same expanded affiliated group.

12 “(B) ACQUISITIONS AND DISPOSITIONS.—
13 The Secretary shall provide for the application
14 of this subsection in cases where the taxpayer
15 acquires, or disposes of, the major portion of a
16 trade or business or the major portion of a sep-
17 arate unit of a trade or business during the tax-
18 able year.

19 “(c) QUALIFIED PRODUCTION ACTIVITIES IN-
20 COME.—For purposes of this section—

21 “(1) IN GENERAL.—The term ‘qualified produc-
22 tion activities income’ for any taxable year means an
23 amount equal to the excess (if any) of—

24 “(A) the taxpayer's domestic production
25 gross receipts for such taxable year, over



1 “(B) the sum of—

2 “(i) the cost of goods sold that are al-
3 locable to such receipts,

4 “(ii) other deductions, expenses, or
5 losses directly allocable to such receipts,
6 and

7 “(iii) a ratable portion of other deduc-
8 tions, expenses, and losses that are not di-
9 rectly allocable to such receipts or another
10 class of income.

11 “(2) ALLOCATION METHOD.—The Secretary
12 shall prescribe rules for the proper allocation of
13 items of income, deduction, expense, and loss for
14 purposes of determining income attributable to do-
15 mestic production activities.

16 “(3) SPECIAL RULES FOR DETERMINING
17 COSTS.—

18 “(A) IN GENERAL.—For purposes of deter-
19 mining costs under clause (i) of paragraph
20 (1)(B), any item or service brought into the
21 United States shall be treated as acquired by
22 purchase, and its cost shall be treated as not
23 less than its fair market value immediately
24 after it entered the United States. A similar
25 rule shall apply in determining the adjusted



1 basis of leased or rented property where the
2 lease or rental gives rise to domestic production
3 gross receipts.

4 “(B) EXPORTS FOR FURTHER MANUFAC-
5 TURE.—In the case of any property described
6 in subparagraph (A) that had been exported by
7 the taxpayer for further manufacture, the in-
8 crease in cost or adjusted basis under subpara-
9 graph (A) shall not exceed the difference be-
10 tween the value of the property when exported
11 and the value of the property when brought
12 back into the United States after the further
13 manufacture.

14 “(4) DOMESTIC PRODUCTION GROSS RE-
15 CEIPTS.—The term ‘domestic production gross re-
16 ceipts’ means the gross receipts of the taxpayer
17 which are derived from—

18 “(A) any lease, rental, license, sale, ex-
19 change, or other disposition of—

20 “(i) qualifying production property
21 which was manufactured, produced, grown,
22 or extracted in whole or in significant part
23 by the taxpayer within the United States,
24 or



1 “(ii) any qualified film produced by
2 the taxpayer, or

3 “(B) construction, engineering, or architec-
4 tural services performed in the United States
5 for construction projects in the United States.

6 “(5) QUALIFYING PRODUCTION PROPERTY.—

7 The term ‘qualifying production property’ means—

8 “(A) tangible personal property,

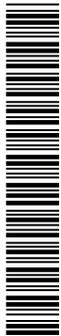
9 “(B) any computer software, and

10 “(C) any property described in section
11 168(f)(4).

12 “(6) QUALIFIED FILM.—The term ‘qualified
13 film’ means any property described in section
14 168(f)(3) if not less than 50 percent of the total
15 compensation relating to the production of such
16 property is compensation for services performed in
17 the United States by actors, production personnel,
18 directors, and producers. Such term does not include
19 property with respect to which records are required
20 to be maintained under section 2257 of title 18,
21 United States Code.

22 “(7) RELATED PERSONS.—

23 “(A) IN GENERAL.—The term ‘domestic
24 production gross receipts’ shall not include any
25 gross receipts of the taxpayer derived from



1 property leased, licensed, or rented by the tax-
2 payer for use by any related person.

3 “(B) RELATED PERSON.—For purposes of
4 subparagraph (A), a person shall be treated as
5 related to another person if such persons are
6 treated as a single employer under subsection
7 (a) or (b) of section 52 or subsection (m) or (o)
8 of section 414, except that determinations
9 under subsections (a) and (b) of section 52
10 shall be made without regard to section
11 1563(b).

12 “(d) DEFINITIONS AND SPECIAL RULES.—

13 “(1) APPLICATION OF SECTION TO PASS-THRU
14 ENTITIES.—In the case of an S corporation, partner-
15 ship, estate or trust, or other pass-thru entity—

16 “(A) subject to the provisions of paragraph
17 (2) and subsection (b)(3)(A), this section shall
18 be applied at the shareholder, partner, or simi-
19 lar level, and

20 “(B) the Secretary shall prescribe rules for
21 the application of this section, including rules
22 relating to—

23 “(i) restrictions on the allocation of
24 the deduction to taxpayers at the partner
25 or similar level, and



1 “(ii) additional reporting require-
2 ments.

3 “(2) APPLICATION TO INDIVIDUALS.—In the
4 case of an individual, subsection (a)(1)(B) shall be
5 applied by substituting ‘adjusted gross income’ for
6 ‘taxable income’. For purposes of the preceding sen-
7 tence, adjusted gross income shall be determined—

8 “(A) after application of sections 86, 135,
9 137, 219, 221, 222, and 469, and

10 “(B) without regard to this section.

11 “(3) PATRONS OF AGRICULTURAL AND HORTI-
12 CULTURAL COOPERATIVES.—

13 “(A) IN GENERAL.—If any amount de-
14 scribed in paragraph (1) or (3) of section 1385
15 (a)—

16 “(i) is received by a person from an
17 organization to which part I of subchapter
18 T applies which is engaged—

19 “(I) in the manufacturing, pro-
20 duction, growth, or extraction in
21 whole or significant part of any agri-
22 cultural or horticultural product, or

23 “(II) in the marketing of agricul-
24 tural or horticultural products, and

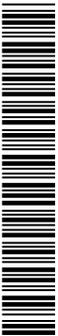


1 “(ii) is allocable to the portion of the
2 qualified production activities income of
3 the organization which, but for this para-
4 graph, would be deductible under sub-
5 section (a) by the organization and is des-
6 ignated as such by the organization in a
7 written notice mailed to its patrons during
8 the payment period described in section
9 1382(d),

10 then such person shall be allowed a deduction
11 under subsection (a) with respect to such
12 amount. The taxable income of the organization
13 shall not be reduced under section 1382 by rea-
14 son of any amount to which the preceding sen-
15 tence applies.

16 “(B) SPECIAL RULES.—For purposes of
17 applying subparagraph (A), in determining the
18 qualified production activities income of the or-
19 ganization under this section—

20 “(i) there shall not be taken into ac-
21 count in computing the organization’s
22 modified taxable income any deduction al-
23 lowable under subsection (b) or (c) of sec-
24 tion 1382 (relating to patronage dividends,



1 per-unit retain allocations, and nonpatron-
2 age distributions), and

3 “(ii) in the case of an organization de-
4 scribed in subparagraph (A)(i)(II), the or-
5 ganization shall be treated as having man-
6 ufactured, produced, grown, or extracted in
7 whole or significant part any qualifying
8 production property marketed by the orga-
9 nization which its patrons have so manu-
10 factured, produced, grown, or extracted.

11 “(4) SPECIAL RULE FOR AFFILIATED
12 GROUPS.—

13 “(A) IN GENERAL.—All members of an ex-
14 panded affiliated group shall be treated as a
15 single corporation for purposes of this section.

16 “(B) EXPANDED AFFILIATED GROUP.—
17 For purposes of this section, the term ‘ex-
18 panded affiliated group’ means an affiliated
19 group as defined in section 1504(a),
20 determined—

21 “(i) by substituting ‘50 percent’ for
22 ‘80 percent’ each place it appears, and

23 “(ii) without regard to paragraphs (2)
24 and (4) of section 1504(b).



1 “(C) ALLOCATION OF DEDUCTION.—Ex-
2 cept as provided in regulations, the deduction
3 under subsection (a) shall be allocated among
4 the members of the expanded affiliated group in
5 proportion to each member’s respective amount
6 (if any) of qualified production activities in-
7 come.

8 “(5) TRADE OR BUSINESS REQUIREMENT.—
9 This section shall be applied by only taking into ac-
10 count items which are attributable to the actual con-
11 duct of a trade or business.

12 “(6) REGULATIONS.—The Secretary shall pre-
13 scribe such regulations as are necessary to carry out
14 the purposes of this section.”.

15 (b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to
16 disallowance of items not deductible in computing earnings
17 and profits) is amended by adding at the end the following
18 new clause:

19 “(v) DEDUCTION FOR DOMESTIC PRO-
20 DUCTION.—Clause (i) shall not apply to
21 any amount allowable as a deduction under
22 section 199.”.

23 (c) SPECIAL RULE RELATING TO ELECTION TO
24 TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.—
25 Any election under section 631(a) of the Internal Revenue



1 Code of 1986 made for a taxable year ending on or before
2 the date of the enactment of this Act may be revoked by
3 the taxpayer for any taxable year ending after such date.
4 For purposes of determining whether such taxpayer may
5 make a further election under such section, such election
6 (and any revocation under this section) shall not be taken
7 into account.

8 (d) TECHNICAL AMENDMENTS.—

9 (1) Sections 86(b)(2)(A), 135(c)(4)(A),
10 137(b)(3)(A), 219(g)(3)(A)(ii), and 469(i)(3)(F)(iii)
11 are each amended by inserting “199,” before “221”.

12 (2) Clause (i) of section 221(b)(2)(C) is amend-
13 ed by inserting by inserting “199,” before “222”.

14 (3) Clause (i) of section 222(b)(2)(C) is amend-
15 ed by inserting “199,” before “911”.

16 (4) Paragraph (1) of section 246(b) is amended
17 by inserting “199,” after “172,”.

18 (5) Clause (iii) of section 469(i)(3)(F) is
19 amended by inserting “199,” before “219,”.

20 (6) Subsection (a) of section 613 is amended by
21 inserting “and without the deduction under section
22 199” after “without allowances for depletion”.

23 (7) The table of sections for part VI of sub-
24 chapter B of chapter 1 is amended by adding at the
25 end the following new item:



“Sec. 199. Income attributable to domestic production activities.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2004.

4 **TITLE II—INTERNATIONAL**
5 **REFORMS**

6 **SEC. 201. INTEREST EXPENSE ALLOCATION RULES.**

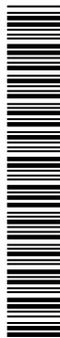
7 (a) ELECTION TO ALLOCATE ON WORLDWIDE
8 BASIS.—Section 864 is amended by redesignating sub-
9 section (f) as subsection (g) and by inserting after sub-
10 section (e) the following new subsection:

11 “(f) ELECTION TO ALLOCATE INTEREST, ETC. ON
12 WORLDWIDE BASIS.—For purposes of this subchapter, at
13 the election of the worldwide affiliated group—

14 “(1) ALLOCATION AND APPORTIONMENT OF IN-
15 TEREST EXPENSE.—

16 “(A) IN GENERAL.—The taxable income of
17 each domestic corporation which is a member of
18 a worldwide affiliated group shall be determined
19 by allocating and apportioning interest expense
20 of each member as if all members of such group
21 were a single corporation.

22 “(B) TREATMENT OF WORLDWIDE AFFILI-
23 ATED GROUP.—The taxable income of the do-
24 mestic members of a worldwide affiliated group



1 from sources outside the United States shall be
2 determined by allocating and apportioning the
3 interest expense of such domestic members to
4 such income in an amount equal to the excess
5 (if any) of—

6 “(i) the total interest expense of the
7 worldwide affiliated group multiplied by
8 the ratio which the foreign assets of the
9 worldwide affiliated group bears to all the
10 assets of the worldwide affiliated group,
11 over

12 “(ii) the interest expense of all foreign
13 corporations which are members of the
14 worldwide affiliated group to the extent
15 such interest expense of such foreign cor-
16 porations would have been allocated and
17 apportioned to foreign source income if
18 this subsection were applied to a group
19 consisting of all the foreign corporations in
20 such worldwide affiliated group.

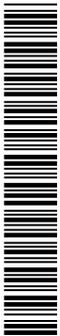
21 “(C) WORLDWIDE AFFILIATED GROUP.—
22 For purposes of this paragraph, the term
23 ‘worldwide affiliated group’ means a group con-
24 sisting of—



1 “(i) the includible members of an af-
2 filiated group (as defined in section
3 1504(a), determined without regard to
4 paragraphs (2) and (4) of section
5 1504(b)), and

6 “(ii) all controlled foreign corpora-
7 tions in which such members in the aggre-
8 gate meet the ownership requirements of
9 section 1504(a)(2) either directly or indi-
10 rectly through applying paragraph (2) of
11 section 958(a) or through applying rules
12 similar to the rules of such paragraph to
13 stock owned directly or indirectly by do-
14 mestic partnerships, trusts, or estates.

15 “(2) ALLOCATION AND APPORTIONMENT OF
16 OTHER EXPENSES.—Expenses other than interest
17 which are not directly allocable or apportioned to
18 any specific income producing activity shall be allo-
19 cated and apportioned as if all members of the affili-
20 ated group were a single corporation. For purposes
21 of the preceding sentence, the term ‘affiliated group’
22 has the meaning given such term by section 1504
23 (determined without regard to paragraph (4) of sec-
24 tion 1504(b)).



1 “(3) TREATMENT OF TAX-EXEMPT ASSETS;
2 BASIS OF STOCK IN NONAFFILIATED 10-PERCENT
3 OWNED CORPORATIONS.—The rules of paragraphs
4 (3) and (4) of subsection (e) shall apply for purposes
5 of this subsection, except that paragraph (4) shall be
6 applied on a worldwide affiliated group basis.

7 “(4) TREATMENT OF CERTAIN FINANCIAL IN-
8 STITUTIONS.—

9 “(A) IN GENERAL.—For purposes of para-
10 graph (1), any corporation described in sub-
11 paragraph (B) shall be treated as an includible
12 corporation for purposes of section 1504 only
13 for purposes of applying this subsection sepa-
14 rately to corporations so described.

15 “(B) DESCRIPTION.—A corporation is de-
16 scribed in this subparagraph if—

17 “(i) such corporation is a financial in-
18 stitution described in section 581 or 591,

19 “(ii) the business of such financial in-
20 stitution is predominantly with persons
21 other than related persons (within the
22 meaning of subsection (d)(4)) or their cus-
23 tomers, and

24 “(iii) such financial institution is re-
25 quired by State or Federal law to be oper-



1 ated separately from any other entity
2 which is not such an institution.

3 “(C) TREATMENT OF BANK AND FINAN-
4 CIAL HOLDING COMPANIES.—To the extent pro-
5 vided in regulations—

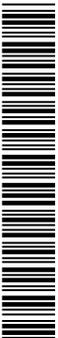
6 “(i) a bank holding company (within
7 the meaning of section 2(a) of the Bank
8 Holding Company Act of 1956 (12 U.S.C.
9 1841(a)),

10 “(ii) a financial holding company
11 (within the meaning of section 2(p) of the
12 Bank Holding Company Act of 1956 (12
13 U.S.C. 1841(p)), and

14 “(iii) any subsidiary of a financial in-
15 stitution described in section 581 or 591,
16 or of any such bank or financial holding
17 company, if such subsidiary is predomi-
18 nantly engaged (directly or indirectly) in
19 the active conduct of a banking, financing,
20 or similar business,

21 shall be treated as a corporation described in
22 subparagraph (B).

23 “(5) ELECTION TO EXPAND FINANCIAL INSTI-
24 TUTION GROUP OF WORLDWIDE GROUP.—



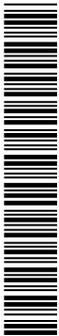
1 “(A) IN GENERAL.—If a worldwide affli-
2 ated group elects the application of this sub-
3 section, all financial corporations which—

4 “(i) are members of such worldwide
5 affiliated group, but

6 “(ii) are not corporations described in
7 paragraph (4)(B),

8 shall be treated as described in paragraph
9 (4)(B) for purposes of applying paragraph
10 (4)(A). This subsection (other than this para-
11 graph) shall apply to any such group in the
12 same manner as this subsection (other than this
13 paragraph) applies to the pre-election worldwide
14 affiliated group of which such group is a part.

15 “(B) FINANCIAL CORPORATION.—For pur-
16 poses of this paragraph, the term ‘financial cor-
17 poration’ means any corporation if at least 80
18 percent of its gross income is income described
19 in section 904(d)(2)(C)(ii) and the regulations
20 thereunder which is derived from transactions
21 with persons who are not related (within the
22 meaning of section 267(b) or 707(b)(1)) to the
23 corporation. For purposes of the preceding sen-
24 tence, there shall be disregarded any item of in-
25 come or gain from a transaction or series of



1 transactions a principal purpose of which is the
2 qualification of any corporation as a financial
3 corporation.

4 “(C) ANTIABUSE RULES.—In the case of a
5 corporation which is a member of an electing fi-
6 nancial institution group, to the extent that
7 such corporation—

8 “(i) distributes dividends or makes
9 other distributions with respect to its stock
10 after the date of the enactment of this
11 paragraph to any member of the pre-elec-
12 tion worldwide affiliated group (other than
13 to a member of the electing financial insti-
14 tution group) in excess of the greater of—

15 “(I) its average annual dividend
16 (expressed as a percentage of current
17 earnings and profits) during the 5-
18 taxable-year period ending with the
19 taxable year preceding the taxable
20 year, or

21 “(II) 25 percent of its average
22 annual earnings and profits for such
23 5-taxable-year period, or

24 “(ii) deals with any person in any
25 manner not clearly reflecting the income of



1 the corporation (as determined under prin-
2 ciples similar to the principles of section
3 482),
4 an amount of indebtedness of the electing fi-
5 nancial institution group equal to the excess
6 distribution or the understatement or overstate-
7 ment of income, as the case may be, shall be re-
8 characterized (for the taxable year and subse-
9 quent taxable years) for purposes of this para-
10 graph as indebtedness of the worldwide affili-
11 ated group (excluding the electing financial in-
12 stitution group). If a corporation has not been
13 in existence for 5 taxable years, this subpara-
14 graph shall be applied with respect to the pe-
15 riod it was in existence.

16 “(D) ELECTION.—An election under this
17 paragraph with respect to any financial institu-
18 tion group may be made only by the common
19 parent of the pre-election worldwide affiliated
20 group and may be made only for the first tax-
21 able year beginning after December 31, 2008,
22 in which such affiliated group includes 1 or
23 more financial corporations. Such an election,
24 once made, shall apply to all financial corpora-
25 tions which are members of the electing finan-



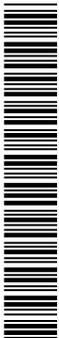
1 cial institution group for such taxable year and
2 all subsequent years unless revoked with the
3 consent of the Secretary.

4 “(E) DEFINITIONS RELATING TO
5 GROUPS.—For purposes of this paragraph—

6 “(i) PRE-ELECTION WORLDWIDE AF-
7 FILIATED GROUP.—The term ‘pre-election
8 worldwide affiliated group’ means, with re-
9 spect to a corporation, the worldwide affili-
10 ated group of which such corporation
11 would (but for an election under this para-
12 graph) be a member for purposes of apply-
13 ing paragraph (1).

14 “(ii) ELECTING FINANCIAL INSTITU-
15 TION GROUP.—The term ‘electing financial
16 institution group’ means the group of cor-
17 porations to which this subsection applies
18 separately by reason of the application of
19 paragraph (4)(A) and which includes fi-
20 nancial corporations by reason of an elec-
21 tion under subparagraph (A).

22 “(F) REGULATIONS.—The Secretary shall
23 prescribe such regulations as may be appro-
24 priate to carry out this subsection, including
25 regulations—



1 “(i) providing for the direct allocation
2 of interest expense in other circumstances
3 where such allocation would be appropriate
4 to carry out the purposes of this sub-
5 section,

6 “(ii) preventing assets or interest ex-
7 pense from being taken into account more
8 than once, and

9 “(iii) dealing with changes in mem-
10 bers of any group (through acquisitions or
11 otherwise) treated under this paragraph as
12 an affiliated group for purposes of this
13 subsection.

14 “(6) ELECTION.—An election to have this sub-
15 section apply with respect to any worldwide affiliated
16 group may be made only by the common parent of
17 the domestic affiliated group referred to in para-
18 graph (1)(C) and may be made only for the first
19 taxable year beginning after December 31, 2008, in
20 which a worldwide affiliated group exists which in-
21 cludes such affiliated group and at least 1 foreign
22 corporation. Such an election, once made, shall apply
23 to such common parent and all other corporations
24 which are members of such worldwide affiliated



1 group for such taxable year and all subsequent years
2 unless revoked with the consent of the Secretary.”.

3 (b) **EXPANSION OF REGULATORY AUTHORITY.**—

4 Paragraph (7) of section 864(e) is amended—

5 (1) by inserting before the comma at the end of
6 subparagraph (B) “and in other circumstances
7 where such allocation would be appropriate to carry
8 out the purposes of this subsection”, and

9 (2) by striking “and” at the end of subpara-
10 graph (E), by redesignating subparagraph (F) as
11 subparagraph (G), and by inserting after subpara-
12 graph (E) the following new subparagraph:

13 “(F) preventing assets or interest expense
14 from being taken into account more than once,
15 and”.

16 (c) **EFFECTIVE DATE.**—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 2008.

19 **SEC. 202. RECHARACTERIZATION OF OVERALL DOMESTIC**
20 **LOSS.**

21 (a) **GENERAL RULE.**—Section 904 is amended by re-
22 designating subsections (g), (h), (i), (j), and (k) as sub-
23 sections (h), (i), (j), (k), and (l) respectively, and by in-
24 serting after subsection (f) the following new subsection:



1 “(g) RECHARACTERIZATION OF OVERALL DOMESTIC
2 LOSS.—

3 “(1) GENERAL RULE.—For purposes of this
4 subpart and section 936, in the case of any taxpayer
5 who sustains an overall domestic loss for any taxable
6 year beginning after December 31, 2006, that por-
7 tion of the taxpayer’s taxable income from sources
8 within the United States for each succeeding taxable
9 year which is equal to the lesser of—

10 “(A) the amount of such loss (to the extent
11 not used under this paragraph in prior taxable
12 years), or

13 “(B) 50 percent of the taxpayer’s taxable
14 income from sources within the United States
15 for such succeeding taxable year,

16 shall be treated as income from sources without the
17 United States (and not as income from sources with-
18 in the United States).

19 “(2) OVERALL DOMESTIC LOSS DEFINED.—For
20 purposes of this subsection—

21 “(A) IN GENERAL.—The term ‘overall do-
22 mestic loss’ means any domestic loss to the ex-
23 tent such loss offsets taxable income from
24 sources without the United States for the tax-
25 able year or for any preceding taxable year by



1 reason of a carryback. For purposes of the pre-
2 ceding sentence, the term ‘domestic loss’ means
3 the amount by which the gross income for the
4 taxable year from sources within the United
5 States is exceeded by the sum of the deductions
6 properly apportioned or allocated thereto (deter-
7 mined without regard to any carryback from a
8 subsequent taxable year).

9 “(B) TAXPAYER MUST HAVE ELECTED
10 FOREIGN TAX CREDIT FOR YEAR OF LOSS.—
11 The term ‘overall domestic loss’ shall not in-
12 clude any loss for any taxable year unless the
13 taxpayer chose the benefits of this subpart for
14 such taxable year.

15 “(3) CHARACTERIZATION OF SUBSEQUENT IN-
16 COME.—

17 “(A) IN GENERAL.—Any income from
18 sources within the United States that is treated
19 as income from sources without the United
20 States under paragraph (1) shall be allocated
21 among and increase the income categories in
22 proportion to the loss from sources within the
23 United States previously allocated to those in-
24 come categories.



1 “(B) INCOME CATEGORY.—For purposes of
2 this paragraph, the term ‘income category’ has
3 the meaning given such term by subsection
4 (f)(5)(E)(i).

5 “(4) COORDINATION WITH SUBSECTION (f).—
6 The Secretary shall prescribe such regulations as
7 may be necessary to coordinate the provisions of this
8 subsection with the provisions of subsection (f).”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) Section 535(d)(2) is amended by striking
11 “section 904(g)(6)” and inserting “section
12 904(h)(6)”.

13 (2) Subparagraph (A) of section 936(a)(2) is
14 amended by striking “section 904(f)” and inserting
15 “subsections (f) and (g) of section 904”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to losses for taxable years begin-
18 ning after December 31, 2006.

19 **SEC. 203. LOOK-THRU RULES TO APPLY TO DIVIDENDS**
20 **FROM NONCONTROLLED SECTION 902 COR-**
21 **PORATIONS.**

22 (a) IN GENERAL.—Section 904(d)(4) (relating to
23 look-thru rules apply to dividends from noncontrolled sec-
24 tion 902 corporations) is amended to read as follows:



1 “(4) LOOK-THRU APPLIES TO DIVIDENDS FROM
2 NONCONTROLLED SECTION 902 CORPORATIONS.—

3 “(A) IN GENERAL.—For purposes of this
4 subsection, any dividend from a noncontrolled
5 section 902 corporation with respect to the tax-
6 payer shall be treated as income described in a
7 subparagraph of paragraph (1) in proportion to
8 the ratio of—

9 “(i) the portion of earnings and prof-
10 its attributable to income described in such
11 subparagraph, to

12 “(ii) the total amount of earnings and
13 profits.

14 “(B) EARNINGS AND PROFITS OF CON-
15 TROLLED FOREIGN CORPORATIONS.—In the
16 case of any distribution from a controlled for-
17 eign corporation to a United States share-
18 holder, rules similar to the rules of subpara-
19 graph (A) shall apply in determining the extent
20 to which earnings and profits of the controlled
21 foreign corporation which are attributable to
22 dividends received from a noncontrolled section
23 902 corporation may be treated as income in a
24 separate category.



1 “(C) SPECIAL RULES.—For purposes of
2 this paragraph—

3 “(i) EARNINGS AND PROFITS.—

4 “(I) IN GENERAL.—The rules of
5 section 316 shall apply.

6 “(II) REGULATIONS.—The Sec-
7 retary may prescribe regulations re-
8 garding the treatment of distributions
9 out of earnings and profits for periods
10 before the taxpayer’s acquisition of
11 the stock to which the distributions
12 relate.

13 “(ii) INADEQUATE SUBSTAN-
14 TIATION.—If the Secretary determines that
15 the proper subparagraph of paragraph (1)
16 in which a dividend is described has not
17 been substantiated, such dividend shall be
18 treated as income described in paragraph
19 (1)(A).

20 “(iii) COORDINATION WITH HIGH-
21 TAXED INCOME PROVISIONS.—Rules simi-
22 lar to the rules of paragraph (3)(F) shall
23 apply for purposes of this paragraph.

24 “(iv) LOOK-THRU WITH RESPECT TO
25 CARRYOVER OF CREDIT.—Rules similar to



1 subparagraph (A) also shall apply to any
2 carryforward under subsection (c) from a
3 taxable year beginning before January 1,
4 2003, of tax allocable to a dividend from a
5 noncontrolled section 902 corporation with
6 respect to the taxpayer. The Secretary may
7 by regulations provide for the allocation of
8 any carryback of tax allocable to a divi-
9 dend from a noncontrolled section 902 cor-
10 poration to such a taxable year for pur-
11 poses of allocating such dividend among
12 the separate categories in effect for such
13 taxable year.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Subparagraph (E) of section 904(d)(1) is
16 hereby repealed.

17 (2) Section 904(d)(2)(C)(iii) is amended by
18 adding “and” at the end of subclause (I), by striking
19 subclause (II), and by redesignating subclause (III)
20 as subclause (II).

21 (3) The last sentence of section 904(d)(2)(D) is
22 amended to read as follows: “Such term does not in-
23 clude any financial services income.”.

24 (4) Section 904(d)(2)(E) is amended—



1 (A) by inserting “or (4)” after “paragraph
2 (3)” in clause (i), and

3 (B) by striking clauses (ii) and (iv) and by
4 redesignating clause (iii) as clause (ii).

5 (5) Section 904(d)(3)(F) is amended by strik-
6 ing “(D), or (E)” and inserting “or (D)”.

7 (6) Section 864(d)(5)(A)(i) is amended by
8 striking “(C)(iii)(III)” and inserting “(C)(iii)(II)”.

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

12 **SEC. 204. ATTRIBUTION OF STOCK OWNERSHIP THROUGH**
13 **PARTNERSHIPS TO APPLY IN DETERMINING**
14 **SECTION 902 AND 960 CREDITS.**

15 (a) IN GENERAL.—Subsection (c) of section 902 is
16 amended by redesignating paragraph (7) as paragraph (8)
17 and by inserting after paragraph (6) the following new
18 paragraph:

19 “(7) CONSTRUCTIVE OWNERSHIP THROUGH
20 PARTNERSHIPS.—Stock owned, directly or indirectly,
21 by or for a partnership shall be considered as being
22 owned proportionately by its partners. Stock consid-
23 ered to be owned by a person by reason of the pre-
24 ceding sentence shall, for purposes of applying such
25 sentence, be treated as actually owned by such per-



1 son. The Secretary may prescribe such regulations
2 as may be necessary to carry out the purposes of
3 this paragraph, including rules to account for special
4 partnership allocations of dividends, credits, and
5 other incidents of ownership of stock in determining
6 proportionate ownership.”.

7 (b) CLARIFICATION OF COMPARABLE CONTRIBUTION
8 UNDER SECTION 901(b)(5).—Paragraph (5) of section
9 901(b) is amended by striking “any individual” and in-
10 serting “any person”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxes of foreign corporations
13 for taxable years of such corporations beginning after the
14 date of the enactment of this Act.

15 **SEC. 205. CLARIFICATION OF TREATMENT OF CERTAIN**
16 **TRANSFERS OF INTANGIBLE PROPERTY.**

17 (a) IN GENERAL.—Subparagraph (C) of section
18 367(d)(2) is amended by adding at the end the following
19 new sentence: “For purposes of applying section 904(d),
20 any such amount shall be treated in the same manner as
21 if such amount were a royalty.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to amounts treated as received pur-
24 suant to section 367(d)(2) of the Internal Revenue Code
25 of 1986 on or after August 5, 1997.



1 **SEC. 206. UNITED STATES PROPERTY NOT TO INCLUDE**
2 **CERTAIN ASSETS OF CONTROLLED FOREIGN**
3 **CORPORATION.**

4 (a) IN GENERAL.—Section 956(c)(2) (relating to ex-
5 ceptions from property treated as United States property)
6 is amended by striking “and” at the end of subparagraph
7 (J), by striking the period at the end of subparagraph (K)
8 and inserting a semicolon, and by adding at the end the
9 following new subparagraphs:

10 “(L) securities acquired and held by a con-
11 trolled foreign corporation in the ordinary
12 course of its business as a dealer in securities
13 if—

14 “(i) the dealer accounts for the securi-
15 ties as securities held primarily for sale to
16 customers in the ordinary course of busi-
17 ness, and

18 “(ii) the dealer disposes of the securi-
19 ties (or such securities mature while held
20 by the dealer) within a period consistent
21 with the holding of securities for sale to
22 customers in the ordinary course of busi-
23 ness; and

24 “(M) an obligation of a United States per-
25 son which—

26 “(i) is not a domestic corporation, and



1 “(ii) is not—
2 “(I) a United States shareholder
3 (as defined in section 951(b)) of the
4 controlled foreign corporation, or
5 “(II) a partnership, estate, or
6 trust in which the controlled foreign
7 corporation, or any related person (as
8 defined in section 954(d)(3)), is a
9 partner, beneficiary, or trustee imme-
10 diately after the acquisition of any ob-
11 ligation of such partnership, estate, or
12 trust by the controlled foreign cor-
13 poration.”.

14 (b) CONFORMING AMENDMENT.—Section 956(e)(2)
15 is amended by striking “and (K)” in the last sentence and
16 inserting “, (K), and (L)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years of foreign corpora-
19 tions beginning after December 31, 2004, and to taxable
20 years of United States shareholders with or within which
21 such taxable years of foreign corporations end.



1 **SEC. 207. ELECTION NOT TO USE AVERAGE EXCHANGE**
2 **RATE FOR FOREIGN TAX PAID OTHER THAN**
3 **IN FUNCTIONAL CURRENCY.**

4 (a) IN GENERAL.—Paragraph (1) of section 986(a)
5 (relating to determination of foreign taxes and foreign cor-
6 poration's earnings and profits) is amended by redesi-
7 gnating subparagraph (D) as subparagraph (E) and by in-
8 serting after subparagraph (C) the following new subpara-
9 graph:

10 “(D) ELECTIVE EXCEPTION FOR TAXES
11 PAID OTHER THAN IN FUNCTIONAL CUR-
12 RENCY.—

13 “(i) IN GENERAL.—At the election of
14 the taxpayer, subparagraph (A) shall not
15 apply to any foreign income taxes the li-
16 ability for which is denominated in any
17 currency other than in the taxpayer's func-
18 tional currency.

19 “(ii) APPLICATION TO QUALIFIED
20 BUSINESS UNITS.—An election under this
21 subparagraph may apply to foreign income
22 taxes attributable to a qualified business
23 unit in accordance with regulations pre-
24 scribed by the Secretary.

25 “(iii) ELECTION.—Any such election
26 shall apply to the taxable year for which



1 made and all subsequent taxable years un-
2 less revoked with the consent of the Sec-
3 retary.”.

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

7 **SEC. 208. REPEAL OF WITHHOLDING TAX ON DIVIDENDS**
8 **FROM CERTAIN FOREIGN CORPORATIONS.**

9 (a) **IN GENERAL.**—Paragraph (2) of section 871(i)
10 (relating to tax not to apply to certain interest and divi-
11 dends) is amended by adding at the end the following new
12 subparagraph:

13 “(D) Dividends paid by a foreign corpora-
14 tion which are treated under section
15 861(a)(2)(B) as income from sources within the
16 United States.”.

17 (b) **EFFECTIVE DATE.**—The amendment made by
18 this section shall apply to payments made after December
19 31, 2004.

20 **SEC. 209. PROVIDE EQUAL TREATMENT FOR INTEREST**
21 **PAID BY FOREIGN PARTNERSHIPS AND FOR-**
22 **EIGN CORPORATIONS.**

23 (a) **IN GENERAL.**—Paragraph (1) of section 861(a)
24 is amended by striking “and” at the end of subparagraph
25 (A), by striking the period at the end of subparagraph



1 (B) and inserting “, and”, and by adding at the end the
2 following new subparagraph:

3 “(C) in the case of a foreign partnership,
4 which is predominantly engaged in the active
5 conduct of a trade or business outside the
6 United States, any interest not paid by a trade
7 or business engaged in by the partnership in
8 the United States and not allocable to income
9 which is effectively connected (or treated as ef-
10 fectively connected) with the conduct of a trade
11 or business in the United States.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2003.

15 **SEC. 210. LOOK-THRU TREATMENT OF PAYMENTS BE-**
16 **TWEEN RELATED CONTROLLED FOREIGN**
17 **CORPORATIONS UNDER FOREIGN PERSONAL**
18 **HOLDING COMPANY INCOME RULES.**

19 (a) IN GENERAL.—Subsection (c) of section 954, as
20 amended by this Act, is amended by adding after para-
21 graph (4) the following new paragraph:

22 “(5) LOOK-THRU IN THE CASE OF RELATED
23 CONTROLLED FOREIGN CORPORATIONS.—For pur-
24 poses of this subsection, dividends, interest, rents,
25 and royalties received or accrued from a controlled



1 foreign corporation which is a related person (as de-
2 fined in subsection (d)(3)) shall not be treated as
3 foreign personal holding company income to the ex-
4 tent attributable or properly allocable (determined
5 under rules similar to the rules of subparagraphs
6 (C) and (D) of section 904(d)(3)) to income of the
7 related person which is not subpart F income (as de-
8 fined in section 952). For purposes of this para-
9 graph, interest shall include factoring income which
10 is treated as income equivalent to interest for pur-
11 poses of paragraph (1)(E). The Secretary shall pre-
12 scribe such regulations as may be appropriate to
13 prevent the abuse of the purposes of this para-
14 graph.”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to taxable years of foreign corpora-
17 tions beginning after December 31, 2004, and to taxable
18 years of United States shareholders with or within which
19 such taxable years of foreign corporations end.

20 **SEC. 211. LOOK-THRU TREATMENT FOR SALES OF PART-**
21 **nership Interests.**

22 (a) IN GENERAL.—Section 954(c) (defining foreign
23 personal holding company income), as amended by this
24 Act, is amended by adding after paragraph (5) the fol-
25 lowing new paragraph:



1 “(6) LOOK-THRU RULE FOR CERTAIN PARTNER-
2 SHIP SALES.—

3 “(A) IN GENERAL.—In the case of any
4 sale by a controlled foreign corporation of an
5 interest in a partnership with respect to which
6 such corporation is a 25-percent owner, such
7 corporation shall be treated for purposes of this
8 subsection as selling the proportionate share of
9 the assets of the partnership attributable to
10 such interest. The Secretary shall prescribe
11 such regulations as may be appropriate to pre-
12 vent abuse of the purposes of this paragraph,
13 including regulations providing for coordination
14 of this paragraph with the provisions of sub-
15 chapter K.

16 “(B) 25-PERCENT OWNER.—For purposes
17 of this paragraph, the term ‘25-percent owner’
18 means a controlled foreign corporation which
19 owns directly 25 percent or more of the capital
20 or profits interest in a partnership. For pur-
21 poses of the preceding sentence, if a controlled
22 foreign corporation is a shareholder or partner
23 of a corporation or partnership, the controlled
24 foreign corporation shall be treated as owning
25 directly its proportionate share of any such cap-



1 ital or profits interest held directly or indirectly
2 by such corporation or partnership.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply to taxable years of foreign corpora-
5 tions beginning after December 31, 2004, and to taxable
6 years of United States shareholders with or within which
7 such taxable years of foreign corporations end.

8 **SEC. 212. REPEAL OF FOREIGN PERSONAL HOLDING COM-**
9 **PANY RULES AND FOREIGN INVESTMENT**
10 **COMPANY RULES.**

11 (a) **GENERAL RULE.**—The following provisions are
12 hereby repealed:

13 (1) Part III of subchapter G of chapter 1 (re-
14 lating to foreign personal holding companies).

15 (2) Section 1246 (relating to gain on foreign in-
16 vestment company stock).

17 (3) Section 1247 (relating to election by foreign
18 investment companies to distribute income cur-
19 rently).

20 (b) **EXEMPTION OF FOREIGN CORPORATIONS FROM**
21 **PERSONAL HOLDING COMPANY RULES.**—

22 (1) **IN GENERAL.**—Subsection (c) of section
23 542 (relating to exceptions) is amended—

24 (A) by striking paragraph (5) and insert-
25 ing the following:



1 “(5) a foreign corporation,”

2 (B) by striking paragraphs (7) and (10)
3 and by redesignating paragraphs (8) and (9) as
4 paragraphs (7) and (8), respectively,

5 (C) by inserting “and” at the end of para-
6 graph (7) (as so redesignated), and

7 (D) by striking “; and” at the end of para-
8 graph (8) (as so redesignated) and inserting a
9 period.

10 (2) TREATMENT OF INCOME FROM PERSONAL
11 SERVICE CONTRACTS.—Paragraph (1) of section
12 954(c) is amended by adding at the end the fol-
13 lowing new subparagraph:

14 “(I) PERSONAL SERVICE CONTRACTS.—

15 “(i) Amounts received under a con-
16 tract under which the corporation is to fur-
17 nish personal services if—

18 “(I) some person other than the
19 corporation has the right to designate
20 (by name or by description) the indi-
21 vidual who is to perform the services,
22 or

23 “(II) the individual who is to per-
24 form the services is designated (by



1 name or by description) in the con-
2 tract, and

3 “(ii) amounts received from the sale
4 or other disposition of such a contract.

5 This subparagraph shall apply with respect to
6 amounts received for services under a particular
7 contract only if at some time during the taxable
8 year 25 percent or more in value of the out-
9 standing stock of the corporation is owned, di-
10 rectly or indirectly, by or for the individual who
11 has performed, is to perform, or may be des-
12 ignated (by name or by description) as the one
13 to perform, such services.”.

14 (e) CONFORMING AMENDMENTS.—

15 (1) Section 1(h) is amended—

16 (A) in paragraph (10), by inserting “and”
17 at the end of subparagraph (F), by striking
18 subparagraph (G), and by redesignating sub-
19 paragraph (H) as subparagraph (G), and

20 (B) by striking “a foreign personal holding
21 company (as defined in section 552), a foreign
22 investment company (as defined in section
23 1246(b)), or” in paragraph (11)(C)(iii).

24 (2) Section 163(e)(3)(B), as amended by sec-
25 tion 642(a) of this Act, is amended by striking



1 “which is a foreign personal holding company (as
2 defined in section 552), a controlled foreign corpora-
3 tion (as defined in section 957), or” and inserting
4 “which is a controlled foreign corporation (as de-
5 fined in section 957) or”.

6 (3) Paragraph (2) of section 171(c) is
7 amended—

8 (A) by striking “, or by a foreign personal
9 holding company, as defined in section 552”,
10 and

11 (B) by striking “, or foreign personal hold-
12 ing company”.

13 (4) Paragraph (2) of section 245(a) is amended
14 by striking “foreign personal holding company or”.

15 (5) Section 267(a)(3)(B), as amended by sec-
16 tion 642(b) of this Act, is amended by striking “to
17 a foreign personal holding company (as defined in
18 section 552), a controlled foreign corporation (as de-
19 fined in section 957), or” and inserting “to a con-
20 trolled foreign corporation (as defined in section
21 957) or”.

22 (6) Section 312 is amended by striking sub-
23 section (j).

24 (7) Subsection (m) of section 312 is amended
25 by striking “, a foreign investment company (within



1 the meaning of section 1246(b)), or a foreign per-
2 sonal holding company (within the meaning of sec-
3 tion 552)’’.

4 (8) Subsection (e) of section 443 is amended by
5 striking paragraph (3) and by redesignating para-
6 graphs (4) and (5) as paragraphs (3) and (4), re-
7 spectively.

8 (9) Subparagraph (B) of section 465(e)(7) is
9 amended by adding “or” at the end of clause (i), by
10 striking clause (ii), and by redesignating clause (iii)
11 as clause (ii).

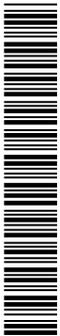
12 (10) Paragraph (1) of section 543(b) is amend-
13 ed by inserting “and” at the end of subparagraph
14 (A), by striking “, and” at the end of subparagraph
15 (B) and inserting a period, and by striking subpara-
16 graph (C).

17 (11) Paragraph (1) of section 562(b) is amend-
18 ed by striking “or a foreign personal holding com-
19 pany described in section 552’’.

20 (12) Section 563 is amended—

21 (A) by striking subsection (e),

22 (B) by redesignating subsection (d) as sub-
23 section (e), and



1 (C) by striking “subsection (a), (b), or (c)”
2 in subsection (e) (as so redesignated) and in-
3 serting “subsection (a) or (b)”.

4 (13) Subsection (d) of section 751 is amended
5 by adding “and” at the end of paragraph (2), by
6 striking paragraph (3), by redesignating paragraph
7 (4) as paragraph (3), and by striking “paragraph
8 (1), (2), or (3)” in paragraph (3) (as so redesi-
9 gnated) and inserting “paragraph (1) or (2)”.

10 (14) Paragraph (2) of section 864(d) is amend-
11 ed by striking subparagraph (A) and by redesi-
12 gnating subparagraphs (B) and (C) as subparagraphs
13 (A) and (B), respectively.

14 (15)(A) Subparagraph (A) of section 898(b)(1)
15 is amended to read as follows:

16 “(A) which is treated as a controlled for-
17 eign corporation for any purpose under subpart
18 F of part III of this subchapter, and”.

19 (B) Subparagraph (B) of section 898(b)(2) is
20 amended by striking “and sections 551(f) and 554,
21 whichever are applicable,”.

22 (C) Paragraph (3) of section 898(b) is amended
23 to read as follows:

24 “(3) UNITED STATES SHAREHOLDER.—The
25 term ‘United States shareholder’ has the meaning



1 given to such term by section 951(b), except that, in
2 the case of a foreign corporation having related per-
3 son insurance income (as defined in section
4 953(c)(2)), the Secretary may treat any person as a
5 United States shareholder for purposes of this sec-
6 tion if such person is treated as a United States
7 shareholder under section 953(c)(1).”.

8 (D) Subsection (c) of section 898 is amended to
9 read as follows:

10 “(c) DETERMINATION OF REQUIRED YEAR.—

11 “(1) IN GENERAL.—The required year is—

12 “(A) the majority U.S. shareholder year,
13 or

14 “(B) if there is no majority U.S. share-
15 holder year, the taxable year prescribed under
16 regulations.

17 “(2) 1-MONTH DEFERRAL ALLOWED.—A speci-
18 fied foreign corporation may elect, in lieu of the tax-
19 able year under paragraph (1)(A), a taxable year be-
20 ginning 1 month earlier than the majority U.S.
21 shareholder year.

22 “(3) MAJORITY U.S. SHAREHOLDER YEAR.—

23 “(A) IN GENERAL.—For purposes of this
24 subsection, the term ‘majority U.S. shareholder
25 year’ means the taxable year (if any) which, on



1 each testing day, constituted the taxable year
2 of—

3 “(i) each United States shareholder
4 described in subsection (b)(2)(A), and

5 “(ii) each United States shareholder
6 not described in clause (i) whose stock was
7 treated as owned under subsection
8 (b)(2)(B) by any shareholder described in
9 such clause.

10 “(B) TESTING DAY.—The testing days
11 shall be—

12 “(i) the first day of the corporation’s
13 taxable year (determined without regard to
14 this section), or

15 “(ii) the days during such representa-
16 tive period as the Secretary may pre-
17 scribe.”.

18 (16) Clause (ii) of section 904(d)(2)(A) is
19 amended to read as follows:

20 “(ii) CERTAIN AMOUNTS INCLUDED.—
21 Except as provided in clause (iii), the term
22 ‘passive income’ includes, except as pro-
23 vided in subparagraph (E)(iii) or para-
24 graph (3)(I), any amount includible in
25 gross income under section 1293 (relating



1 to certain passive foreign investment com-
2 panies).”.

3 (17)(A) Subparagraph (A) of section 904(h)(1),
4 as redesignated by section 302, is amended by add-
5 ing “or” at the end of clause (i), by striking clause
6 (ii), and by redesignating clause (iii) as clause (ii).

7 (B) The paragraph heading of paragraph (2) of
8 section 904(h), as so redesignated, is amended by
9 striking “FOREIGN PERSONAL HOLDING OR”.

10 (18) Section 951 is amended by striking sub-
11 sections (c) and (d) and by redesignating subsections
12 (e) and (f) as subsections (c) and (d), respectively.

13 (19) Paragraph (3) of section 989(b) is amend-
14 ed by striking “, 551(a),”.

15 (20) Paragraph (5) of section 1014(b) is
16 amended by inserting “and before January 1,
17 2005,” after “August 26, 1937,”.

18 (21) Subsection (a) of section 1016 is amended
19 by striking paragraph (13).

20 (22)(A) Paragraph (3) of section 1212(a) is
21 amended to read as follows:

22 “(3) SPECIAL RULES ON CARRYBACKS.—A net
23 capital loss of a corporation shall not be carried
24 back under paragraph (1)(A) to a taxable year—



1 “(A) for which it is a regulated investment
2 company (as defined in section 851), or

3 “(B) for which it is a real estate invest-
4 ment trust (as defined in section 856).”.

5 (B) The amendment made by subparagraph (A)
6 shall apply to taxable years beginning after Decem-
7 ber 31, 2004.

8 (23) Section 1223 is amended by striking para-
9 graph (10) and by redesignating the following para-
10 graphs accordingly.

11 (24) Subsection (d) of section 1248 is amended
12 by striking paragraph (5) and by redesignating
13 paragraphs (6) and (7) as paragraphs (5) and (6),
14 respectively.

15 (25) Paragraph (2) of section 1260(e) is
16 amended by striking subparagraphs (H) and (I) and
17 by redesignating subparagraph (J) as subparagraph
18 (H).

19 (26)(A) Subparagraph (F) of section
20 1291(b)(3) is amended by striking “551(d), 959(a),”
21 and inserting “959(a)”.

22 (B) Subsection (e) of section 1291 is amended
23 by inserting “(as in effect on the day before the date
24 of the enactment of the American Jobs Creation Act
25 of 2004)” after “section 1246”.



1 (27) Paragraph (2) of section 1294(a) is
2 amended to read as follows:

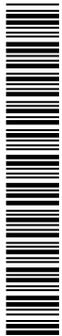
3 “(2) ELECTION NOT PERMITTED WHERE
4 AMOUNTS OTHERWISE INCLUDIBLE UNDER SECTION
5 951.—The taxpayer may not make an election under
6 paragraph (1) with respect to the undistributed
7 PFIC earnings tax liability attributable to a quali-
8 fied electing fund for the taxable year if any amount
9 is includible in the gross income of the taxpayer
10 under section 951 with respect to such fund for such
11 taxable year.”.

12 (28) Section 6035 is hereby repealed.

13 (29) Subparagraph (D) of section 6103(e)(1) is
14 amended by striking clause (iv) and redesignating
15 clauses (v) and (vi) as clauses (iv) and (v), respec-
16 tively.

17 (30) Subparagraph (B) of section 6501(e)(1) is
18 amended to read as follows:

19 “(B) CONSTRUCTIVE DIVIDENDS.—If the
20 taxpayer omits from gross income an amount
21 properly includible therein under section
22 951(a), the tax may be assessed, or a pro-
23 ceeding in court for the collection of such tax
24 may be done without assessing, at any time
25 within 6 years after the return was filed.”.



1 (31) Subsection (a) of section 6679 is
2 amended—

3 (A) by striking “6035, 6046, and 6046A”
4 in paragraph (1) and inserting “6046 and
5 6046A”, and

6 (B) by striking paragraph (3).

7 (32) Sections 170(f)(10)(A), 508(d), 4947, and
8 4948(e)(4) are each amended by striking
9 “556(b)(2),” each place it appears.

10 (33) The table of parts for subchapter G of
11 chapter 1 is amended by striking the item relating
12 to part III.

13 (34) The table of sections for part IV of sub-
14 chapter P of chapter 1 is amended by striking the
15 items relating to sections 1246 and 1247.

16 (35) The table of sections for subpart A of part
17 III of subchapter A of chapter 61 is amended by
18 striking the item relating to section 6035.

19 (d) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendments made by this section
22 shall apply to taxable years of foreign corporations
23 beginning after December 31, 2004, and to taxable
24 years of United States shareholders with or within



1 which such taxable years of foreign corporations
2 end.

3 (2) SUBSECTION (c)(29).—The amendments
4 made by subsection (c)(29) shall apply to disclosures
5 of return or return information with respect to tax-
6 able years beginning after December 31, 2004.

7 **SEC. 213. DETERMINATION OF FOREIGN PERSONAL HOLD-**
8 **ING COMPANY INCOME WITH RESPECT TO**
9 **TRANSACTIONS IN COMMODITIES.**

10 (a) IN GENERAL.—Clauses (i) and (ii) of section
11 954(c)(1)(C) (relating to commodity transactions) are
12 amended to read as follows:

13 “(i) arise out of commodity hedging
14 transactions (as defined in paragraph
15 (4)(A)),

16 “(ii) are active business gains or
17 losses from the sale of commodities, but
18 only if substantially all of the controlled
19 foreign corporation’s commodities are
20 property described in paragraph (1), (2),
21 or (8) of section 1221(a), or”.

22 (b) DEFINITION AND SPECIAL RULES.—Subsection
23 (c) of section 954 is amended by adding after paragraph
24 (3) the following new paragraph:



1 “(4) DEFINITION AND SPECIAL RULES RELAT-
2 ING TO COMMODITY TRANSACTIONS.—

3 “(A) COMMODITY HEDGING TRANS-
4 ACTIONS.—For purposes of paragraph
5 (1)(C)(i), the term ‘commodity hedging trans-
6 action’ means any transaction with respect to a
7 commodity if such transaction—

8 “(i) is a hedging transaction as de-
9 fined in section 1221(b)(2), determined—

10 “(I) without regard to subpara-
11 graph (A)(ii) thereof,

12 “(II) by applying subparagraph
13 (A)(i) thereof by substituting ‘ordi-
14 nary property or property described in
15 section 1231(b)’ for ‘ordinary prop-
16 erty’, and

17 “(III) by substituting ‘controlled
18 foreign corporation’ for ‘taxpayer’
19 each place it appears, and

20 “(ii) is clearly identified as such in ac-
21 cordance with section 1221(a)(7).

22 “(B) TREATMENT OF DEALER ACTIVITIES
23 UNDER PARAGRAPH (1)(C).—Commodities with
24 respect to which gains and losses are not taken
25 into account under paragraph (2)(C) in com-



1 qualified business unit in its home country if
2 the activity is performed by employees of a re-
3 lated person and—

4 “(i) the related person is an eligible
5 controlled foreign corporation the home
6 country of which is the same as the home
7 country of the corporation or unit to which
8 subparagraph (A)(ii)(II) is being applied,

9 “(ii) the activity is performed in the
10 home country of the related person, and

11 “(iii) the related person is com-
12 pensated on an arm’s-length basis for the
13 performance of the activity by its employ-
14 ees and such compensation is treated as
15 earned by such person in its home country
16 for purposes of the home country’s tax
17 laws.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years of such foreign
20 corporations beginning after December 31, 2004, and to
21 taxable years of United States shareholders with or within
22 which such taxable years of such foreign corporations end.

23 **SEC. 215. FOREIGN TAX CREDIT UNDER ALTERNATIVE MIN-**
24 **IMUM TAX.**

25 (a) IN GENERAL.—



1 (1) Subsection (a) of section 59 is amended by
2 striking paragraph (2) and by redesignating para-
3 graphs (3) and (4) as paragraphs (2) and (3), re-
4 spectively.

5 (2) Section 53(d)(1)(B)(i)(II) is amended by
6 striking “and if section 59(a)(2) did not apply”.

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

10 **TITLE III—RELIEF FOR AGRI-**
11 **CULTURE AND SMALL MANU-**
12 **FACTURERS**

13 **SEC. 301. MODIFICATION OF DEPRECIATION ALLOWANCE**
14 **FOR AIRCRAFT.**

15 (a) AIRCRAFT TREATED AS QUALIFIED PROP-
16 erty.—

17 (1) IN GENERAL.—Paragraph (2) of section
18 168(k) is amended by redesignating subparagraphs
19 (C) through (F) as subparagraphs (D) through (G),
20 respectively, and by inserting after subparagraph
21 (B) the following new subparagraph:

22 “(C) CERTAIN AIRCRAFT.—The term
23 ‘qualified property’ includes property—

24 “(i) which meets the requirements of
25 clauses (ii) and (iii) of subparagraph (A),



1 “(ii) which is an aircraft which is not
2 a transportation property (as defined in
3 subparagraph (B)(iii)) other than for agri-
4 cultural or firefighting purposes,

5 “(iii) which is purchased and on which
6 such purchaser, at the time of the contract
7 for purchase, has made a nonrefundable
8 deposit of the lesser of—

9 “(I) 10 percent of the cost, or

10 “(II) \$100,000, and

11 “(iv) which has—

12 “(I) an estimated production pe-
13 riod exceeding 4 months, and

14 “(II) a cost exceeding
15 \$200,000.”.

16 (2) PLACED IN SERVICE DATE.—Clause (iv) of
17 section 168(k)(2)(A) is amended by striking “sub-
18 paragraph (B)” and inserting “subparagraphs (B)
19 and (C)”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 168(k)(2)(B) is amended by adding
22 at the end the following new clause:

23 “(iv) APPLICATION OF SUBPARA-
24 GRAPH.—This subparagraph shall not



1 apply to any property which is described in
2 subparagraph (C).”.

3 (2) Section 168(k)(4)(A)(ii) is amended by
4 striking “paragraph (2)(C)” and inserting “para-
5 graph (2)(D)”.

6 (3) Section 168(k)(4)(B)(iii) is amended by in-
7 serting “and paragraph (2)(C)” after “of this para-
8 graph)”.

9 (4) Section 168(k)(4)(C) is amended by striking
10 “subparagraphs (B) and (D)” and inserting “sub-
11 paragraphs (B), (C), and (E)”.

12 (5) Section 168(k)(4)(D) is amended by strik-
13 ing “Paragraph (2)(E)” and inserting “Paragraph
14 (2)(F)”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect as if included in the amend-
17 ments made by section 101 of the Job Creation and Work-
18 er Assistance Act of 2002.

19 **SEC. 302. MODIFICATION OF PLACED IN SERVICE RULE**
20 **FOR BONUS DEPRECIATION PROPERTY.**

21 (a) IN GENERAL.—Section 168(k)(2)(D) (relating to
22 special rules) is amended by adding at the end the fol-
23 lowing new clause:

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



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

4 “(II) such property is sold by
5 such lessor or any subsequent pur-
6 chaser within 3 months after the date
7 so placed in service (or, in the case of
8 multiple units of property subject to
9 the same lease, within 3 months after
10 the date the final unit is placed in
11 service, so long as the period between
12 the time the first unit is placed in
13 service and the time the last unit is
14 placed in service does not exceed 12
15 months), and

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

21 such property shall be treated as originally
22 placed in service not earlier than the date
23 of such last sale, so long as no previous
24 owner of such property elects the applica-

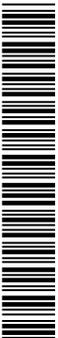


1 tion of this subsection with respect to such
2 property.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect as if included in the amend-
5 ments made by section 101 of the Job Creation and Work-
6 er Assistance Act of 2002; except that the parenthetical
7 material in section 168(k)(2)(D)(iii)(II) of the Internal
8 Revenue Code of 1986, as added by this section, shall
9 apply to property sold after June 4, 2004.

10 **SEC. 303. PAYMENT OF DIVIDENDS ON STOCK OF COOPERA-**
11 **TIVES WITHOUT REDUCING PATRONAGE**
12 **DIVIDENDS.**

13 (a) **IN GENERAL.**—Subsection (a) of section 1388
14 (relating to patronage dividend defined) is amended by
15 adding at the end the following: “For purposes of para-
16 graph (3), net earnings shall not be reduced by amounts
17 paid during the year as dividends on capital stock or other
18 proprietary capital interests of the organization to the ex-
19 tent that the articles of incorporation or bylaws of such
20 organization or other contract with patrons provide that
21 such dividends are in addition to amounts otherwise pay-
22 able to patrons which are derived from business done with
23 or for patrons during the taxable year.”.



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

4 **SEC. 304. CAPITAL GAIN TREATMENT UNDER SECTION**
5 **631(b) TO APPLY TO OUTRIGHT SALES BY**
6 **LANDOWNERS.**

7 (a) IN GENERAL.—The first sentence of section
8 631(b) (relating to disposal of timber with a retained eco-
9 nomic interest) is amended by striking “retains an eco-
10 nomic interest in such timber” and inserting “either re-
11 tains an economic interest in such timber or makes an
12 outright sale of such timber”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) The third sentence of section 631(b) is
15 amended by striking “The date of disposal” and in-
16 serting “In the case of disposal of timber with a re-
17 tained economic interest, the date of disposal”.

18 (2) The heading for section 631(b) is amended
19 by striking “WITH A RETAINED ECONOMIC INTER-
20 EST”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to sales after December 31, 2004.



1 **SEC. 305. DISTRIBUTIONS FROM PUBLICLY TRADED PART-**
2 **NERSHIPS TREATED AS QUALIFYING INCOME**
3 **OF REGULATED INVESTMENT COMPANIES.**

4 (a) IN GENERAL.—Paragraph (2) of section 851(b)
5 (defining regulated investment company) is amended to
6 read as follows:

7 “(2) at least 90 percent of its gross income is
8 derived from—

9 “(A) dividends, interest, payments with re-
10 spect to securities loans (as defined in section
11 512(a)(5)), and gains from the sale or other
12 disposition of stock or securities (as defined in
13 section 2(a)(36) of the Investment Company
14 Act of 1940, as amended) or foreign currencies,
15 or other income (including but not limited to
16 gains from options, futures or forward con-
17 tracts) derived with respect to its business of
18 investing in such stock, securities, or currencies,
19 and

20 “(B) distributions or other income derived
21 from an interest in a qualified publicly traded
22 partnership (as defined in subsection (h));
23 and”.

24 (b) SOURCE FLOW-THROUGH RULE NOT TO
25 APPLY.—The last sentence of section 851(b) is amended
26 by inserting “(other than a qualified publicly traded part-



1 nership as defined in subsection (h))” after “derived from
2 a partnership”.

3 (c) LIMITATION ON OWNERSHIP.—Subsection (c) of
4 section 851 is amended by redesignating paragraph (5)
5 as paragraph (6) and inserting after paragraph (4) the
6 following new paragraph:

7 “(5) The term ‘outstanding voting securities of
8 such issuer’ shall include the equity securities of a
9 qualified publicly traded partnership (as defined in
10 subsection (h)).”.

11 (d) DEFINITION OF QUALIFIED PUBLICLY TRADED
12 PARTNERSHIP.—Section 851 is amended by adding at the
13 end the following new subsection:

14 “(h) QUALIFIED PUBLICLY TRADED PARTNER-
15 SHIP.—For purposes of this section, the term ‘qualified
16 publicly traded partnership’ means a publicly traded part-
17 nership described in section 7704(b) other than a partner-
18 ship which would satisfy the gross income requirements
19 of section 7704(c)(2) if qualifying income included only
20 income described in subsection (b)(2)(A).”.

21 (e) DEFINITION OF QUALIFYING INCOME.—Section
22 7704(d)(4) is amended by striking “section 851(b)(2)”
23 and inserting “section 851(b)(2)(A)”.



1 (f) LIMITATION ON COMPOSITION OF ASSETS.—Sub-
2 paragraph (B) of section 851(b)(3) is amended to read
3 as follows:

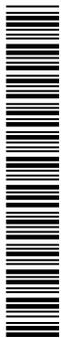
4 “(B) not more than 25 percent of the
5 value of its total assets is invested in—

6 “(i) the securities (other than Govern-
7 ment securities or the securities of other
8 regulated investment companies) of any
9 one issuer,

10 “(ii) the securities (other than the se-
11 curities of other regulated investment com-
12 panies) of two or more issuers which the
13 taxpayer controls and which are deter-
14 mined, under regulations prescribed by the
15 Secretary, to be engaged in the same or
16 similar trades or businesses or related
17 trades or businesses, or

18 “(iii) the securities of one or more
19 qualified publicly traded partnerships (as
20 defined in subsection (h)).”.

21 (g) APPLICATION OF SPECIAL PASSIVE ACTIVITY
22 RULE TO REGULATED INVESTMENT COMPANIES.—Sub-
23 section (k) of section 469 (relating to separate application
24 of section in case of publicly traded partnerships) is



1 amended by adding at the end the following new para-
2 graph:

3 “(4) APPLICATION TO REGULATED INVEST-
4 MENT COMPANIES.—For purposes of this section, a
5 regulated investment company (as defined in section
6 851) holding an interest in a qualified publicly trad-
7 ed partnership (as defined in section 851(h)) shall
8 be treated as a taxpayer described in subsection
9 (a)(2) with respect to items attributable to such in-
10 terest.”.

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

14 **SEC. 306. SIMPLIFICATION OF EXCISE TAX IMPOSED ON**
15 **BOWS AND ARROWS.**

16 (a) BOWS.—Paragraph (1) of section 4161(b) (relat-
17 ing to bows) is amended to read as follows:

18 “(1) BOWS.—

19 “(A) IN GENERAL.—There is hereby im-
20 posed on the sale by the manufacturer, pro-
21 ducer, or importer of any bow which has a peak
22 draw weight of 30 pounds or more, a tax equal
23 to 11 percent of the price for which so sold.



1 “(B) ARCHERY EQUIPMENT.—There is
2 hereby imposed on the sale by the manufac-
3 turer, producer, or importer—

4 “(i) of any part or accessory suitable
5 for inclusion in or attachment to a bow de-
6 scribed in subparagraph (A), and

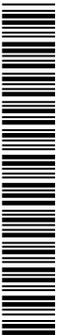
7 “(ii) of any quiver or broadhead suit-
8 able for use with an arrow described in
9 paragraph (2),
10 a tax equal to 11 percent of the price for which
11 so sold.”.

12 (b) ARROWS.—Subsection (b) of section 4161 (relat-
13 ing to bows and arrows, etc.) is amended by redesignating
14 paragraph (3) as paragraph (4) and inserting after para-
15 graph (2) the following:

16 “(3) ARROWS.—

17 “(A) IN GENERAL.—There is hereby im-
18 posed on the sale by the manufacturer, pro-
19 ducer, or importer of any arrow, a tax equal to
20 12 percent of the price for which so sold.

21 “(B) EXCEPTION.—In the case of any
22 arrow of which the shaft or any other compo-
23 nent has been previously taxed under paragraph
24 (1) or (2)—



1 “(i) section 6416(b)(3) shall not
2 apply, and

3 “(ii) the tax imposed by subparagraph
4 (A) shall be an amount equal to the excess
5 (if any) of—

6 “(I) the amount of tax imposed
7 by this paragraph (determined with-
8 out regard to this subparagraph), over

9 “(II) the amount of tax paid with
10 respect to the tax imposed under
11 paragraph (1) or (2) on such shaft or
12 component.

13 “(C) ARROW.—For purposes of this para-
14 graph, the term ‘arrow’ means any shaft de-
15 scribed in paragraph (2) to which additional
16 components are attached.”.

17 (c) CONFORMING AMENDMENTS.—Section
18 4161(b)(2) is amended—

19 (1) by inserting “(other than broadheads)”
20 after “point”, and

21 (2) by striking “ARROWS.—” in the heading
22 and inserting “ARROW COMPONENTS.—”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to articles sold by the manufac-



1 turer, producer, or importer after the date which is 30
2 days after the date of the enactment of this Act.

3 **TITLE IV—REVENUE**
4 **PROVISIONS**

5 **SEC. 401. REINSURANCE OF UNITED STATES RISKS IN FOR-**
6 **EIGN JURISDICTIONS.**

7 (a) **IN GENERAL.**—Section 845(a) (relating to alloca-
8 tion in case of reinsurance agreement involving tax avoid-
9 ance or evasion) is amended by striking “source and char-
10 acter” and inserting “amount, source, or character”.

11 (b) **EFFECTIVE DATE.**—The amendments made by
12 this section shall apply to any risk reinsured after the date
13 of the enactment of this Act.

14 **SEC. 402. REPORTING OF TAXABLE MERGERS AND ACQUISI-**
15 **TIONS.**

16 (a) **IN GENERAL.**—Subpart B of part III of sub-
17 chapter A of chapter 61 is amended by inserting after sec-
18 tion 6043 the following new section:

19 **“SEC. 6043A. RETURNS RELATING TO TAXABLE MERGERS**
20 **AND ACQUISITIONS.**

21 “(a) **IN GENERAL.**—According to the forms or regu-
22 lations prescribed by the Secretary, the acquiring corpora-
23 tion in any taxable acquisition shall make a return setting
24 forth—

25 “(1) a description of the acquisition,



1 “(2) the name and address of each shareholder
2 of the acquired corporation who is required to recog-
3 nize gain (if any) as a result of the acquisition,

4 “(3) the amount of money and the fair market
5 value of other property transferred to each such
6 shareholder as part of such acquisition, and

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

9 To the extent provided by the Secretary, the requirements
10 of this section applicable to the acquiring corporation shall
11 be applicable to the acquired corporation and not to the
12 acquiring corporation.

13 “(b) NOMINEES.—According to the forms or regula-
14 tions prescribed by the Secretary—

15 “(1) REPORTING.—Any person who holds stock
16 as a nominee for another person shall furnish in the
17 manner prescribed by the Secretary to such other
18 person the information provided by the corporation
19 under subsection (d).

20 “(2) REPORTING TO NOMINEES.—In the case of
21 stock held by any person as a nominee, references in
22 this section (other than in subsection (c)) to a share-
23 holder shall be treated as a reference to the nomi-
24 nee.



1 “(c) TAXABLE ACQUISITION.—For purposes of this
2 section, the term ‘taxable acquisition’ means any acquisi-
3 tion by a corporation of stock in or property of another
4 corporation if any shareholder of the acquired corporation
5 is required to recognize gain (if any) as a result of such
6 acquisition.

7 “(d) STATEMENTS TO BE FURNISHED TO SHARE-
8 HOLDERS.—According to the forms or regulations pre-
9 scribed by the Secretary, every person required to make
10 a return under subsection (a) shall furnish to each share-
11 holder whose name is required to be set forth in such re-
12 turn a written statement showing—

13 “(1) the name, address, and phone number of
14 the information contact of the person required to
15 make such return,

16 “(2) the information required to be shown on
17 such return with respect to such shareholder, and

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

20 The written statement required under the preceding sen-
21 tence shall be furnished to the shareholder on or before
22 January 31 of the year following the calendar year during
23 which the taxable acquisition occurred.”.

24 (b) ASSESSABLE PENALTIES.—



1 (1) Subparagraph (B) of section 6724(d)(1)
2 (relating to definitions) is amended by redesignating
3 clauses (ii) through (xviii) as clauses (iii) through
4 (xix), respectively, and by inserting after clause (i)
5 the following new clause:

6 “(ii) section 6043A(a) (relating to re-
7 turns relating to taxable mergers and ac-
8 quisitions),”.

9 (2) Paragraph (2) of section 6724(d) is amend-
10 ed by redesignating subparagraphs (F) through
11 (BB) as subparagraphs (G) through (CC), respec-
12 tively, and by inserting after subparagraph (E) the
13 following new subparagraph:

14 “(F) subsections (b) and (d) of section
15 6043A (relating to returns relating to taxable
16 mergers and acquisitions).”.

17 (c) CLERICAL AMENDMENT.—The table of sections
18 for subpart B of part III of subchapter A of chapter 61
19 is amended by inserting after the item relating to section
20 6043 the following new item:

 “Sec. 6043A. Returns relating to taxable mergers and acqui-
 sitions.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to acquisitions after the date of
23 the enactment of this Act.



1 **SEC. 403. TREATMENT OF STRIPPED INTERESTS IN BOND**
2 **AND PREFERRED STOCK FUNDS, ETC.**

3 (a) IN GENERAL.—Section 1286 (relating to tax
4 treatment of stripped bonds) is amended by redesignating
5 subsection (f) as subsection (g) and by inserting after sub-
6 section (e) the following new subsection:

7 “(f) TREATMENT OF STRIPPED INTERESTS IN BOND
8 AND PREFERRED STOCK FUNDS, ETC.—In the case of an
9 account or entity substantially all of the assets of which
10 consist of bonds, preferred stock, or a combination thereof,
11 the Secretary may by regulations provide that rules simi-
12 lar to the rules of this section and 305(e), as appropriate,
13 shall apply to interests in such account or entity to which
14 (but for this subsection) this section or section 305(e), as
15 the case may be, would not apply.”.

16 (b) CROSS REFERENCE.—Subsection (e) of section
17 305 is amended by adding at the end the following new
18 paragraph:

19 “(7) CROSS REFERENCE.—

**“For treatment of stripped interests in certain ac-
counts or entities holding preferred stock, see sec-
tion 1286(f).”.**

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to purchases and dispositions after
22 the date of the enactment of this Act.



1 **SEC. 404. MINIMUM HOLDING PERIOD FOR FOREIGN TAX**
2 **CREDIT ON WITHHOLDING TAXES ON INCOME**
3 **OTHER THAN DIVIDENDS.**

4 (a) IN GENERAL.—Section 901 is amended by redess-
5 ignating subsection (l) as subsection (m) and by inserting
6 after subsection (k) the following new subsection:

7 “(l) MINIMUM HOLDING PERIOD FOR WITHHOLDING
8 TAXES ON GAIN AND INCOME OTHER THAN DIVIDENDS
9 ETC.—

10 “(1) IN GENERAL.—In no event shall a credit
11 be allowed under subsection (a) for any withholding
12 tax (as defined in subsection (k)) on any item of in-
13 come or gain with respect to any property if—

14 “(A) such property is held by the recipient
15 of the item for 15 days or less during the 30-
16 day period beginning on the date which is 15
17 days before the date on which the right to re-
18 ceive payment of such item arises, or

19 “(B) to the extent that the recipient of the
20 item is under an obligation (whether pursuant
21 to a short sale or otherwise) to make related
22 payments with respect to positions in substan-
23 tially similar or related property.

24 This paragraph shall not apply to any dividend to
25 which subsection (k) applies.



1 “(2) EXCEPTION FOR TAXES PAID BY DEAL-
2 ERS.—

3 “(A) IN GENERAL.—Paragraph (1) shall
4 not apply to any qualified tax with respect to
5 any property held in the active conduct in a for-
6 eign country of a business as a dealer in such
7 property.

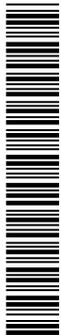
8 “(B) QUALIFIED TAX.—For purposes of
9 subparagraph (A), the term ‘qualified tax’
10 means a tax paid to a foreign country (other
11 than the foreign country referred to in subpara-
12 graph (A)) if—

13 “(i) the item to which such tax is at-
14 tributable is subject to taxation on a net
15 basis by the country referred to in sub-
16 paragraph (A), and

17 “(ii) such country allows a credit
18 against its net basis tax for the full
19 amount of the tax paid to such other for-
20 eign country.

21 “(C) DEALER.—For purposes of subpara-
22 graph (A), the term ‘dealer’ means—

23 “(i) with respect to a security, any
24 person to whom paragraphs (1) and (2) of
25 subsection (k) would not apply by reason



1 of paragraph (4) thereof if such security
2 were stock, and

3 “(ii) with respect to any other prop-
4 erty, any person with respect to whom
5 such property is described in section
6 1221(a)(1).

7 “(D) REGULATIONS.—The Secretary may
8 prescribe such regulations as may be appro-
9 priate to carry out this paragraph, including
10 regulations to prevent the abuse of the excep-
11 tion provided by this paragraph and to treat
12 other taxes as qualified taxes.

13 “(3) EXCEPTIONS.—The Secretary may by reg-
14 ulation provide that paragraph (1) shall not apply to
15 property where the Secretary determines that the
16 application of paragraph (1) to such property is not
17 necessary to carry out the purposes of this sub-
18 section.

19 “(4) CERTAIN RULES TO APPLY.—Rules similar
20 to the rules of paragraphs (5), (6), and (7) of sub-
21 section (k) shall apply for purposes of this sub-
22 section.

23 “(5) DETERMINATION OF HOLDING PERIOD.—
24 Holding periods shall be determined for purposes of



1 this subsection without regard to section 1235 or
2 any similar rule.”.

3 (b) CONFORMING AMENDMENT.—The heading of
4 subsection (k) of section 901 is amended by inserting “ON
5 DIVIDENDS” after “TAXES”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to amounts paid or accrued more
8 than 30 days after the date of the enactment of this Act.

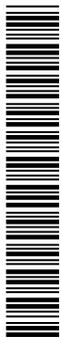
9 **SEC. 405. CLARIFICATION OF RULES FOR PAYMENT OF ES-**
10 **TIMATED TAX FOR CERTAIN DEEMED ASSET**
11 **SALES.**

12 (a) IN GENERAL.—Paragraph (13) of section 338(h)
13 (relating to tax on deemed sale not taken into account for
14 estimated tax purposes) is amended by adding at the end
15 the following: “The preceding sentence shall not apply
16 with respect to a qualified stock purchase for which an
17 election is made under paragraph (10).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall apply to transactions occurring after
20 the date of the enactment of this Act.

21 **SEC. 406. RECOGNITION OF GAIN FROM THE SALE OF A**
22 **PRINCIPAL RESIDENCE ACQUIRED IN A LIKE-**
23 **KIND EXCHANGE WITHIN 5 YEARS OF SALE.**

24 (a) IN GENERAL.—Section 121(d) (relating to special
25 rules for exclusion of gain from sale of principal residence)



1 is amended by adding at the end the following new para-
2 graph:

3 “(10) PROPERTY ACQUIRED IN LIKE-KIND EX-
4 CHANGE.—If a taxpayer acquired property in an ex-
5 change to which section 1031 applied, subsection (a)
6 shall not apply to the sale or exchange of such prop-
7 erty if it occurs during the 5-year period beginning
8 with the date of the acquisition of such property.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to sales or exchanges after the date
11 of the enactment of this Act.

12 **SEC. 407. PREVENTION OF MISMATCHING OF INTEREST**
13 **AND ORIGINAL ISSUE DISCOUNT DEDUC-**
14 **TIONS AND INCOME INCLUSIONS IN TRANS-**
15 **ACTIONS WITH RELATED FOREIGN PERSONS.**

16 (a) ORIGINAL ISSUE DISCOUNT.—Section 163(e)(3)
17 (relating to special rule for original issue discount on obli-
18 gation held by related foreign person) is amended by re-
19 designating subparagraph (B) as subparagraph (C) and
20 by inserting after subparagraph (A) the following new sub-
21 paragraph:

22 “(B) SPECIAL RULE FOR CERTAIN FOR-
23 EIGN ENTITIES.—

24 “(i) IN GENERAL.—In the case of any
25 debt instrument having original issue dis-



1 count which is held by a related foreign
2 person which is a foreign personal holding
3 company (as defined in section 552), a
4 controlled foreign corporation (as defined
5 in section 957), or a passive foreign invest-
6 ment company (as defined in section
7 1297), a deduction shall be allowable to
8 the issuer with respect to such original
9 issue discount for any taxable year before
10 the taxable year in which paid only to the
11 extent such original issue discount (re-
12 duced by properly allowable deductions and
13 qualified deficits under section
14 952(c)(1)(B)) is includible during such
15 prior taxable year in the gross income of a
16 United States person who owns (within the
17 meaning of section 958(a)) stock in such
18 corporation.

19 “(ii) SECRETARIAL AUTHORITY.—The
20 Secretary may by regulation exempt trans-
21 actions from the application of clause (i),
22 including any transaction which is entered
23 into by a payor in the ordinary course of
24 a trade or business in which the payor is
25 predominantly engaged.”.



1 (b) INTEREST AND OTHER DEDUCTIBLE
2 AMOUNTS.—Section 267(a)(3) is amended—

3 (1) by striking “The Secretary” and inserting:

4 “(A) IN GENERAL.—The Secretary”, and

5 (2) by adding at the end the following new sub-
6 paragraph:

7 “(B) SPECIAL RULE FOR CERTAIN FOR-
8 EIGN ENTITIES.—

9 “(i) IN GENERAL.—Notwithstanding
10 subparagraph (A), in the case of any item
11 payable to a foreign personal holding com-
12 pany (as defined in section 552), a con-
13 trolled foreign corporation (as defined in
14 section 957), or a passive foreign invest-
15 ment company (as defined in section
16 1297), a deduction shall be allowable to
17 the payor with respect to such amount for
18 any taxable year before the taxable year in
19 which paid only to the extent that an
20 amount attributable to such item (reduced
21 by properly allowable deductions and quali-
22 fied deficits under section 952(c)(1)(B)) is
23 includible during such prior taxable year in
24 the gross income of a United States person



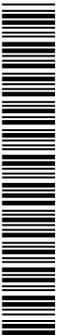
1 who owns (within the meaning of section
2 958(a)) stock in such corporation.

3 “(ii) SECRETARIAL AUTHORITY.—The
4 Secretary may by regulation exempt trans-
5 actions from the application of clause (i),
6 including any transaction which is entered
7 into by a payor in the ordinary course of
8 a trade or business in which the payor is
9 predominantly engaged and in which the
10 payment of the accrued amounts occurs
11 within 8½ months after accrual or within
12 such other period as the Secretary may
13 prescribe.”.

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

17 **SEC. 408. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
18 **TEREST ON POTENTIAL UNDERPAYMENTS.**

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



1 **“SEC. 6603. DEPOSITS MADE TO SUSPEND RUNNING OF IN-**
2 **TEREST ON POTENTIAL UNDERPAYMENTS,**
3 **ETC.**

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

11 “(b) **NO INTEREST IMPOSED.**—To the extent that
12 such deposit is used by the Secretary to pay tax, for pur-
13 poses of section 6601 (relating to interest on underpay-
14 ments), the tax shall be treated as paid when the deposit
15 is made.

16 “(c) **RETURN OF DEPOSIT.**—Except in a case where
17 the Secretary determines that collection of tax is in jeop-
18 ardy, the Secretary shall return to the taxpayer any
19 amount of the deposit (to the extent not used for a pay-
20 ment of tax) which the taxpayer requests in writing.

21 “(d) **PAYMENT OF INTEREST.**—

22 “(1) **IN GENERAL.**—For purposes of section
23 6611 (relating to interest on overpayments), a de-
24 posit which is returned to a taxpayer shall be treated
25 as a payment of tax for any period to the extent
26 (and only to the extent) attributable to a disputable



1 tax for such period. Under regulations prescribed by
2 the Secretary, rules similar to the rules of section
3 6611(b)(2) shall apply.

4 “(2) DISPUTABLE TAX.—

5 “(A) IN GENERAL.—For purposes of this
6 section, the term ‘disputable tax’ means the
7 amount of tax specified at the time of the de-
8 posit as the taxpayer’s reasonable estimate of
9 the maximum amount of any tax attributable to
10 disputable items.

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

17 “(3) OTHER DEFINITIONS.—For purposes of
18 paragraph (2)—

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

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

24 “(ii) reasonably believes that the Sec-
25 retary also has a reasonable basis for dis-



1 allowing the taxpayer's treatment of such
2 item.

3 “(B) 30-DAY LETTER.—The term ‘30-day
4 letter’ means the first letter of proposed defi-
5 ciency which allows the taxpayer an opportunity
6 for administrative review in the Internal Rev-
7 enue Service Office of Appeals.

8 “(4) RATE OF INTEREST.—The rate of interest
9 allowable under this subsection shall be the Federal
10 short-term rate determined under section 6621(b),
11 compounded daily.

12 “(e) USE OF DEPOSITS.—

13 “(1) PAYMENT OF TAX.—Except as otherwise
14 provided by the taxpayer, deposits shall be treated
15 as used for the payment of tax in the order depos-
16 ited.

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

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

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

23 (c) EFFECTIVE DATE.—



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

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

15 **SEC. 409. PARTIAL PAYMENT OF TAX LIABILITY IN IN-**
16 **STALLMENT AGREEMENTS.**

17 (a) IN GENERAL.—

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

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

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



1 that would apply if such corporations filed separate re-
2 turns.”.

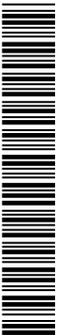
3 (b) **RESULT NOT OVERTURNED.**—Notwithstanding
4 the amendment made by subsection (a), the Internal Rev-
5 enue Code of 1986 shall be construed by treating Treasury
6 Regulation § 1.1502-20(c)(1)(iii) (as in effect on January
7 1, 2001) as being inapplicable to the factual situation in
8 *Rite Aid Corporation and Subsidiary Corporations v.*
9 *United States*, 255 F.3d 1357 (Fed. Cir. 2001).

10 (c) **EFFECTIVE DATE.**—This section, and the amend-
11 ment made by this section, shall apply to taxable years
12 beginning before, on, or after the date of the enactment
13 of this Act.

14 **SEC. 411. DYE INJECTION EQUIPMENT.**

15 (a) **IN GENERAL.**—Section 4082(a)(2) (relating to
16 exemptions for diesel fuel and kerosene) is amended by
17 inserting “by mechanical injection” after “indelibly dyed”.

18 (b) **DYE INJECTOR SECURITY.**—Not later than 180
19 days after the date of the enactment of this Act, the Sec-
20 retary of the Treasury shall issue regulations regarding
21 mechanical dye injection systems described in the amend-
22 ment made by subsection (a), and such regulations shall
23 include standards for making such systems tamper resist-
24 ant.



1 (c) PENALTY FOR TAMPERING WITH OR FAILING TO
2 MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL
3 DYE INJECTION SYSTEMS.—

4 (1) IN GENERAL.—Part I of subchapter B of
5 chapter 68 (relating to assessable penalties) is
6 amended by adding after section 6715 the following
7 new section:

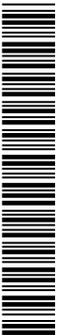
8 **“SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN**
9 **SECURITY REQUIREMENTS FOR MECHAN-**
10 **ICAL DYE INJECTION SYSTEMS.**

11 “(a) IMPOSITION OF PENALTY—

12 “(1) TAMPERING.—If any person tampers with
13 a mechanical dye injection system used to indelibly
14 dye fuel for purposes of section 4082, such person
15 shall pay a penalty in addition to the tax (if any).

16 “(2) FAILURE TO MAINTAIN SECURITY RE-
17 QUIREMENTS.—If any operator of a mechanical dye
18 injection system used to indelibly dye fuel for pur-
19 poses of section 4082 fails to maintain the security
20 standards for such system as established by the Sec-
21 retary, then such operator shall pay a penalty in ad-
22 dition to the tax (if any).

23 “(b) AMOUNT OF PENALTY.—The amount of the
24 penalty under subsection (a) shall be—



1 “(1) for each violation described in paragraph
2 (1), the greater of—

3 “(A) \$25,000, or

4 “(B) \$10 for each gallon of fuel involved,
5 and

6 “(2) for each—

7 “(A) failure to maintain security standards
8 described in paragraph (2), \$1,000, and

9 “(B) failure to correct a violation described
10 in paragraph (2), \$1,000 per day for each day
11 after which such violation was discovered or
12 such person should have reasonably known of
13 such violation.

14 “(c) JOINT AND SEVERAL LIABILITY.—

15 “(1) IN GENERAL.—If a penalty is imposed
16 under this section on any business entity, each offi-
17 cer, employee, or agent of such entity or other con-
18 tracting party who willfully participated in any act
19 giving rise to such penalty shall be jointly and sever-
20 ally liable with such entity for such penalty.

21 “(2) AFFILIATED GROUPS.—If a business entity
22 described in paragraph (1) is part of an affiliated
23 group (as defined in section 1504(a)), the parent
24 corporation of such entity shall be jointly and sever-



1 ally liable with such entity for the penalty imposed
2 under this section.”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions for part I of subchapter B of chapter 68 is
5 amended by adding after the item related to section
6 6715 the following new item:

“Sec. 6715A. Tampering with or failing to maintain security re-
quirements for mechanical dye injection systems.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 subsections (a) and (c) shall take effect on the 180th day
9 after the date on which the Secretary issues the regula-
10 tions described in subsection (b).

11 **SEC. 412. AUTHORITY TO INSPECT ON-SITE RECORDS.**

12 (a) IN GENERAL.—Section 4083(d)(1)(A) (relating
13 to administrative authority), as previously amended by
14 this Act, is amended by striking “and” at the end of clause
15 (i) and by inserting after clause (ii) the following new
16 clause:

17 “(iii) inspecting any books and
18 records and any shipping papers pertaining
19 to such fuel, and”.

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



1 **SEC. 413. TWO-PARTY EXCHANGES.**

2 (a) IN GENERAL.—Subpart B of part III of sub-
3 chapter A of chapter 32, as amended by this Act, is
4 amended by adding after section 4104 the following new
5 section:

6 **“SEC. 4105. TWO-PARTY EXCHANGES.**

7 “(a) IN GENERAL.—In a two-party exchange, the de-
8 livering person shall not be liable for the tax imposed
9 under section 4081(a)(1)(A)(ii).

10 “(b) TWO-PARTY EXCHANGE.—The term ‘two-party
11 exchange’ means a transaction, other than a sale, in which
12 taxable fuel is transferred from a delivering person reg-
13 istered under section 4101 as a taxable fuel registrant fuel
14 to a receiving person who is so registered where all of the
15 following occur:

16 “(1) The transaction includes a transfer from
17 the delivering person, who holds the inventory posi-
18 tion for taxable fuel in the terminal as reflected in
19 the records of the terminal operator.

20 “(2) The exchange transaction occurs before or
21 contemporaneous with completion of removal across
22 the rack from the terminal by the receiving person.

23 “(3) The terminal operator in its books and
24 records treats the receiving person as the person
25 that removes the taxable fuel across the terminal



1 rack for purposes of reporting the transaction to the
2 Secretary.

3 “(4) The transaction is the subject of a written
4 contract.”.

5 (b) CONFORMING AMENDMENT.—The table of sec-
6 tions for subpart B of part III of subchapter A of chapter
7 32, as amended by this Act, is amended by adding after
8 the item relating to section 4104 the following new item:

“Sec. 4105. Two-party exchanges.”.

9 (c) EFFECTIVE DATE.—The amendment made by
10 this section shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 414. EXTENSION OF AMORTIZATION OF INTANGIBLES**
13 **TO SPORTS FRANCHISES.**

14 (a) IN GENERAL.—Section 197(e) (relating to excep-
15 tions to definition of section 197 intangible) is amended
16 by striking paragraph (6) and by redesignating para-
17 graphs (7) and (8) as paragraphs (6) and (7), respectively.

18 (b) CONFORMING AMENDMENTS.—

19 (1)(A) Section 1056 (relating to basis limitation
20 for player contracts transferred in connection with
21 the sale of a franchise) is repealed.

22 (B) The table of sections for part IV of sub-
23 chapter O of chapter 1 is amended by striking the
24 item relating to section 1056.



1 (2) Section 1245(a) (relating to gain from dis-
2 position of certain depreciable property) is amended
3 by striking paragraph (4).

4 (3) Section 1253 (relating to transfers of fran-
5 chises, trademarks, and trade names) is amended by
6 striking subsection (e).

7 (c) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the amendments made by this section
10 shall apply to property acquired after the date of the
11 enactment of this Act.

12 (2) SECTION 1245.—The amendment made by
13 subsection (b)(2) shall apply to franchises acquired
14 after the date of the enactment of this Act.

15 **SEC. 415. MODIFICATION OF CONTINUING LEVY ON PAY-**
16 **MENTS TO FEDERAL VENDERS.**

17 (a) IN GENERAL.—Section 6331(h) (relating to con-
18 tinuing levy on certain payments) is amended by adding
19 at the end the following new paragraph:

20 “(3) INCREASE IN LEVY FOR CERTAIN PAY-
21 MENTS.—Paragraph (1) shall be applied by sub-
22 stituting ‘100 percent’ for ‘15 percent’ in the case
23 of any specified payment due to a vendor of goods
24 or services sold or leased to the Federal Govern-
25 ment.”.



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

4 **SEC. 416. ADDITION OF VACCINES AGAINST INFLUENZA TO**
5 **LIST OF TAXABLE VACCINES.**

6 (a) IN GENERAL.—Section 4132(a)(1) (defining tax-
7 able vaccine), as amended by this Act, is amended by add-
8 ing at the end the following new subparagraph:

9 “(N) Any trivalent vaccine against influ-
10 enza.”.

11 (b) EFFECTIVE DATE.—

12 (1) SALES, ETC.—The amendment made by this
13 section shall apply to sales and uses on or after the
14 later of—

15 (A) the first day of the first month which
16 begins more than 4 weeks after the date of the
17 enactment of this Act, or

18 (B) the date on which the Secretary of
19 Health and Human Services lists any vaccine
20 against influenza for purposes of compensation
21 for any vaccine-related injury or death through
22 the Vaccine Injury Compensation Trust Fund.

23 (2) DELIVERIES.—For purposes of paragraph
24 (1) and section 4131 of the Internal Revenue Code
25 of 1986, in the case of sales on or before the effec-



1 tive date described in such paragraph for which de-
2 livery is made after such date, the delivery date shall
3 be considered the sale date.

4 **SEC. 417. EXTENSION OF IRS USER FEES.**

5 (a) IN GENERAL.—Section 7528(c) (relating to ter-
6 mination) is amended by striking “December 31, 2004”
7 and inserting “September 30, 2014”.

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

11 **SEC. 418. COBRA FEES.**

12 Section 13031(j)(3) of the Consolidated Omnibus
13 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3))
14 is amended by striking “March 1, 2005” and inserting
15 “September 30, 2014”.

