

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 7, AS REPORTED  
OFFERED BY MR. CARDIN OF MARYLAND**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE; ETC.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Charitable Giving Act of 2003”.

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.—**

Sec. 1. Short title; etc.

**TITLE I—CHARITABLE GIVING INCENTIVES**

Sec. 101. Deduction for portion of charitable contributions to be allowed to individuals who do not itemize deductions.

Sec. 102. Tax-free distributions from individual retirement plans for charitable purposes.

Sec. 103. Increase in cap on corporate charitable contributions.

Sec. 104. Charitable deduction for contributions of food inventory.

Sec. 105. Reform of certain excise taxes related to private foundations.

Sec. 106. Excise tax on unrelated business taxable income of charitable remainder trusts.

Sec. 107. Expansion of charitable contribution allowed for scientific property used for research and for computer technology and equipment used for educational purposes.

Sec. 108. Adjustment to basis of s corporation stock for certain charitable contributions.

Sec. 109. Charitable organizations permitted to make collegiate housing and infrastructure grants.



- Sec. 110. Conduct of certain games of chance not treated as unrelated trade or business.
- Sec. 111. Excise taxes exemption for blood collector organizations.
- Sec. 112. Nonrecognition of gain on the sale of property used in performance of an exempt function.
- Sec. 113. Exemption of qualified 501(c)(3) bonds for nursing homes from Federal guarantee prohibitions.

#### TITLE II—TAX REFORM AND IMPROVEMENTS RELATING TO CHARITABLE ORGANIZATIONS AND PROGRAMS

- Sec. 201. Suspension of tax-exempt status of terrorist organizations.
- Sec. 202. Clarification of definition of church tax inquiry.
- Sec. 203. Extension of declaratory judgment remedy to tax-exempt organizations.
- Sec. 204. Landowner incentives programs.
- Sec. 205. Modifications to section 512(b)(13).
- Sec. 206. Simplification of lobbying expenditure limitation.
- Sec. 207. Pilot project for forest conservation activities.

#### TITLE III—OTHER PROVISIONS

- Sec. 301. Compassion capital fund.
- Sec. 302. Reauthorization of assets for independence demonstration.
- Sec. 303. Sense of the Congress regarding corporate contributions to faith-based organizations, etc.

#### TITLE IV—SOCIAL SERVICES BLOCK GRANT

- Sec. 401. Restoration of funds for the social services block grant.
- Sec. 402. Restoration of authority to transfer up to 10 percent of TANF funds to the social services block grant.
- Sec. 403. Requirement to submit annual report on State activities.

#### TITLE V—ABUSIVE TAX SHELTERS

- Sec. 501. Short title.
- Sec. 502. Findings and purpose.

##### Subtitle A—Provisions Designed to Curtail Tax Shelters

- Sec. 511. Clarification of economic substance doctrine.
- Sec. 512. Penalty for failing to disclose reportable transaction.
- Sec. 513. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose.
- Sec. 514. Penalty for understatements attributable to transactions lacking economic substance, etc.
- Sec. 515. Modifications of substantial understatement penalty for nonreportable transactions.
- Sec. 516. Tax shelter exception to confidentiality privileges relating to taxpayer communications.
- Sec. 517. Disclosure of reportable transactions.
- Sec. 518. Modifications to penalty for failure to register tax shelters.
- Sec. 519. Modification of penalty for failure to maintain lists of investors.
- Sec. 520. Modification of actions to enjoin certain conduct related to tax shelters and reportable transactions.
- Sec. 521. Understatement of taxpayer's liability by income tax return preparer.



- Sec. 522. Penalty on failure to report interests in foreign financial accounts.
- Sec. 523. Frivolous tax submissions.
- Sec. 524. Regulation of individuals practicing before the Department of Treasury.
- Sec. 525. Penalty on promoters of tax shelters.
- Sec. 526. Statute of limitations for taxable years for which listed transactions not reported.
- Sec. 527. Denial of deduction for interest on underpayments attributable to nondisclosed reportable and noneconomic substance transactions.

Subtitle B—Affirmation of Consolidated Return Regulation Authority

- Sec. 531. Affirmation of consolidated return regulation authority.

1     **TITLE I—CHARITABLE GIVING**  
 2                                   **INCENTIVES**

3     **SEC. 101. DEDUCTION FOR PORTION OF CHARITABLE CON-**  
 4                                   **TRIBUTIONS TO BE ALLOWED TO INDIVID-**  
 5                                   **UALS WHO DO NOT ITEMIZE DEDUCTIONS.**

6             (a) IN GENERAL.—Section 170 (relating to chari-  
 7 table, etc., contributions and gifts) is amended by redesi-  
 8 gnating subsection (m) as subsection (n) and by inserting  
 9 after subsection (l) the following new subsection:

10            “(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING  
 11 DEDUCTIONS.—

12            “(1) IN GENERAL.—In the case of an individual  
 13 who does not itemize deductions for a taxable year,  
 14 there shall be taken into account as a direct chari-  
 15 table deduction under section 63 an amount equal to  
 16 the amount allowable under subsection (a) for the  
 17 taxable year for cash contributions (determined  
 18 without regard to any carryover), to the extent that  
 19 such contributions exceed \$250 (\$500 in the case of



1 a joint return) but do not exceed \$500 (\$1,000 in  
2 the case of a joint return).

3 “(2) TERMINATION.—Paragraph (1) shall not  
4 apply to any taxable year beginning after December  
5 31, 2005.”.

6 (b) DIRECT CHARITABLE DEDUCTION.—

7 (1) IN GENERAL.—Subsection (b) of section 63  
8 (defining taxable income) is amended by striking  
9 “and” at the end of paragraph (1), by striking the  
10 period at the end of paragraph (2) and inserting “,  
11 and”, and by adding at the end the following new  
12 paragraph:

13 “(3) the direct charitable deduction.”.

14 (2) DEFINITION.—Section 63 is amended by re-  
15 designating subsection (g) as subsection (h) and by  
16 inserting after subsection (f) the following new sub-  
17 section:

18 “(g) DIRECT CHARITABLE DEDUCTION.—For pur-  
19 poses of this section, the term ‘direct charitable deduction’  
20 means that portion of the amount allowable under section  
21 170(a) which is taken as a direct charitable deduction for  
22 the taxable year under section 170(m).”.

23 (3) CONFORMING AMENDMENT.—Subsection (d)  
24 of section 63 is amended by striking “and” at the  
25 end of paragraph (1), by striking the period at the



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

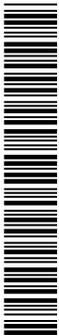
3 “(3) the direct charitable deduction.”.

4 (c) STUDY.—

5 (1) IN GENERAL.—The Secretary of the Treas-  
6 ury shall study the effect of the amendments made  
7 by this section on increased charitable giving and  
8 taxpayer compliance, including a comparison of tax-  
9 payer compliance between taxpayers who itemize  
10 their charitable contributions and taxpayers who  
11 claim a direct charitable deduction.

12 (2) REPORT.—Not later than December 31,  
13 2006, the Secretary of the Treasury shall report on  
14 the study required under paragraph (1) to the Com-  
15 mittee on Finance of the Senate and the Committee  
16 on Ways and Means of the House of Representa-  
17 tives.

18 (d) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 December 31, 2003.



1 **SEC. 102. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
2 **TIREMENT PLANS FOR CHARITABLE PUR-**  
3 **POSES.**

4 (a) IN GENERAL.—Subsection (d) of section 408 (re-  
5 lating to individual retirement accounts) is amended by  
6 adding at the end the following new paragraph:

7 “(8) DISTRIBUTIONS FOR CHARITABLE PUR-  
8 POSES.—

9 “(A) IN GENERAL.—No amount shall be  
10 includible in gross income by reason of a quali-  
11 fied charitable distribution.

12 “(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the  
13 term ‘qualified charitable distribution’ means  
14 any distribution from an individual retirement  
15 plan other than a plan described in subsection  
16 (k) or (p) of section 408—

17 “(i) which is made on or after the  
18 date that the individual for whose benefit  
19 the plan is maintained has attained age 70  
20  $\frac{1}{2}$ , and  
21

22 “(ii) which is made directly by the  
23 trustee—

24 “(I) to an organization described  
25 in section 170(c), or

26 “(II) to a split-interest entity.



1 A distribution shall be treated as a qualified  
2 charitable distribution only to the extent that  
3 the distribution would be includible in gross in-  
4 come without regard to subparagraph (A) and,  
5 in the case of a distribution to a split-interest  
6 entity, only if no person holds an income inter-  
7 est in the amounts in the split-interest entity  
8 attributable to such distribution other than one  
9 or more of the following: the individual for  
10 whose benefit such plan is maintained, the  
11 spouse of such individual, or any organization  
12 described in section 170(c).

13 “(C) CONTRIBUTIONS MUST BE OTHER-  
14 WISE DEDUCTIBLE.—For purposes of this  
15 paragraph—

16 “(i) DIRECT CONTRIBUTIONS.—A dis-  
17 tribution to an organization described in  
18 section 170(c) shall be treated as a quali-  
19 fied charitable distribution only if a deduc-  
20 tion for the entire distribution would be al-  
21 lowable under section 170 (determined  
22 without regard to subsection (b) thereof  
23 and this paragraph).

24 “(ii) SPLIT-INTEREST GIFTS.—A dis-  
25 tribution to a split-interest entity shall be



1 treated as a qualified charitable distribu-  
2 tion only if a deduction for the entire value  
3 of the interest in the distribution for the  
4 use of an organization described in section  
5 170(c) would be allowable under section  
6 170 (determined without regard to sub-  
7 section (b) thereof and this paragraph).

8 “(D) APPLICATION OF SECTION 72.—Not-  
9 withstanding section 72, in determining the ex-  
10 tent to which a distribution is a qualified chari-  
11 table distribution, the entire amount of the dis-  
12 tribution shall be treated as includible in gross  
13 income without regard to subparagraph (A) to  
14 the extent that such amount does not exceed  
15 the aggregate amount which would have been so  
16 includible if all amounts distributed from all in-  
17 dividual retirement plans were treated as 1 con-  
18 tract under paragraph (2)(A) for purposes of  
19 determining the inclusion of such distribution  
20 under section 72. Proper adjustments shall be  
21 made in applying section 72 to other distribu-  
22 tions in such taxable year and subsequent tax-  
23 able years.

24 “(E) SPECIAL RULES FOR SPLIT-INTEREST  
25 ENTITIES.—



1                   “(i) CHARITABLE REMAINDER  
2 TRUSTS.—Notwithstanding section 664(b),  
3 distributions made from a trust described  
4 in subparagraph (G)(i) shall be treated as  
5 ordinary income in the hands of the bene-  
6 ficiary to whom is paid the annuity de-  
7 scribed in section 664(d)(1)(A) or the pay-  
8 ment described in section 664(d)(2)(A).

9                   “(ii) POOLED INCOME FUNDS.—No  
10 amount shall be includible in the gross in-  
11 come of a pooled income fund (as defined  
12 in subparagraph (G)(ii)) by reason of a  
13 qualified charitable distribution to such  
14 fund, and all distributions from the fund  
15 which are attributable to qualified chari-  
16 table distributions shall be treated as ordi-  
17 nary income to the beneficiary.

18                   “(iii) CHARITABLE GIFT ANNU-  
19 ITIES.—Qualified charitable distributions  
20 made for a charitable gift annuity shall not  
21 be treated as an investment in the con-  
22 tract.

23                   “(F) DENIAL OF DEDUCTION.—Qualified  
24 charitable distributions shall not be taken into



1 account in determining the deduction under sec-  
2 tion 170.

3 “(G) SPLIT-INTEREST ENTITY DEFINED.—  
4 For purposes of this paragraph, the term ‘split-  
5 interest entity’ means—

6 “(i) a charitable remainder annuity  
7 trust or a charitable remainder unitrust  
8 (as such terms are defined in section  
9 664(d)) which must be funded exclusively  
10 by qualified charitable distributions,

11 “(ii) a pooled income fund (as defined  
12 in section 642(c)(5)), but only if the fund  
13 accounts separately for amounts attrib-  
14 utable to qualified charitable distributions,  
15 and

16 “(iii) a charitable gift annuity (as de-  
17 fined in section 501(m)(5)).”.

18 (b) MODIFICATIONS RELATING TO INFORMATION RE-  
19 TURNS BY CERTAIN TRUSTS.—

20 (1) RETURNS.—Section 6034 (relating to re-  
21 turns by trusts described in section 4947(a)(2) or  
22 claiming charitable deductions under section 642(e))  
23 is amended to read as follows:



1 **“SEC. 6034. RETURNS BY TRUSTS DESCRIBED IN SECTION**  
2 **4947(a)(2) OR CLAIMING CHARITABLE DEDUC-**  
3 **TIONS UNDER SECTION 642(c).**

4 “(a) TRUSTS DESCRIBED IN SECTION 4947(a)(2).—  
5 Every trust described in section 4947(a)(2) shall furnish  
6 such information with respect to the taxable year as the  
7 Secretary may by forms or regulations require.

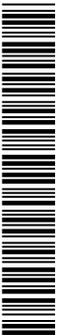
8 “(b) TRUSTS CLAIMING A CHARITABLE DEDUCTION  
9 UNDER SECTION 642(c).—

10 “(1) IN GENERAL.—Every trust not required to  
11 file a return under subsection (a) but claiming a de-  
12 duction under section 642(c) for the taxable year  
13 shall furnish such information with respect to such  
14 taxable year as the Secretary may by forms or regu-  
15 lations prescribe, including—

16 “(A) the amount of the deduction taken  
17 under section 642(c) within such year,

18 “(B) the amount paid out within such year  
19 which represents amounts for which deductions  
20 under section 642(c) have been taken in prior  
21 years,

22 “(C) the amount for which such deductions  
23 have been taken in prior years but which has  
24 not been paid out at the beginning of such year,



1           “(D) the amount paid out of principal in  
2           the current and prior years for the purposes de-  
3           scribed in section 642(c),

4           “(E) the total income of the trust within  
5           such year and the expenses attributable thereto,  
6           and

7           “(F) a balance sheet showing the assets, li-  
8           abilities, and net worth of the trust as of the  
9           beginning of such year.

10          “(2) EXCEPTIONS.—Paragraph (1) shall not  
11          apply to a trust for any taxable year if—

12                 “(A) all the net income for such year, de-  
13                 termined under the applicable principles of the  
14                 law of trusts, is required to be distributed cur-  
15                 rently to the beneficiaries, or

16                 “(B) the trust is described in section  
17                 4947(a)(1).”.

18          (2) INCREASE IN PENALTY RELATING TO FIL-  
19          ING OF INFORMATION RETURN BY SPLIT-INTEREST  
20          TRUSTS.—Paragraph (2) of section 6652(c) (relating  
21          to returns by exempt organizations and by certain  
22          trusts) is amended by adding at the end the fol-  
23          lowing new subparagraph:

24                 “(C) SPLIT-INTEREST TRUSTS.—In the  
25          case of a trust which is required to file a return



1 under section 6034(a), subparagraphs (A) and  
2 (B) of this paragraph shall not apply and para-  
3 graph (1) shall apply in the same manner as if  
4 such return were required under section 6033,  
5 except that—

6 “(i) the 5 percent limitation in the  
7 second sentence of paragraph (1)(A) shall  
8 not apply,

9 “(ii) in the case of any trust with  
10 gross income in excess of \$250,000, the  
11 first sentence of paragraph (1)(A) shall be  
12 applied by substituting ‘\$100’ for ‘\$20’,  
13 and the second sentence thereof shall be  
14 applied by substituting ‘\$50,000’ for  
15 ‘\$10,000’, and

16 “(iii) the third sentence of paragraph  
17 (1)(A) shall be disregarded.

18 In addition to any penalty imposed on the trust  
19 pursuant to this subparagraph, if the person re-  
20 quired to file such return knowingly fails to file  
21 the return, such penalty shall also be imposed  
22 on such person who shall be personally liable  
23 for such penalty.”.

24 (3) CONFIDENTIALITY OF NONCHARITABLE  
25 BENEFICIARIES.—Subsection (b) of section 6104



1 (relating to inspection of annual information re-  
2 turns) is amended by adding at the end the fol-  
3 lowing new sentence: “In the case of a trust which  
4 is required to file a return under section 6034(a),  
5 this subsection shall not apply to information re-  
6 garding beneficiaries which are not organizations de-  
7 scribed in section 170(c).”.

8 (c) EFFECTIVE DATES.—

9 (1) SUBSECTION (a).—The amendment made  
10 by subsection (a) shall apply to distributions made  
11 after December 31, 2003.

12 (2) SUBSECTION (b).—The amendments made  
13 by subsection (b) shall apply to returns for taxable  
14 years beginning after December 31, 2003.

15 **SEC. 103. INCREASE IN CAP ON CORPORATE CHARITABLE**  
16 **CONTRIBUTIONS.**

17 (a) IN GENERAL.—Paragraph (2) of section 170(b)  
18 (relating to corporations) is amended by striking “10 per-  
19 cent” and inserting “the applicable percentage”.

20 (b) APPLICABLE PERCENTAGE.—Subsection (b) of  
21 section 170 is amended by adding at the end the following  
22 new paragraph:

23 “(3) APPLICABLE PERCENTAGE DEFINED.—For  
24 purposes of paragraph (2), the applicable percentage



1 shall be determined in accordance with the following  
2 table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable percentage is—</b>
2004 .....	11
2005 .....	12
2006 .....	13
2007 .....	14
2008 through 2011 .....	15
2012 and thereafter .....	20.”.

3 (c) CONFORMING AMENDMENTS.—

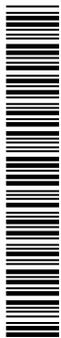
4 (1) Sections 512(b)(10) and 805(b)(2)(A) are  
5 each amended by striking “10 percent” each place  
6 it occurs and inserting “the applicable percentage  
7 (determined under section 170(b)(3))”.

8 (2) Sections 545(b)(2) and 556(b)(2) are each  
9 amended by striking “10-percent limitation” and in-  
10 sserting “applicable percentage limitation”.

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

14 **SEC. 104. CHARITABLE DEDUCTION FOR CONTRIBUTIONS**  
15 **OF FOOD INVENTORY.**

16 (a) IN GENERAL.—Paragraph (3) of section 170(e)  
17 (relating to special rule for certain contributions of inven-  
18 tory and other property) is amended by redesignating sub-  
19 paragraph (C) as subparagraph (D) and by inserting after  
20 subparagraph (B) the following new subparagraph:



1                   “(C) SPECIAL RULE FOR CONTRIBUTIONS  
2                   OF FOOD INVENTORY.—

3                   “(i) GENERAL RULE.—In the case of  
4                   a charitable contribution of food from any  
5                   trade or business (or interest therein) of  
6                   the taxpayer, this paragraph shall be  
7                   applied—

8                   “(I) without regard to whether  
9                   the contribution is made by a C cor-  
10                  poration, and

11                  “(II) only to food that is appar-  
12                  ently wholesome food.

13                  “(ii) LIMITATION.—In the case of a  
14                  taxpayer other than a C corporation, the  
15                  aggregate amount of such contributions for  
16                  any taxable year which may be taken into  
17                  account under this section shall not exceed  
18                  the applicable percentage (within the  
19                  meaning of subsection (b)(3)) of the tax-  
20                  payer’s aggregate net income for such tax-  
21                  able year from all trades or businesses  
22                  from which such contributions were made  
23                  for such year, computed without regard to  
24                  this section.



1           “(iii) DETERMINATION OF FAIR MAR-  
2           KET VALUE.—In the case of a qualified  
3           contribution of apparently wholesome food  
4           to which this paragraph applies and which,  
5           solely by reason of internal standards of  
6           the taxpayer or lack of market, cannot or  
7           will not be sold, the fair market value of  
8           such food shall be determined by taking  
9           into account the price at which the same  
10          or substantially the same food items (as to  
11          both type and quality) are sold by the tax-  
12          payer at the time of the contribution (or,  
13          if not so sold at such time, in the recent  
14          past).

15          “(iv) APPARENTLY WHOLESOME  
16          FOOD.—For purposes of this subpara-  
17          graph, the term ‘apparently wholesome  
18          food’ has the meaning given to such term  
19          by section 22(b)(2) of the Bill Emerson  
20          Good Samaritan Food Donation Act (42  
21          U.S.C. 1791(b)(2)), as in effect on the  
22          date of the enactment of this subpara-  
23          graph.”.



1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2003.

4 **SEC. 105. REFORM OF CERTAIN EXCISE TAXES RELATED TO**  
5 **PRIVATE FOUNDATIONS.**

6 (a) REDUCTION OF TAX ON NET INVESTMENT IN-  
7 COME.—Section 4940(a) (relating to tax-exempt founda-  
8 tions) is amended by striking “2 percent” and inserting  
9 “1 percent”.

10 (b) REPEAL OF REDUCTION IN TAX WHERE PRI-  
11 VATE FOUNDATION MEETS CERTAIN DISTRIBUTION RE-  
12 QUIREMENTS.—Section 4940 (relating to excise tax based  
13 on investment income) is amended by striking subsection  
14 (e).

15 (c) MODIFICATION OF EXCISE TAX ON SELF-DEAL-  
16 ING.—The second sentence of section 4941(a)(1) (relating  
17 to initial excise tax imposed on self-dealer) is amended by  
18 striking “5 percent” and inserting “25 percent”.

19 (d) MODIFICATION OF EXCISE TAX ON FAILURE TO  
20 DISTRIBUTE INCOME.—

21 (1) CERTAIN ADMINISTRATIVE EXPENSES NOT  
22 TREATED AS DISTRIBUTIONS.—Section 4942(g) is  
23 amended by striking paragraph (4) and inserting the  
24 following new paragraphs:



1           “(4) LIMITATION ON ADMINISTRATIVE EX-  
2 PENSES TREATED AS DISTRIBUTIONS.—

3           “(A) IN GENERAL.—For purposes of para-  
4 graph (1)(A), the following administrative ex-  
5 penses shall not be treated as qualifying dis-  
6 tributions:

7           “(i) Any administrative expense which  
8 is not directly attributable to direct chari-  
9 table activities, grant selection activities,  
10 grant monitoring and administration ac-  
11 tivities, compliance with applicable Fed-  
12 eral, State, or local law, or furthering pub-  
13 lic accountability of the private foundation.

14           “(ii) Any compensation paid to a dis-  
15 qualified person to the extent that such  
16 compensation exceeds an annual rate of  
17 \$100,000.

18           “(iii) Any expense incurred for trans-  
19 portation by air unless such transportation  
20 is regularly-scheduled commercial air  
21 transportation.

22           “(iv) Any expense incurred for regu-  
23 larly-scheduled commercial air transpor-  
24 tation to the extent that such expense ex-



1 ceeds the cost of such transportation in  
2 coach-class accommodations.

3 “(B) ADJUSTMENT FOR INFLATION.—In  
4 the case of a taxable year beginning after De-  
5 cember 31, 2004, the \$100,000 amount in sub-  
6 paragraph (A)(ii) shall be increased by an  
7 amount equal to—

8 “(i) such dollar amount, multiplied by

9 “(ii) the cost-of-living adjustment de-  
10 termined under section 1(f)(3) for the cal-  
11 endar year in which the taxable year be-  
12 gins, determined by substituting ‘calendar  
13 year 2003’ for ‘calendar year 1992’ in sub-  
14 paragraph (B) thereof.

15 If any amount as increased under the preceding  
16 sentence is not a multiple of \$50, such amount  
17 shall be rounded to the next lowest multiple of  
18 \$50.

19 “(5) REGULATIONS.—The Secretary shall pre-  
20 scribe such regulations as may be necessary to carry  
21 out the purposes of paragraph (4). Such regulations  
22 shall provide that administrative expenses which are  
23 excluded from qualifying distributions solely by rea-  
24 son of the limitations in paragraph (4) shall not for



1 such reason subject a private foundation to any  
2 other excise taxes imposed by this subchapter.”.

3 (2) DISALLOWANCE NOT TO APPLY TO CERTAIN  
4 PRIVATE FOUNDATIONS.—

5 (A) IN GENERAL.—Section 4942(j)(3) (de-  
6 fining operating foundation) is amended—

7 (i) by striking “(within the meaning  
8 of paragraph (1) or (2) of subsection (g))”  
9 each place it appears, and

10 (ii) by adding at the end the following  
11 new sentence: “For purposes of this para-  
12 graph, the term ‘qualifying distributions’  
13 means qualifying distributions within the  
14 meaning of paragraph (1) or (2) of sub-  
15 section (g) (determined without regard to  
16 subsection (g)(4)).”.

17 (B) CONFORMING AMENDMENT.—Section  
18 4942(f)(2)(C)(i) is amended by inserting “(de-  
19 termined without regard to subsection (g)(4))”  
20 after “within the meaning of subsection  
21 (g)(1)(A)”.

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



1 **SEC. 106. EXCISE TAX ON UNRELATED BUSINESS TAXABLE**  
2 **INCOME OF CHARITABLE REMAINDER**  
3 **TRUSTS.**

4 (a) IN GENERAL.—Subsection (c) of section 664 (re-  
5 lating to exemption from income taxes) is amended to read  
6 as follows:

7 “(c) TAXATION OF TRUSTS.—

8 “(1) INCOME TAX.—A charitable remainder an-  
9 nuity trust and a charitable remainder unitrust  
10 shall, for any taxable year, not be subject to any tax  
11 imposed by this subtitle.

12 “(2) EXCISE TAX.—

13 “(A) IN GENERAL.—In the case of a chari-  
14 table remainder annuity trust or a charitable  
15 remainder unitrust that has unrelated business  
16 taxable income (within the meaning of section  
17 512, determined as if part III of subchapter F  
18 applied to such trust) for a taxable year, there  
19 is hereby imposed on such trust or unitrust an  
20 excise tax equal to the amount of such unre-  
21 lated business taxable income.

22 “(B) CERTAIN RULES TO APPLY.—The tax  
23 imposed by subparagraph (A) shall be treated  
24 as imposed by chapter 42 for purposes of this  
25 title other than subchapter E of chapter 42.



1           “(C) CHARACTER OF DISTRIBUTIONS AND  
2           COORDINATION WITH DISTRIBUTION REQUIRE-  
3           MENTS.—The amounts taken into account in  
4           determining unrelated business taxable income  
5           (as defined in subparagraph (A)) shall not be  
6           taken into account for purposes of—

7                     “(i) subsection (b),

8                     “(ii) determining the value of trust  
9                     assets under subsection (d)(2), and

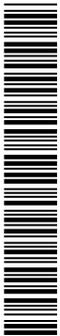
10                    “(iii) determining income under sub-  
11                    section (d)(3).

12           “(D) TAX COURT PROCEEDINGS.—For  
13           purposes of this paragraph, the references in  
14           section 6212(c)(1) to section 4940 shall be  
15           deemed to include references to this para-  
16           graph.”.

17           (b) EFFECTIVE DATE.—The amendment made by  
18           this section shall apply to taxable years beginning after  
19           December 31, 2003.

20   **SEC. 107. EXPANSION OF CHARITABLE CONTRIBUTION AL-**  
21                   **LOWED FOR SCIENTIFIC PROPERTY USED**  
22                   **FOR RESEARCH AND FOR COMPUTER TECH-**  
23                   **NOLOGY AND EQUIPMENT USED FOR EDU-**  
24                   **CATIONAL PURPOSES.**

25           (a) SCIENTIFIC PROPERTY USED FOR RESEARCH.—



1           (1) IN GENERAL.—Clause (ii) of section  
2           170(e)(4)(B) (defining qualified research contribu-  
3           tions) is amended by inserting “or assembled” after  
4           “constructed”.

5           (2) CONFORMING AMENDMENT.—Clause (iii) of  
6           section 170(e)(4)(B) is amended by inserting “or as-  
7           sembling” after “construction”.

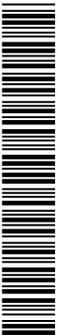
8           (b) COMPUTER TECHNOLOGY AND EQUIPMENT FOR  
9           EDUCATIONAL PURPOSES.—

10           (1) IN GENERAL.—Clause (ii) of section  
11           170(e)(6)(B) is amended by inserting “or assem-  
12           bled” after “constructed” and “or assembling” after  
13           “construction”.

14           (2) SPECIAL RULE MADE PERMANENT.—Sec-  
15           tion 170(e)(6) is amended by striking subparagraph  
16           (G).

17           (3) CONFORMING AMENDMENTS.—Subpara-  
18           graph (D) of section 170(e)(6) is amended by insert-  
19           ing “or assembled” after “constructed” and “or as-  
20           sembling” after “construction”.

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



1 **SEC. 108. ADJUSTMENT TO BASIS OF S CORPORATION**  
2 **STOCK FOR CERTAIN CHARITABLE CON-**  
3 **TRIBUTIONS.**

4 (a) IN GENERAL.—Paragraph (2) of section 1367(a)  
5 (relating to adjustments to basis of stock of shareholders,  
6 etc.) is amended by adding at the end the following new  
7 flush sentence:

8 “The decrease under subparagraph (B) by reason of  
9 a charitable contribution (as defined in section  
10 170(c)) of property shall be the amount equal to the  
11 shareholder’s pro rata share of the adjusted basis of  
12 such property.”.

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

16 **SEC. 109. CHARITABLE ORGANIZATIONS PERMITTED TO**  
17 **MAKE COLLEGIATE HOUSING AND INFRA-**  
18 **STRUCTURE GRANTS.**

19 (a) IN GENERAL.—Section 501 (relating to exemp-  
20 tion from tax on corporations, certain trusts, etc.), as  
21 amended by section 201, is further amended by redesi-  
22 gnating subsection (q) as subsection (r) and by inserting  
23 after subsection (p) the following new subsection:

24 “(q) TREATMENT OF ORGANIZATIONS MAKING COL-  
25 LEGIATE HOUSING AND INFRASTRUCTURE IMPROVEMENT  
26 GRANTS.—



1           “(1) IN GENERAL.—For purposes of subsection  
2           (c)(3) and sections 170(c)(2)(B), 2055(a), and  
3           2522(a)(2), an organization shall not fail to be  
4           treated as organized and operated exclusively for  
5           charitable or educational purposes solely because  
6           such organization makes collegiate housing and in-  
7           frastructure grants to an organization described in  
8           subsection (c)(7), so long as, at the time of the  
9           grant, substantially all of the active members of the  
10          recipient organization are full-time students at the  
11          college or university with which such recipient orga-  
12          nization is associated.

13           “(2) HOUSING AND INFRASTRUCTURE  
14          GRANTS.—For purposes of paragraph (1), collegiate  
15          housing and infrastructure grants are grants to pro-  
16          vide, improve, operate, or maintain collegiate hous-  
17          ing that may involve more than incidental social,  
18          recreational, or private purposes, so long as such  
19          grants are for purposes that would be permissible  
20          for a dormitory of the college or university referred  
21          to in paragraph (1). A grant shall not be treated as  
22          a collegiate housing and infrastructure grant for  
23          purposes of paragraph (1) to the extent that such  
24          grant is used to provide physical fitness equipment.



1           “(3) GRANTS TO CERTAIN ORGANIZATIONS  
2           HOLDING TITLE TO PROPERTY, ETC.—For purposes  
3           of this subsection, a collegiate housing and infra-  
4           structure grant to an organization described in sub-  
5           section (c)(2) or (c)(7) holding title to property ex-  
6           clusively for the benefit of an organization described  
7           in subsection (c)(7) shall be considered a grant to  
8           the organization described in subsection (c)(7) for  
9           whose benefit such property is held.”.

10          (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to grants made after December  
12 31, 2003.

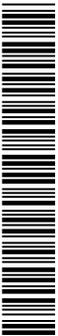
13 **SEC. 110. CONDUCT OF CERTAIN GAMES OF CHANCE NOT**  
14                   **TREATED AS UNRELATED TRADE OR BUSI-**  
15                   **NESS.**

16          (a) IN GENERAL.—Paragraph (1) of section 513(f)  
17 (relating to certain bingo games) is amended to read as  
18 follows:

19           “(1) IN GENERAL.—The term ‘unrelated trade  
20           or business’ does not include—

21                   “(A) any trade or business which consists  
22                   of conducting bingo games, and

23                   “(B) any trade or business which consists  
24                   of conducting qualified games of chance if the  
25                   net proceeds from such trade or business are



1           paid or set aside for payment for purposes de-  
2           scribed in section 170(e)(2)(B), for the pro-  
3           motion of social welfare (within the meaning of  
4           section 501(c)(4)), or for a purpose for which  
5           State law specifically authorizes the expenditure  
6           of such proceeds.”.

7           (b) QUALIFIED GAMES OF CHANCE.—Subsection (f)  
8 of section 513 is amended by adding at the end the fol-  
9 lowing new paragraph:

10           “(3) QUALIFIED GAMES OF CHANCE.—For pur-  
11           poses of paragraph (1), the term ‘qualified game of  
12           chance’ means any game of chance (other than  
13           bingo) conducted by an organization if—

14                   “(A) such organization is licensed pursu-  
15                   ant to State law to conduct such game,

16                   “(B) only organizations which are orga-  
17                   nized as nonprofit corporations or are exempt  
18                   from tax under section 501(a) may be so li-  
19                   censed to conduct such game within the State,  
20                   and

21                   “(C) the conduct of such game does not  
22                   violate State or local law.”

23           (c) CLERICAL AMENDMENT.—The subsection head-  
24 ing of section 513(f) is amended by striking “BINGO  
25 GAMES” and inserting “GAMES OF CHANCE”.



1 (d) EFFECTIVE DATE.— The amendments made by  
2 this section shall apply to games conducted after Decem-  
3 ber 31, 2003.

4 **SEC. 111. EXCISE TAXES EXEMPTION FOR BLOOD COL-**  
5 **LECTOR ORGANIZATIONS.**

6 (a) EXEMPTION FROM IMPOSITION OF SPECIAL  
7 FUELS TAX.—Section 4041(g) (relating to other exemp-  
8 tions) is amended by striking “and” at the end of para-  
9 graph (3), by striking the period in paragraph (4) and  
10 inserting “; and”, and by inserting after paragraph (4)  
11 the following new paragraph:

12 “(5) with respect to the sale of any liquid to a  
13 qualified blood collector organization (as defined in  
14 section 7701(a)(48)) for such organization’s exclu-  
15 sive use, or with respect to the use by a qualified  
16 blood collector organization of any liquid as a fuel.”.

17 (b) EXEMPTION FROM MANUFACTURERS EXCISE  
18 TAX.—

19 (1) IN GENERAL.—Section 4221(a) (relating to  
20 certain tax-free sales) is amended by striking “or”  
21 at the end of paragraph (4), by adding “or” at the  
22 end of paragraph (5), and by inserting after para-  
23 graph (5) the following new paragraph:



1           “(6) to a qualified blood collector organization  
2           (as defined in section 7701(a)(48)) for such organi-  
3           zation’s exclusive use,”.

4           (2) CONFORMING AMENDMENTS.—

5           (A) The second sentence of section  
6           4221(a) is amended by striking “Paragraphs  
7           (4) and (5)” and inserting “Paragraphs (4),  
8           (5), and (6)”.

9           (B) Section 6421(c) is amended by strik-  
10          ing “or (5)” and inserting “(5), or (6)”.

11          (c) EXEMPTION FROM COMMUNICATION EXCISE  
12          TAX.—

13          (1) IN GENERAL.—Section 4253 (relating to ex-  
14          emptions) is amended by redesignating subsection  
15          (k) as subsection (l) and inserting after subsection  
16          (j) the following new subsection:

17          “(k) EXEMPTION FOR QUALIFIED BLOOD COL-  
18          LECTOR ORGANIZATIONS.—Under regulations provided by  
19          the Secretary, no tax shall be imposed under section 4251  
20          on any amount paid by a qualified blood collector organi-  
21          zation (as defined in section 7701(a)(48)) for services or  
22          facilities furnished to such organization.”.

23          (2) CONFORMING AMENDMENT.—Section  
24          4253(l), as redesignated by paragraph (1), is



1 amended by striking “or (j)” and inserting “(j), or  
2 (k)”.

3 (d) CREDIT FOR REFUND FOR CERTAIN TAXES ON  
4 SALES AND SERVICES.—

5 (1) DEEMED OVERPAYMENT.—

6 (A) IN GENERAL.—Section 6416(b)(2) is  
7 amended by redesignating subparagraphs (E)  
8 and (F) as subparagraphs (F) and (G), respec-  
9 tively, and by inserting after subparagraph (D)  
10 the following new subparagraph:

11 “(E) sold to a qualified blood collector or-  
12 ganization (as defined in section 7701(a)(48))  
13 for such organization’s exclusive use;”.

14 (B) CONFORMING AMENDMENTS.—Section  
15 6416(b)(2) is amended—

16 (i) by striking “Subparagraphs (C)  
17 and (D)” and inserting “Subparagraphs  
18 (C), (D), and (E)”, and

19 (ii) by striking “(C), and (D)” and in-  
20 serting “(C), (D), and (E)”.

21 (2) SALES OF TIRES.—Clause (ii) of section  
22 6416(b)(4)(B) is amended by inserting “sold to a  
23 qualified blood collector organization (as defined in  
24 section 7701(a)(48)) for its exclusive use,” after  
25 “for its exclusive use,”.



1 (e) DEFINITION OF QUALIFIED BLOOD COLLECTOR  
 2 ORGANIZATION.—Section 7701(a) is amended by inserting  
 3 at the end the following new paragraph:

4 “(48) QUALIFIED BLOOD COLLECTOR ORGANI-  
 5 ZATION.—The term ‘qualified blood collector organi-  
 6 zation’ means an organization which is—

7 “(A) described in section 501(c)(3) and ex-  
 8 empt from tax under section 501(a),

9 “(B) registered by the Food and Drug Ad-  
 10 ministration to collect blood, and

11 “(C) primarily engaged in the activity of  
 12 the collection of blood.”.

13 (f) EFFECTIVE DATE.—The amendments made by  
 14 this section shall take effect on January 1, 2004.

15 **SEC. 112. NONRECOGNITION OF GAIN ON THE SALE OF**  
 16 **PROPERTY USED IN PERFORMANCE OF AN**  
 17 **EXEMPT FUNCTION.**

18 (a) IN GENERAL.—Subparagraph (D) of section  
 19 512(a)(3) is amended to read as follows:

20 “(D) NONRECOGNITION OF GAIN.—

21 “(i) IN GENERAL.—If property used  
 22 directly in the performance of the exempt  
 23 function of an organization described in  
 24 paragraph (7), (9), (17), or (20) of section  
 25 501(c) is sold by such organization, and



1 within a period beginning 1 year before the  
2 date of such sale, and ending 3 years (10  
3 years, in the case of an organization de-  
4 scribed in section 501(c)(7)) after such  
5 date, other property is purchased and used  
6 by such organization directly in the per-  
7 formance of its exempt function, gain (if  
8 any) from such sale shall be recognized  
9 only to the extent that such organization's  
10 sales price of the old property exceeds the  
11 organization's cost of purchasing the other  
12 property.

13 “(ii) STATUTE OF LIMITATIONS.—If  
14 an organization described in section  
15 501(c)(7) sells property on which gain is  
16 not recognized, in whole or in part, by rea-  
17 son of clause (i), then the statutory period  
18 for the assessment of any deficiency attrib-  
19 utable to such gain shall not expire until  
20 the end of the 3-year period beginning on  
21 the date that the Secretary is notified by  
22 such organization (in such manner as the  
23 Secretary may prescribe) that—



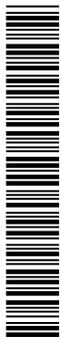
1                   “(I) the organization has met the  
2 requirements of clause (i) with respect  
3 to gain which was not recognized,

4                   “(II) the organization does not  
5 intend to meet such requirements, or

6                   “(III) the organization failed to  
7 meet such requirements within the  
8 prescribed period.

9 For the purposes of this clause, any defi-  
10 ciency may be assessed before the expira-  
11 tion of such 3-year period notwithstanding  
12 the provisions of any other law or rule of  
13 law which would otherwise prevent such as-  
14 sessment.

15                   “(iii) DESTRUCTION AND LOSS.—For  
16 purposes of this subparagraph, the de-  
17 struction in whole or in part, theft, seizure,  
18 requisition, or condemnation of property,  
19 shall be treated as the sale of such prop-  
20 erty, and rules similar to the rules pro-  
21 vided by subsections (b), (c), (e), and (j) of  
22 section 1034 (as in effect on the day be-  
23 fore the date of the enactment of the Tax-  
24 payer Relief Act of 1997) shall apply.”.



1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply with respect to the sale of any  
3 property for which the 3-year period for offsetting gain  
4 by purchasing other property under subparagraph (D) of  
5 section 512(a)(3) of the Internal Revenue Code (as in ef-  
6 fect on the day before the date of the enactment of this  
7 Act) had not expired as of January 1, 2001.

8 **SEC. 113. EXEMPTION OF QUALIFIED 501(c)(3) BONDS FOR**  
9 **NURSING HOMES FROM FEDERAL GUAR-**  
10 **ANTEE PROHIBITIONS.**

11 (a) IN GENERAL.—For purposes of section 149(b)(1)  
12 of the Internal Revenue Code of 1986, any qualified  
13 501(c)(3) bond (as defined in section 145 of such Code)  
14 shall not be treated as federally guaranteed solely because  
15 such bond is part of an issue supported by a letter of cred-  
16 it, if such bond—

17 (1) is issued after December 31, 2003, and be-  
18 fore the date which is 1 year after the date of the  
19 enactment of this Act, and

20 (2) is part of an issue 95 percent or more of  
21 the net proceeds of which are to be used to finance  
22 1 or more of the following facilities primarily for the  
23 benefit of the elderly:

24 (A) Licensed nursing home facility.



1 (B) Licensed or certified assisted living fa-  
2 cility.

3 (C) Licensed personal care facility.

4 (D) Continuing care retirement commu-  
5 nity.

6 (b) LIMITATION ON ISSUER.—Subsection (a) shall  
7 not apply to any bond described in such subsection if the  
8 aggregate authorized face amount of the issue of which  
9 such bond is a part, when increased by the outstanding  
10 amount of such bonds issued by the issuer during the pe-  
11 riod described in subsection (a)(1) exceeds \$15,000,000.

12 (c) LIMITATION ON BENEFICIARY.—Rules similar to  
13 the rules of section 144(a)(10) of the Internal Revenue  
14 Code of 1986 shall apply for purposes of this section, ex-  
15 cept that—

16 (1) “\$15,000,000” shall be substituted for  
17 “\$40,000,000” in subparagraph (A) thereof, and

18 (2) such rules shall be applied—

19 (A) only with respect to bonds described in  
20 this section, and

21 (B) with respect to the aggregate author-  
22 ized face amount of all issues of such bonds  
23 which are allocable to the beneficiary.

24 (d) CONTINUING CARE RETIREMENT COMMUNITY.—

25 For purposes of this section, the term “continuing care



1 retirement community” means a community which pro-  
2 vides, on the same campus, a consortium of residential liv-  
3 ing options and support services to persons at least 60  
4 years of age under a written agreement. For purposes of  
5 the preceding sentence, the residential living options shall  
6 include independent living units, nursing home beds, and  
7 either assisted living units or personal care beds.

8 **TITLE II—TAX REFORM AND IM-**  
9 **PROVEMENTS RELATING TO**  
10 **CHARITABLE ORGANIZA-**  
11 **TIONS AND PROGRAMS**

12 **SEC. 201. SUSPENSION OF TAX-EXEMPT STATUS OF TER-**  
13 **RORIST ORGANIZATIONS.**

14 (a) IN GENERAL.—Section 501 (relating to exemp-  
15 tion from tax on corporations, certain trusts, etc.) is  
16 amended by redesignating subsection (p) as subsection (q)  
17 and by inserting after subsection (o) the following new  
18 subsection:

19 “(p) SUSPENSION OF TAX-EXEMPT STATUS OF TER-  
20 RORIST ORGANIZATIONS.—

21 “(1) IN GENERAL.—The exemption from tax  
22 under subsection (a) with respect to any organiza-  
23 tion described in paragraph (2), and the eligibility of  
24 any organization described in paragraph (2) to apply  
25 for recognition of exemption under subsection (a),



1 shall be suspended during the period described in  
2 paragraph (3).

3 “(2) TERRORIST ORGANIZATIONS.—An organi-  
4 zation is described in this paragraph if such organi-  
5 zation is designated or otherwise individually  
6 identified—

7 “(A) under section 212(a)(3)(B)(vi)(II) or  
8 219 of the Immigration and Nationality Act as  
9 a terrorist organization or foreign terrorist or-  
10 ganization,

11 “(B) in or pursuant to an Executive order  
12 which is related to terrorism and issued under  
13 the authority of the International Emergency  
14 Economic Powers Act or section 5 of the  
15 United Nations Participation Act of 1945 for  
16 the purpose of imposing on such organization  
17 an economic or other sanction, or

18 “(C) in or pursuant to an Executive order  
19 issued under the authority of any Federal law  
20 if—

21 “(i) the organization is designated or  
22 otherwise individually identified in or pur-  
23 suant to such Executive order as sup-  
24 porting or engaging in terrorist activity (as  
25 defined in section 212(a)(3)(B) of the Im-



1 migration and Nationality Act) or sup-  
2 porting terrorism (as defined in section  
3 140(d)(2) of the Foreign Relations Author-  
4 ization Act, Fiscal Years 1988 and 1989);  
5 and

6 “(ii) such Executive order refers to  
7 this subsection.

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

11 “(A) begins on the later of—

12 “(i) the date of the first publication of  
13 a designation or identification described in  
14 paragraph (2) with respect to such organi-  
15 zation, or

16 “(ii) the date of the enactment of this  
17 subsection, and

18 “(B) ends on the first date that all des-  
19 ignations and identifications described in para-  
20 graph (2) with respect to such organization are  
21 rescinded pursuant to the law or Executive  
22 order under which such designation or identi-  
23 fication was made.

24 “(4) DENIAL OF DEDUCTION.—No deduction  
25 shall be allowed under section 170, 545(b)(2),



1 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for  
2 any contribution to an organization described in  
3 paragraph (2) during the period described in para-  
4 graph (3).

5 “(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL  
6 CHALLENGE OF SUSPENSION OR DENIAL OF DEDUC-  
7 TION.—Notwithstanding section 7428 or any other  
8 provision of law, no organization or other person  
9 may challenge a suspension under paragraph (1), a  
10 designation or identification described in paragraph  
11 (2), the period of suspension described in paragraph  
12 (3), or a denial of a deduction under paragraph (4)  
13 in any administrative or judicial proceeding relating  
14 to the Federal tax liability of such organization or  
15 other person.

16 “(6) ERRONEOUS DESIGNATION.—

17 “(A) IN GENERAL.—If—

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

21 “(ii) each designation and identifica-  
22 tion described in paragraph (2) which has  
23 been made with respect to such organiza-  
24 tion is determined to be erroneous pursu-  
25 ant to the law or Executive order under



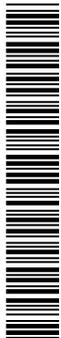
1           which such designation or identification  
2           was made, and

3                   “(iii) the erroneous designations and  
4           identifications result in an overpayment of  
5           income tax for any taxable year by such  
6           organization,

7           credit or refund (with interest) with respect to  
8           such overpayment shall be made.

9                   “(B) WAIVER OF LIMITATIONS.—If the  
10          credit or refund of any overpayment of tax de-  
11          scribed in subparagraph (A)(iii) is prevented at  
12          any time by the operation of any law or rule of  
13          law (including res judicata), such credit or re-  
14          fund may nevertheless be allowed or made if the  
15          claim therefor is filed before the close of the 1-  
16          year period beginning on the date of the last  
17          determination described in subparagraph  
18          (A)(ii).

19                   “(7) NOTICE OF SUSPENSIONS.—If the tax ex-  
20          emption of any organization is suspended under this  
21          subsection, the Internal Revenue Service shall up-  
22          date the listings of tax-exempt organizations and  
23          shall publish appropriate notice to taxpayers of such  
24          suspension and of the fact that contributions to such



1 organization are not deductible during the period of  
2 such suspension.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to designations made before, on,  
5 or after the date of the enactment of this Act.

6 **SEC. 202. CLARIFICATION OF DEFINITION OF CHURCH TAX**  
7 **INQUIRY.**

8 Subsection (i) of section 7611 (relating to section not  
9 to apply to criminal investigations, etc.) is amended by  
10 striking “or” at the end of paragraph (4), by striking the  
11 period at the end of paragraph (5) and inserting “, or”,  
12 and by inserting after paragraph (5) the following:

13 “(6) information provided by the Secretary re-  
14 lated to the standards for exemption from tax under  
15 this title and the requirements under this title relat-  
16 ing to unrelated business taxable income.”.

17 **SEC. 203. EXTENSION OF DECLARATORY JUDGMENT REM-**  
18 **EDY TO TAX-EXEMPT ORGANIZATIONS.**

19 (a) **IN GENERAL.**—Paragraph (1) of section 7428(a)  
20 (relating to creation of remedy) is amended—

21 (1) in subparagraph (B) by inserting after  
22 “509(a))” the following: “or as a private operating  
23 foundation (as defined in section 4942(j)(3))”; and

24 (2) by amending subparagraph (C) to read as  
25 follows:



1           “(C) with respect to the initial qualifica-  
2           tion or continuing qualification of an organiza-  
3           tion as an organization described in subsection  
4           (c) (other than paragraph (3)) or (d) of section  
5           501 which is exempt from tax under section  
6           501(a), or”.

7           (b) COURT JURISDICTION.—Subsection (a) of section  
8           7428 is amended in the material following paragraph (2)  
9           by striking “United States Tax Court, the United States  
10          Claims Court, or the district court of the United States  
11          for the District of Columbia” and inserting the following:  
12          “United States Tax Court (in the case of any such deter-  
13          mination or failure) or the United States Claims Court  
14          or the district court of the United States for the District  
15          of Columbia (in the case of a determination or failure with  
16          respect to an issue referred to in subparagraph (A) or (B)  
17          of paragraph (1)),”.

18          (c) EFFECTIVE DATE.—The amendments made by  
19          this section shall apply to pleadings filed with respect to  
20          determinations (or requests for determinations) made  
21          after the date of the enactment of this Act.

22          **SEC. 204. LANDOWNER INCENTIVES PROGRAMS.**

23          (a) IN GENERAL.—Subsection (a) of section 126 is  
24          amended by redesignating paragraph (10) as paragraph



1 (11) and by inserting after paragraph (9) the following  
2 new paragraph:

3 “(10) Landowner initiatives programs to con-  
4 serve threatened, endangered, or imperiled species,  
5 or protect or restore habitat carried out under—

6 “(A) the Fish and Wildlife Coordination  
7 Act (16 U.S.C. 661 et seq.),

8 “(B) the Fish and Wildlife Act of 1956  
9 (16 U.S.C. 742f), or

10 “(C) section 6 of the Endangered Species  
11 Act (16 U.S.C. 11531 et seq.).”.

12 (b) EXCLUDABLE PORTION.—Subparagraph (A) of  
13 section 126(b)(1) is amended by inserting after “Secretary  
14 of Agriculture” the following: “(the Secretary of the Inte-  
15 rior, in the case of the landowner incentives programs de-  
16 scribed in subsection (a)(10) and the programs described  
17 in subsection (a)(11) that are implemented by the Depart-  
18 ment of the Interior)”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to amounts received after Decem-  
21 ber 31, 2003, in taxable years ending after such date.

22 **SEC. 205. MODIFICATIONS TO SECTION 512(b)(13).**

23 (a) IN GENERAL.—Paragraph (13) of section 512(b)  
24 (relating to special rules for certain amounts received from  
25 controlled entities) is amended by redesignating subpara-



1 graph (E) as subparagraph (F) and by inserting after sub-  
2 paragraph (D) the following new subparagraph:

3 “(E) PARAGRAPH TO APPLY ONLY TO EX-  
4 CESS PAYMENTS.—

5 “(i) IN GENERAL.—Subparagraph (A)  
6 shall apply only to the portion of a speci-  
7 fied payment received or accrued by the  
8 controlling organization that exceeds the  
9 amount which would have been paid or ac-  
10 crued if such payment met the require-  
11 ments prescribed under section 482.

12 “(ii) ADDITION TO TAX FOR VALU-  
13 ATION MISSTATEMENTS.—The tax imposed  
14 by this chapter on the controlling organiza-  
15 tion shall be increased by an amount equal  
16 to 20 percent of the larger of—

17 “(I) such excess determined with-  
18 out regard to any amendment or sup-  
19 plement to a return of tax, or

20 “(II) such excess determined  
21 with regard to all such amendments  
22 and supplements.”.

23 (b) EFFECTIVE DATE.—



1           (1) IN GENERAL.—The amendment made by  
2 this section shall apply to payments received or ac-  
3 crued after December 31, 2003.

4           (2) PAYMENTS SUBJECT TO BINDING CONTRACT  
5 TRANSITION RULE.—If the amendments made by  
6 section 1041 of the Taxpayer Relief Act of 1997 did  
7 not apply to any amount received or accrued in the  
8 first 2 taxable years beginning on or after the date  
9 of the enactment of the Taxpayer Relief Act of 1997  
10 under any contract described in subsection (b)(2) of  
11 such section, such amendments also shall not apply  
12 to amounts received or accrued under such contract  
13 before January 1, 2001.

14 **SEC. 206. SIMPLIFICATION OF LOBBYING EXPENDITURE**  
15 **LIMITATION.**

16           (a) REPEAL OF GRASSROOTS EXPENDITURE  
17 LIMIT.—Paragraph (1) of section 501(h) (relating to ex-  
18 penditures by public charities to influence legislation) is  
19 amended to read as follows:

20           “(1) GENERAL RULE.—In the case of an orga-  
21 nization to which this subsection applies, exemption  
22 from taxation under subsection (a) shall be denied  
23 because a substantial part of the activities of such  
24 organization consists of carrying on propaganda, or  
25 otherwise attempting, to influence legislation, but



1       only if such organization normally makes lobbying  
2       expenditures in excess of the lobbying ceiling amount  
3       for such organization for each taxable year.”.

4       (b) EXCESS LOBBYING EXPENDITURES.—Section  
5       4911(b) is amended to read as follows:

6       “(b) EXCESS LOBBYING EXPENDITURES.—For pur-  
7       poses of this section, the term ‘excess lobbying expendi-  
8       tures’ means, for a taxable year, the amount by which the  
9       lobbying expenditures made by the organization during the  
10       taxable year exceed the lobbying nontaxable amount for  
11       such organization for such taxable year.”.

12       (c) CONFORMING AMENDMENTS.—

13               (1) Section 501(h)(2) is amended by striking  
14       subparagraphs (C) and (D).

15               (2) Section 4911(c) is amended by striking  
16       paragraphs (3) and (4).

17               (3) Paragraph (1)(A) of section 4911(f) is  
18       amended by striking “limits of section 501(h)(1)  
19       have” and inserting “limit of section 501(h)(1)  
20       has”.

21               (4) Paragraph (1)(C) of section 4911(f) is  
22       amended by striking “limits of section 501(h)(1)  
23       are” and inserting “limit of section 501(h)(1) is”.

24               (5) Paragraphs (4)(A) and (4)(B) of section  
25       4911(f) are each amended by striking “limits of sec-





1 (B) such bond is an obligation of the State  
2 of Washington or any political subdivision  
3 thereof, and

4 (C) such bond is issued for a qualified or-  
5 ganization before December 31, 2006.

6 (3) LIMITATION ON AGGREGATE AMOUNT  
7 ISSUED.—The maximum aggregate face amount of  
8 bonds which may be issued under this subsection  
9 shall not exceed \$250,000,000.

10 (4) QUALIFIED PROJECT COSTS.—For purposes  
11 of this subsection, the term “qualified project costs”  
12 means the sum of—

13 (A) the cost of acquisition by the qualified  
14 organization from an unrelated person of for-  
15 ests and forest land located in the State of  
16 Washington which at the time of acquisition or  
17 immediately thereafter are subject to a con-  
18 servation restriction described in subsection  
19 (c)(2),

20 (B) interest on the qualified forest con-  
21 servation bonds for the 3-year period beginning  
22 on the date of issuance of such bonds, and

23 (C) credit enhancement fees which con-  
24 stitute qualified guarantee fees (within the  
25 meaning of section 148 of such Code).



1           (5) SPECIAL RULES.—In applying the Internal  
2 Revenue Code of 1986 to any qualified forest con-  
3 servation bond, the following modifications shall  
4 apply:

5           (A) Section 146 of such Code (relating to  
6 volume cap) shall not apply.

7           (B) For purposes of section 147(b) of such  
8 Code (relating to maturity may not exceed 120  
9 percent of economic life), the land and standing  
10 timber acquired with proceeds of qualified for-  
11 est conservation bonds shall have an economic  
12 life of 35 years.

13           (C) Subsections (c) and (d) of section 147  
14 of such Code (relating to limitations on acquisi-  
15 tion of land and existing property) shall not  
16 apply.

17           (D) Section 57(a)(5) of such Code (relat-  
18 ing to tax-exempt interest) shall not apply to  
19 interest on qualified forest conservation bonds.

20           (6) TREATMENT OF CURRENT REFUNDING  
21 BONDS.—Paragraphs (2)(C) and (3) shall not apply  
22 to any bond (or series of bonds) issued to refund a  
23 qualified forest conservation bond issued before De-  
24 cember 31, 2006, if—



1 (A) the average maturity date of the issue  
2 of which the refunding bond is a part is not  
3 later than the average maturity date of the  
4 bonds to be refunded by such issue,

5 (B) the amount of the refunding bond does  
6 not exceed the outstanding amount of the re-  
7 funded bond, and

8 (C) the net proceeds of the refunding bond  
9 are used to redeem the refunded bond not later  
10 than 90 days after the date of the issuance of  
11 the refunding bond.

12 For purposes of subparagraph (A), average maturity  
13 shall be determined in accordance with section  
14 147(b)(2)(A) of such Code.

15 (7) EFFECTIVE DATE.—This subsection shall  
16 apply to obligations issued on or after the date of  
17 enactment of this Act.

18 (b) ITEMS FROM QUALIFIED HARVESTING ACTIVI-  
19 TIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

20 (1) IN GENERAL.—Income, gains, deductions,  
21 losses, or credits from a qualified harvesting activity  
22 conducted by a qualified organization shall not be  
23 subject to tax or taken into account under subtitle  
24 A of the Internal Revenue Code of 1986.



1           (2) LIMITATION.—The amount of income ex-  
2           cluded from gross income under paragraph (1) for  
3           any taxable year shall not exceed the amount used  
4           by the qualified organization to make debt service  
5           payments during such taxable year for qualified for-  
6           est conservation bonds.

7           (3) QUALIFIED HARVESTING ACTIVITY.—For  
8           purposes of paragraph (1)—

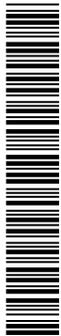
9           (A) IN GENERAL.—The term “qualified  
10           harvesting activity” means the sale, lease, or  
11           harvesting, of standing timber—

12           (i) on land owned by a qualified orga-  
13           nization which was acquired with proceeds  
14           of qualified forest conservation bonds, and

15           (ii) pursuant to a qualified conserva-  
16           tion plan adopted by the qualified organi-  
17           zation.

18           (B) EXCEPTIONS.—

19           (i) CESSATION AS QUALIFIED ORGANI-  
20           ZATION.—The term “qualified harvesting  
21           activity” shall not include any sale, lease,  
22           or harvesting for any period during which  
23           the organization ceases to qualify as a  
24           qualified organization.



1 (ii) EXCEEDING LIMITS ON HAR-  
 2 VESTING.—The term “qualified harvesting  
 3 activity” shall not include any sale, lease,  
 4 or harvesting of standing timber on land  
 5 acquired with proceeds of qualified forest  
 6 conservation bonds to the extent that—

7 (I) the average annual area of  
 8 timber harvested from such land ex-  
 9 ceeds 2.5 percent of the total area of  
 10 such land, or

11 (II) the quantity of timber re-  
 12 moved from such land exceeds the  
 13 quantity which can be removed from  
 14 such land annually in perpetuity on a  
 15 sustained-yield basis with respect to  
 16 such land.

17 The limitations under subclauses (I) and  
 18 (II) shall not apply to post-fire restoration  
 19 and rehabilitation or sanitation harvesting  
 20 of timber stands which are substantially  
 21 damaged by fire, windthrow, or other ca-  
 22 tastrophes, or which are in imminent dan-  
 23 ger from insect or disease attack.

24 (4) TERMINATION.—This subsection shall not  
 25 apply to any qualified harvesting activity occurring



1 after the date on which there is no outstanding  
2 qualified forest conservation bond or any such bond  
3 ceases to be a tax-exempt bond.

4 (5) PARTIAL RECAPTURE OF BENEFITS IF HAR-  
5 VESTING LIMIT EXCEEDED.—If, as of the date that  
6 this subsection ceases to apply under paragraph (4),  
7 the average annual area of timber harvested from  
8 the land exceeds the requirement of paragraph  
9 (3)(B)(ii)(I), the tax imposed by chapter 1 of such  
10 Code shall be increased, under rules prescribed by  
11 the Secretary of the Treasury, by the sum of the tax  
12 benefits attributable to such excess and interest at  
13 the underpayment rate under section 6621 of such  
14 Code for the period of the underpayment.

15 (c) DEFINITIONS.—For purposes of this section—

16 (1) QUALIFIED CONSERVATION PLAN.—The  
17 term “qualified conservation plan” means a multiple  
18 land use program or plan which—

19 (A) is designed and administered primarily  
20 for the purposes of protecting and enhancing  
21 wildlife and fish, timber, scenic attributes,  
22 recreation, and soil and water quality of the  
23 forest and forest land,



1 (B) mandates that conservation of forest  
2 and forest land is the single-most significant  
3 use of the forest and forest land, and

4 (C) requires that timber harvesting be con-  
5 sistent with—

6 (i) restoring and maintaining ref-  
7 erence conditions for the region’s ecotype,

8 (ii) restoring and maintaining a rep-  
9 resentative sample of young, mid, and late  
10 successional forest age classes,

11 (iii) maintaining or restoring the re-  
12 sources’ ecological health for purposes of  
13 preventing damage from fire, insect, or dis-  
14 ease,

15 (iv) maintaining or enhancing wildlife  
16 or fish habitat, or

17 (v) enhancing research opportunities  
18 in sustainable renewable resource uses.

19 (2) CONSERVATION RESTRICTION.—The con-  
20 servation restriction described in this paragraph is a  
21 restriction which—

22 (A) is granted in perpetuity to an unre-  
23 lated person which is described in section  
24 170(h)(3) of such Code and which, in the case



1 of a nongovernmental unit, is organized and op-  
2 erated for conservation purposes,

3 (B) meets the requirements of clause (ii)  
4 or (iii)(II) of section 170(h)(4)(A) of such  
5 Code,

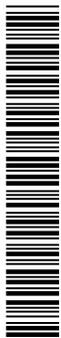
6 (C) obligates the qualified organization to  
7 pay the costs incurred by the holder of the con-  
8 servation restriction in monitoring compliance  
9 with such restriction, and

10 (D) requires an increasing level of con-  
11 servation benefits to be provided whenever cir-  
12 cumstances allow it.

13 (3) QUALIFIED ORGANIZATION.—The term  
14 “qualified organization” means an organization—

15 (A) which is a nonprofit organization sub-  
16 stantially all the activities of which are chari-  
17 table, scientific, or educational, including ac-  
18 quiring, protecting, restoring, managing, and  
19 developing forest lands and other renewable re-  
20 sources for the long-term charitable, edu-  
21 cational, scientific and public benefit,

22 (B) more than half of the value of the  
23 property of which consists of forests and forest  
24 land acquired with the proceeds from qualified  
25 forest conservation bonds,



1 (C) which periodically conducts educational  
2 programs designed to inform the public of envi-  
3 ronmentally sensitive forestry management and  
4 conservation techniques,

5 (D) which has at all times a board of  
6 directors—

7 (i) at least 20 percent of the members  
8 of which represent the holders of the con-  
9 servation restriction described in para-  
10 graph (2),

11 (ii) at least 20 percent of the mem-  
12 bers of which are public officials, and

13 (iii) not more than one-third of the  
14 members of which are individuals who are  
15 or were at any time within 5 years before  
16 the beginning of a term of membership on  
17 the board, an employee of, independent  
18 contractor with respect to, officer of, direc-  
19 tor of, or held a material financial interest  
20 in, a commercial forest products enterprise  
21 with which the qualified organization has a  
22 contractual or other financial arrangement,

23 (E) the bylaws of which require at least  
24 two-thirds of the members of the board of direc-  
25 tors to vote affirmatively to approve the quali-



1           fied conservation plan and any change thereto,  
2           and

3                   (F) upon dissolution, is required to dedi-  
4           cate its assets to—

5                           (i) an organization described in sec-  
6                           tion 501(c)(3) of such Code which is orga-  
7                           nized and operated for conservation pur-  
8                           poses, or

9                                   (ii) a governmental unit described in  
10                           section 170(c)(1) of such Code.

11           (4) UNRELATED PERSON.—The term “unre-  
12           lated person” means a person who is not a related  
13           person.

14           (5) RELATED PERSON.—A person shall be  
15           treated as related to another person if—

16                           (A) such person bears a relationship to  
17                           such other person described in section 267(b)  
18                           (determined without regard to paragraph (9)  
19                           thereof), or 707(b)(1), of such Code, deter-  
20                           mined by substituting “25 percent” for “50  
21                           percent” each place it appears therein, and

22                                   (B) in the case such other person is a non-  
23                           profit organization, if such person controls di-  
24                           rectly or indirectly more than 25 percent of the  
25                           governing body of such organization.



1 (d) REPORT.—

2 (1) IN GENERAL.—The Comptroller General of  
3 the United States shall conduct a study on the pilot  
4 project for forest conservation activities under this  
5 section. Such study shall examine the extent to  
6 which forests and forest lands were managed during  
7 the 5-year period beginning on the date of the enact-  
8 ment of this Act to achieve the goals of such project.

9 (2) SUBMISSION OF REPORT TO CONGRESS.—  
10 Not later than six years after the date of the enact-  
11 ment of this Act, the Comptroller General shall sub-  
12 mit a report of such study to the Committee on  
13 Ways and Means and the Committee on Resources  
14 of the House of Representatives and the Committee  
15 on Finance and the Committee on Energy and Nat-  
16 ural Resources of the Senate.

## 17 **TITLE III—OTHER PROVISIONS**

### 18 **SEC. 301. COMPASSION CAPITAL FUND.**

19 Title IV of the Social Security Act (42 U.S.C. 601–  
20 679b) is amended by adding at the end the following:

#### 21 **“PART F—COMPASSION CAPITAL FUND**

22 **“SEC. 481. SECRETARY’S FUND TO SUPPORT AND REP-**  
23 **LICATE PROMISING SOCIAL SERVICE PRO-**  
24 **GRAMS.**

25 **“(a) GRANT AUTHORITY.—**



1           “(1) IN GENERAL.—The Secretary may make  
2           grants to support any private entity that operates a  
3           promising social services program.

4           “(2) APPLICATIONS.—An entity desiring to re-  
5           ceive a grant under paragraph (1) shall submit to  
6           the Secretary an application for the grant, which  
7           shall contain such information as the Secretary may  
8           require.

9           “(b) CONTRACT AUTHORITY, ETC.—The Secretary  
10          may enter into a grant, contract, or cooperative agreement  
11          with any entity under which the entity would provide tech-  
12          nical assistance to another entity to operate a social serv-  
13          ice program that assists persons and families in need, in-  
14          cluding by—

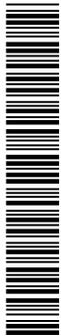
15                 “(1) providing the other entity with—

16                         “(A) technical assistance and information,  
17                         including legal assistance and other business as-  
18                         sistance;

19                         “(B) information on capacity-building;

20                         “(C) information and assistance in identi-  
21                         fying and using best practices for serving per-  
22                         sons and families in need; or

23                         “(D) assistance in replicating programs  
24                         with demonstrated effectiveness in assisting  
25                         persons and families in need; or



1           “(2) supporting research on the best practices  
2           of social service organizations.

3           “(c) GUIDANCE AND TECHNICAL ASSISTANCE.—The  
4 Secretary may use not more than 25 percent of the  
5 amount appropriated under this section for a fiscal year  
6 to provide guidance and technical assistance to States and  
7 political subdivisions of States with respect to the imple-  
8 mentation of any social service program.

9           “(d) SOCIAL SERVICES PROGRAM DEFINED.—In this  
10 section, the term ‘social services program’ means a pro-  
11 gram that provides benefits or services of any kind to per-  
12 sons and families in need.

13           “(e) LIMITATIONS ON AUTHORIZATION OF APPRO-  
14 PRIATIONS.—To carry out this section, there are author-  
15 ized to be appropriated to the Secretary \$150,000,000 for  
16 fiscal year 2004, and such sums as may be necessary for  
17 fiscal years 2005 through 2008.”.

18 **SEC. 302. REAUTHORIZATION OF ASSETS FOR INDEPEND-**  
19 **ENCE DEMONSTRATION.**

20           (a) IN GENERAL.—Section 416 of the Assets for  
21 Independence Act (title IV of Public Law 105–285; 42  
22 U.S.C. 604 note) is amended by striking “and 2003” and  
23 inserting “2003, 2004, 2005, 2006, 2007, and 2008”.

24           (b) REMOVAL OF ECONOMIC LITERACY ACTIVITIES  
25 FROM LIMITATION ON USE OF AMOUNTS IN THE RE-



1 SERVE FUND.—Section 407(c)(3) of such Act (title IV of  
2 Public Law 105–285; 42 U.S.C. 604 note) is amended by  
3 adding at the end the following: “The preceding sentences  
4 of this paragraph shall not apply to amounts used by an  
5 entity for any activity described in paragraph (1)(A).”.

6 (c) ELIGIBILITY EXPANDED TO INCLUDE INDIVID-  
7 UALS IN HOUSEHOLDS WITH INCOME NOT EXCEEDING  
8 50 PERCENT OF AREA MEDIAN INCOME.—Section  
9 408(a)(1) of such Act (title IV of Public Law 105–285;  
10 42 U.S.C. 604 note) is amended to read as follows:

11 “(1) INCOME TEST.—The adjusted gross in-  
12 come of the household—

13 “(A) does not exceed 200 percent of the  
14 poverty line (as determined by the Office of  
15 Management and Budget) or the earned income  
16 amount described in section 32 of the Internal  
17 Revenue Code of 1986 (taking into account the  
18 size of the household); or

19 “(B) does not exceed 50 percent of the  
20 area median income (as determined by the Sec-  
21 retary of Housing and Urban Development) for  
22 the area in which the household is located.”.

23 (d) EXTENSION OF TIME FOR ACCOUNT HOLDERS  
24 TO ACCESS FEDERAL FUNDS.—Section 407(d) of such



1 Act (title IV of Public Law 105–285; 42 U.S.C. 604 note)  
2 is amended—

3 (1) in the subsection heading, by striking  
4 “WHEN PROJECT TERMINATES”; and

5 (2) by striking “upon” and inserting “on the  
6 date that is 6 months after”.

7 (e) VERIFICATION OF POSTSECONDARY EDUCATION  
8 EXPENSES.—Section 404(8)(A) of such Act (title IV of  
9 Public Law 105–285; 42 U.S.C. 604 note) is amended in  
10 the 1st sentence by inserting “or a vendor, but only to  
11 the extent that the expenses are described in a document  
12 which explains the educational items to be purchased, and  
13 the document and the expenses are approved by the quali-  
14 fied entity” before the period.

15 (f) AUTHORITY TO USE EXCESS INTEREST TO FUND  
16 OTHER INDIVIDUAL DEVELOPMENT ACCOUNTS.—Section  
17 410 of such Act (title IV of Public Law 105–285; 42  
18 U.S.C. 604 note) is amended—

19 (1) in subsection (a)(3)—

20 (A) by striking “any interest that has ac-  
21 cued” and inserting “interest that has accrued  
22 during that period”; and

23 (B) by striking the period and inserting “,  
24 but only to the extent that the amount of the  
25 interest does not exceed the amount of interest



1           that has accrued during that period on amounts  
 2           deposited in the account by that individual.”;  
 3           and

4           (2) by adding at the end the following:

5           “(f) USE OF EXCESS INTEREST TO FUND OTHER IN-  
 6   DIVIDUAL DEVELOPMENT ACCOUNTS.—To the extent that  
 7   a qualified entity has an amount that, but for the limita-  
 8   tion in subsection (a)(3), would be required by that sub-  
 9   section to be deposited into the individual development ac-  
 10   count of an individual or into a parallel account main-  
 11   tained by the qualified entity, the qualified entity may de-  
 12   posit the amount into the individual development account  
 13   of any individual or into any such parallel account main-  
 14   tained by the qualified entity.”.

15   **SEC. 303. SENSE OF THE CONGRESS REGARDING COR-**  
 16                           **PORATE CONTRIBUTIONS TO FAITH-BASED**  
 17                           **ORGANIZATIONS, ETC.**

18           (a) FINDINGS.—The Congress finds as follows:

19           (1) America’s community of faith has long  
 20           played a leading role in dealing with difficult societal  
 21           problems that might otherwise have gone  
 22           unaddressed.

23           (2) President Bush has called upon Americans  
 24           “to revive the spirit of citizenship . . . to marshal



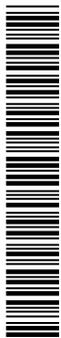
1 the compassion of our people to meet the continuing  
2 needs of our Nation”.

3 (3) Although the work of faith-based organiza-  
4 tions should not be used by government as an excuse  
5 for backing away from its historic and rightful com-  
6 mitment to help those who are disadvantaged and in  
7 need, such organizations can and should be seen as  
8 a valuable partner with government in meeting soci-  
9 etal challenges.

10 (4) Every day faith-based organizations in the  
11 United States help people recover from drug and al-  
12 cohol addiction, provide food and shelter for the  
13 homeless, rehabilitate prison inmates so that they  
14 can break free from the cycle of recidivism, and  
15 teach people job skills that will allow them to move  
16 from poverty to productivity.

17 (5) Faith-based organizations are often more  
18 successful in dealing with difficult societal problems  
19 than government and non-sectarian organizations.

20 (6) As President Bush has stated, “It is not  
21 sufficient to praise charities and community groups;  
22 we must support them. And this is both a public ob-  
23 ligation and a personal responsibility.”.



1           (7) Corporate foundations contribute billions of  
2 dollars each year to a variety of philanthropic  
3 causes.

4           (8) According to a study produced by the Cap-  
5 ital Research Center, the 10 largest corporate foun-  
6 dations in the United States contributed  
7 \$1,900,000,000 to such causes.

8           (9) According to the same study, faith-based or-  
9 ganizations only receive a small fraction of the con-  
10 tributions made by corporations in the United  
11 States, and 6 of the 10 corporations that give the  
12 most to philanthropic causes explicitly ban or re-  
13 strict contributions to faith-based organizations.

14           (b) CORPORATIONS ENCOURAGED TO CONTRIBUTE  
15 TO FAITH-BASED ORGANIZATIONS.—The Congress calls  
16 on corporations in the United States, in the words of the  
17 President, “to give more and to give better” by making  
18 greater contributions to faith-based organizations that are  
19 on the front lines battling some of the great societal chal-  
20 lenges of our day.

21           (c) SENSE OF THE CONGRESS.—It is the sense of  
22 Congress that—

23           (1) corporations in the United States are im-  
24 portant partners with government in efforts to over-  
25 come difficult societal problems; and



1           (2) no corporation in the United States should  
2           adopt policies that prohibit the corporation from  
3           contributing to an organization that is successfully  
4           advancing a philanthropic cause merely because such  
5           organization is faith based.

6           **TITLE IV—SOCIAL SERVICES**  
7           **BLOCK GRANT**

8           **SEC. 401. RESTORATION OF FUNDS FOR THE SOCIAL SERV-**  
9           **ICES BLOCK GRANT.**

10          (a) FINDINGS.—Congress makes the following find-  
11          ings:

12           (1) On August 22, 1996, the Personal Respon-  
13           sibility and Work Opportunity Reconciliation Act of  
14           1996 (Public Law 104–193; 110 Stat. 2105) was  
15           signed into law.

16           (2) In enacting that law, Congress authorized  
17           \$2,800,000,000 for fiscal year 2003 and each fiscal  
18           year thereafter to carry out the Social Services  
19           Block Grant program established under title XX of  
20           the Social Security Act (42 U.S.C. 1397 et seq.).

21          (b) RESTORATION OF FUNDS.—Section 2003(c)(11)  
22          of the Social Security Act (42 U.S.C. 1397b(c)(11)) is  
23          amended by inserting “, except that, with respect to fiscal  
24          year 2004, the amount shall be \$2,800,000,000” after  
25          “thereafter”.



1 **SEC. 402. RESTORATION OF AUTHORITY TO TRANSFER UP**  
2 **TO 10 PERCENT OF TANF FUNDS TO THE SO-**  
3 **CIAL SERVICES BLOCK GRANT.**

4 (a) IN GENERAL.—Section 404(d)(2) of the Social  
5 Security Act (42 U.S.C. 604(d)(2)) is amended to read  
6 as follows:

7 “(2) LIMITATION ON AMOUNT TRANSFERABLE  
8 TO TITLE XX PROGRAMS.—A State may use not  
9 more than 10 percent of the amount of any grant  
10 made to the State under section 403(a) for a fiscal  
11 year to carry out State programs pursuant to title  
12 XX.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 subsection (a) applies to amounts made available for fiscal  
15 year 2004 and each fiscal year thereafter.

16 **SEC. 403. REQUIREMENT TO SUBMIT ANNUAL REPORT ON**  
17 **STATE ACTIVITIES.**

18 (a) IN GENERAL.—Section 2006(c) of the Social Se-  
19 curity Act (42 U.S.C. 1397e(c)) is amended by adding at  
20 the end the following:

21 “The Secretary shall compile the information submitted  
22 by the States and submit that information to Congress  
23 on an annual basis.”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) applies to information submitted by States  
26 under section 2006 of the Social Security Act (42 U.S.C.



1 1397e) with respect to fiscal year 2004 and each fiscal  
2 year thereafter.

3 **TITLE V—ABUSIVE TAX**  
4 **SHELTERS**

5 **SEC. 501. SHORT TITLE.**

6 This title may be cited as the “Abusive Tax Shelter  
7 Shutdown and Taxpayer Accountability Act of 2003”.

8 **SEC. 502. FINDINGS AND PURPOSE.**

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

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

16 (A) the taxation of a transaction is deter-  
17 mined in accordance with its substance and not  
18 merely its form,

19 (B) transactions which have no significant  
20 effect on the taxpayer’s economic or beneficial  
21 interests except for tax benefits are treated as  
22 sham transactions and disregarded,

23 (C) transactions involving multiple steps  
24 are collapsed when those steps have no substan-



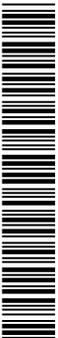
1            tial economic meaning and are merely designed  
2            to create tax benefits,

3            (D) transactions with no business purpose  
4            are not given effect, and

5            (E) in the absence of a specific congres-  
6            sional authorization, it is presumed that Con-  
7            gress did not intend a transaction to result in  
8            a negative tax where the taxpayer's economic  
9            position or rate of return is better after tax  
10           than before tax.

11           (2) Permitting aggressive and abusive tax shel-  
12           ters not only results in large revenue losses but also  
13           undermines voluntary compliance with the Internal  
14           Revenue Code of 1986.

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



1 **Subtitle A—Provisions Designed to**  
2 **Curtail Tax Shelters**

3 **SEC. 511. CLARIFICATION OF ECONOMIC SUBSTANCE DOC-**  
4 **TRINE.**

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

8 “(m) CLARIFICATION OF ECONOMIC SUBSTANCE  
9 DOCTRINE; ETC.—

10 “(1) GENERAL RULES.—

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

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

17 “(i) IN GENERAL.—A transaction has  
18 economic substance only if—

19 “(I) the transaction changes in a  
20 meaningful way (apart from Federal  
21 tax effects and, if there are any Fed-  
22 eral tax effects, also apart from any  
23 foreign, State, or local tax effects) the  
24 taxpayer’s economic position, and



1                   “(II) the taxpayer has a substan-  
2                   tial nontax purpose for entering into  
3                   such transaction and the transaction  
4                   is a reasonable means of accom-  
5                   plishing such purpose.

6                   “(ii) SPECIAL RULE WHERE TAX-  
7                   PAYER RELIES ON PROFIT POTENTIAL.—A  
8                   transaction shall not be treated as having  
9                   economic substance by reason of having a  
10                  potential for profit unless—

11                  “(I) the present value of the rea-  
12                  sonably expected pre-tax profit from  
13                  the transaction is substantial in rela-  
14                  tion to the present value of the ex-  
15                  pected net tax benefits that would be  
16                  allowed if the transaction were re-  
17                  spected, and

18                  “(II) the reasonably expected  
19                  pre-tax profit from the transaction ex-  
20                  ceeds a risk-free rate of return.

21                  “(C) TREATMENT OF FEES AND FOREIGN  
22                  TAXES.—Fees and other transaction expenses  
23                  and foreign taxes shall be taken into account as  
24                  expenses in determining pre-tax profit under  
25                  subparagraph (B)(ii).

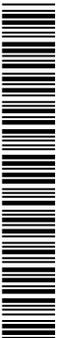


1           “(2) SPECIAL RULES FOR TRANSACTIONS WITH  
2 TAX-INDIFFERENT PARTIES.—

3           “(A) SPECIAL RULES FOR FINANCING  
4 TRANSACTIONS.—The form of a transaction  
5 which is in substance the borrowing of money  
6 or the acquisition of financial capital directly or  
7 indirectly from a tax-indifferent party shall not  
8 be respected if the present value of the deduc-  
9 tions to be claimed with respect to the trans-  
10 action is substantially in excess of the present  
11 value of the anticipated economic returns of the  
12 person lending the money or providing the fi-  
13 nancial capital. A public offering shall be treat-  
14 ed as a borrowing, or an acquisition of financial  
15 capital, from a tax-indifferent party if it is rea-  
16 sonably expected that at least 50 percent of the  
17 offering will be placed with tax-indifferent par-  
18 ties.

19           “(B) ARTIFICIAL INCOME SHIFTING AND  
20 BASIS ADJUSTMENTS.—The form of a trans-  
21 action with a tax-indifferent party shall not be  
22 respected if—

23                   “(i) it results in an allocation of in-  
24 come or gain to the tax-indifferent party in



1 excess of such party's economic income or  
2 gain, or

3 “(ii) it results in a basis adjustment  
4 or shifting of basis on account of over-  
5 stating the income or gain of the tax-indif-  
6 ferent party.

7 “(3) DEFINITIONS AND SPECIAL RULES.—For  
8 purposes of this subsection—

9 “(A) ECONOMIC SUBSTANCE DOCTRINE.—

10 The term ‘economic substance doctrine’ means  
11 the common law doctrine under which tax bene-  
12 fits under subtitle A with respect to a trans-  
13 action are not allowable if the transaction does  
14 not have economic substance or lacks a business  
15 purpose.

16 “(B) TAX-INDIFFERENT PARTY.—The

17 term ‘tax-indifferent party’ means any person  
18 or entity not subject to tax imposed by subtitle  
19 A. A person shall be treated as a tax-indifferent  
20 party with respect to a transaction if the items  
21 taken into account with respect to the trans-  
22 action have no substantial impact on such per-  
23 son’s liability under subtitle A.

24 “(C) SUBSTANTIAL NONTAX PURPOSE.—In

25 applying subclause (II) of paragraph (1)(B)(i),



1 a purpose of achieving a financial accounting  
2 benefit shall not be taken into account in deter-  
3 mining whether a transaction has a substantial  
4 nontax purpose if the origin of such financial  
5 accounting benefit is a reduction of income tax.

6 “(D) EXCEPTION FOR PERSONAL TRANS-  
7 ACTIONS OF INDIVIDUALS.—In the case of an  
8 individual, this subsection shall apply only to  
9 transactions entered into in connection with a  
10 trade or business or an activity engaged in for  
11 the production of income.

12 “(E) TREATMENT OF LESSORS.—In apply-  
13 ing subclause (I) of paragraph (1)(B)(ii) to the  
14 lessor of tangible property subject to a lease,  
15 the expected net tax benefits shall not include  
16 the benefits of depreciation, or any tax credit,  
17 with respect to the leased property and sub-  
18 clause (II) of paragraph (1)(B)(ii) shall be dis-  
19 regarded in determining whether any of such  
20 benefits are allowable.

21 “(4) OTHER COMMON LAW DOCTRINES NOT AF-  
22 FECTED.—Except as specifically provided in this  
23 subsection, the provisions of this subsection shall not  
24 be construed as altering or supplanting any other  
25 rule of law, and the requirements of this subsection



1 shall be construed as being in addition to any such  
2 other rule of law.

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

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

11 **SEC. 512. PENALTY FOR FAILING TO DISCLOSE REPORT-**  
12 **ABLE TRANSACTION.**

13 (a) IN GENERAL.—Part I of subchapter B of chapter  
14 68 (relating to assessable penalties) is amended by insert-  
15 ing after section 6707 the following new section:

16 **“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORT-**  
17 **ABLE TRANSACTION INFORMATION WITH RE-**  
18 **TURN OR STATEMENT.**

19 “(a) IMPOSITION OF PENALTY.—Any person who  
20 fails to include on any return or statement any informa-  
21 tion with respect to a reportable transaction which is re-  
22 quired under section 6011 to be included with such return  
23 or statement shall pay a penalty in the amount determined  
24 under subsection (b).

25 “(b) AMOUNT OF PENALTY.—



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

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

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

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

11                   “(i) a large entity, or

12                   “(ii) a high net worth individual,

13          the penalty under paragraph (1) or (2) shall be  
14          twice the amount determined without regard to  
15          this paragraph.

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



1           448(c) shall apply for purposes of this subpara-  
2           graph.

3           “(C) HIGH NET WORTH INDIVIDUAL.—For  
4           purposes of subparagraph (A), the term ‘high  
5           net worth individual’ means, with respect to a  
6           reportable transaction, a natural person whose  
7           net worth exceeds \$2,000,000 immediately be-  
8           fore the transaction.

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

10           “(1) REPORTABLE TRANSACTION.—The term  
11           ‘reportable transaction’ means any transaction with  
12           respect to which information is required to be in-  
13           cluded with a return or statement because, as deter-  
14           mined under regulations prescribed under section  
15           6011, such transaction is of a type which the Sec-  
16           retary determines as having a potential for tax  
17           avoidance or evasion.

18           “(2) LISTED TRANSACTION.—Except as pro-  
19           vided in regulations, the term ‘listed transaction’  
20           means a reportable transaction which is the same as,  
21           or substantially similar to, a transaction specifically  
22           identified by the Secretary as a tax avoidance trans-  
23           action for purposes of section 6011.

24           “(d) AUTHORITY TO RESCIND PENALTY.—



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

5                   “(A) the violation is with respect to a re-  
6                   portable transaction other than a listed trans-  
7                   action,

8                   “(B) the person on whom the penalty is  
9                   imposed has a history of complying with the re-  
10                  quirements of this title,

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

13                  “(D) imposing the penalty would be  
14                  against equity and good conscience, and

15                  “(E) rescinding the penalty would promote  
16                  compliance with the requirements of this title  
17                  and effective tax administration.

18           “(2) DISCRETION.—The exercise of authority  
19           under paragraph (1) shall be at the sole discretion  
20           of the Commissioner and may be delegated only to  
21           the head of the Office of Tax Shelter Analysis. The  
22           Commissioner, in the Commissioner’s sole discretion,  
23           may establish a procedure to determine if a penalty  
24           should be referred to the Commissioner or the head



1 of such Office for a determination under paragraph  
2 (1).

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

7 “(4) RECORDS.—If a penalty is rescinded under  
8 paragraph (1), the Commissioner shall place in the  
9 file in the Office of the Commissioner the opinion of  
10 the Commissioner or the head of the Office of Tax  
11 Shelter Analysis with respect to the determination,  
12 including—

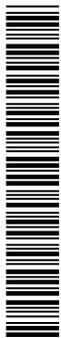
13 “(A) the facts and circumstances of the  
14 transaction,

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

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

17 “(5) REPORT.—The Commissioner shall each  
18 year report to the Committee on Ways and Means  
19 of the House of Representatives and the Committee  
20 on Finance of the Senate—

21 “(A) a summary of the total number and  
22 aggregate amount of penalties imposed, and re-  
23 scinded, under this section, and



1           “(B) a description of each penalty re-  
2           scinded under this subsection and the reasons  
3           therefor.

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

6           “(1) which is required to file periodic reports  
7           under section 13 or 15(d) of the Securities Ex-  
8           change Act of 1934 or is required to be consolidated  
9           with another person for purposes of such reports,  
10          and

11          “(2) which—

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

14           “(B) is required to pay a penalty under  
15           section 6662A with respect to any reportable  
16           transaction at a rate prescribed under section  
17           6662A(c), or

18           “(C) is required to pay a penalty under  
19           section 6662B with respect to any noneconomic  
20           substance transaction,

21 the requirement to pay such penalty shall be disclosed in  
22 such reports filed by such person for such periods as the  
23 Secretary shall specify. Failure to make a disclosure in  
24 accordance with the preceding sentence shall be treated



1 as a failure to which the penalty under subsection (b)(2)  
2 applies.

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

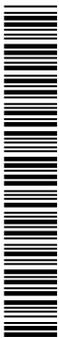
6 (b) CONFORMING AMENDMENT.—The table of sec-  
7 tions for part I of subchapter B of chapter 68 is amended  
8 by inserting after the item relating to section 6707 the  
9 following:

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

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

14 **SEC. 513. ACCURACY-RELATED PENALTY FOR LISTED**  
15 **TRANSACTIONS AND OTHER REPORTABLE**  
16 **TRANSACTIONS HAVING A SIGNIFICANT TAX**  
17 **AVOIDANCE PURPOSE.**

18 (a) IN GENERAL.—Subchapter A of chapter 68 is  
19 amended by inserting after section 6662 the following new  
20 section:



1 **“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PEN-**  
 2 **ALTY ON UNDERSTATEMENTS WITH RESPECT**  
 3 **TO REPORTABLE TRANSACTIONS.**

4 “(a) IMPOSITION OF PENALTY.—If a taxpayer has a  
 5 reportable transaction understatement for any taxable  
 6 year, there shall be added to the tax an amount equal to  
 7 20 percent of the amount of such understatement.

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

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

12 “(A) the product of—

13 “(i) the amount of the increase (if  
 14 any) in taxable income which results from  
 15 a difference between the proper tax treat-  
 16 ment of an item to which this section ap-  
 17 plies and the taxpayer’s treatment of such  
 18 item (as shown on the taxpayer’s return of  
 19 tax), and

20 “(ii) the highest rate of tax imposed  
 21 by section 1 (section 11 in the case of a  
 22 taxpayer which is a corporation), and

23 “(B) the amount of the decrease (if any)  
 24 in the aggregate amount of credits determined  
 25 under subtitle A which results from a difference  
 26 between the taxpayer’s treatment of an item to



1           which this section applies (as shown on the tax-  
2           payer's return of tax) and the proper tax treat-  
3           ment of such item.

4           For purposes of subparagraph (A), any reduction of  
5           the excess of deductions allowed for the taxable year  
6           over gross income for such year, and any reduction  
7           in the amount of capital losses which would (without  
8           regard to section 1211) be allowed for such year,  
9           shall be treated as an increase in taxable income.

10           “(2) ITEMS TO WHICH SECTION APPLIES.—This  
11           section shall apply to any item which is attributable  
12           to—

13                   “(A) any listed transaction, and

14                   “(B) any reportable transaction (other  
15                   than a listed transaction) if a significant pur-  
16                   pose of such transaction is the avoidance or  
17                   evasion of Federal income tax.

18           “(c) HIGHER PENALTY FOR NONDISCLOSED LISTED  
19           AND OTHER AVOIDANCE TRANSACTIONS.—

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



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

3           “(A) IN GENERAL.—If the 1st letter of  
4 proposed deficiency which allows the taxpayer  
5 an opportunity for administrative review in the  
6 Internal Revenue Service Office of Appeals has  
7 been sent with respect to a penalty to which  
8 paragraph (1) applies, only the Commissioner  
9 of Internal Revenue may compromise all or any  
10 portion of such penalty.

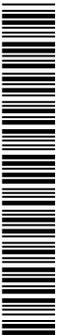
11           “(B) APPLICABLE RULES.—The rules of  
12 paragraphs (3), (4), and (5) of section  
13 6707A(d) shall apply for purposes of subpara-  
14 graph (A).

15           “(d) DEFINITIONS OF REPORTABLE AND LISTED  
16 TRANSACTIONS.—For purposes of this section, the terms  
17 ‘reportable transaction’ and ‘listed transaction’ have the  
18 respective meanings given to such terms by section  
19 6707A(c).

20           “(e) SPECIAL RULES.—

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

24           “(A) the amount of such understatement  
25 (determined without regard to this paragraph)



1 shall be increased by the aggregate amount of  
 2 reportable transaction understatements and  
 3 noneconomic substance transaction understate-  
 4 ments for purposes of determining whether  
 5 such understatement is a substantial under-  
 6 statement under section 6662(d)(1), and

7 “(B) the addition to tax under section  
 8 6662(a) shall apply only to the excess of the  
 9 amount of the substantial understatement (if  
 10 any) after the application of subparagraph (A)  
 11 over the aggregate amount of reportable trans-  
 12 action understatements and noneconomic sub-  
 13 stance transaction understatements.

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

16 “(A) APPLICATION OF FRAUD PENALTY.—  
 17 References to an underpayment in section 6663  
 18 shall be treated as including references to a re-  
 19 portable transaction understatement and a non-  
 20 economic substance transaction understatement.

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



1           “(3) SPECIAL RULE FOR AMENDED RE-  
2           TURNS.—Except as provided in regulations, in no  
3           event shall any tax treatment included with an  
4           amendment or supplement to a return of tax be  
5           taken into account in determining the amount of any  
6           reportable transaction understatement or non-  
7           economic substance transaction understatement if  
8           the amendment or supplement is filed after the ear-  
9           lier of the date the taxpayer is first contacted by the  
10          Secretary regarding the examination of the return or  
11          such other date as is specified by the Secretary.

12                   “(4) NONECONOMIC SUBSTANCE TRANS-  
13                   ACTION UNDERSTATEMENT.—For purposes of  
14                   this subsection, the term ‘noneconomic sub-  
15                   stance transaction understatement’ has the  
16                   meaning given such term by section 6662B(c).

17                   “(5) CROSS REFERENCE.—

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

18          (b) DETERMINATION OF OTHER UNDERSTATE-  
19          MENTS.—Subparagraph (A) of section 6662(d)(2) is  
20          amended by adding at the end the following flush sen-  
21          tence:

22                   “The excess under the preceding sentence shall  
23                   be determined without regard to items to which  
24                   section 6662A applies and without regard to



1 items with respect to which a penalty is im-  
2 posed by section 6662B.”

3 (c) REASONABLE CAUSE EXCEPTION.—

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

6 “(d) REASONABLE CAUSE EXCEPTION FOR REPORT-  
7 ABLE TRANSACTION UNDERSTATEMENTS.—

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

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

17 “(A) the relevant facts affecting the tax  
18 treatment of the item are adequately disclosed  
19 in accordance with the regulations prescribed  
20 under section 6011,

21 “(B) there is or was substantial authority  
22 for such treatment, and

23 “(C) the taxpayer reasonably believed that  
24 such treatment was more likely than not the  
25 proper treatment.



1 A taxpayer failing to adequately disclose in accord-  
2 ance with section 6011 shall be treated as meeting  
3 the requirements of subparagraph (A) if the penalty  
4 for such failure was rescinded under section  
5 6707A(d).

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

8 “(A) IN GENERAL.—A taxpayer shall be  
9 treated as having a reasonable belief with re-  
10 spect to the tax treatment of an item only if  
11 such belief—

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

15 “(ii) relates solely to the taxpayer’s  
16 chances of success on the merits of such  
17 treatment and does not take into account  
18 the possibility that a return will not be au-  
19 dited, such treatment will not be raised on  
20 audit, or such treatment will be resolved  
21 through settlement if it is raised.

22 “(B) CERTAIN OPINIONS MAY NOT BE RE-  
23 LIED UPON.—

24 “(i) IN GENERAL.—An opinion of a  
25 tax advisor may not be relied upon to es-



1 tablish the reasonable belief of a taxpayer  
2 if—

3 “(I) the tax advisor is described  
4 in clause (ii), or

5 “(II) the opinion is described in  
6 clause (iii).

7 “(ii) DISQUALIFIED TAX ADVISORS.—  
8 A tax advisor is described in this clause if  
9 the tax advisor—

10 “(I) is a material advisor (within  
11 the meaning of section 6111(b)(1))  
12 who participates in the organization,  
13 management, promotion, or sale of  
14 the transaction or who is related  
15 (within the meaning of section 267(b)  
16 or 707(b)(1)) to any person who so  
17 participates,

18 “(II) is compensated directly or  
19 indirectly by a material advisor with  
20 respect to the transaction,

21 “(III) has a fee arrangement  
22 with respect to the transaction which  
23 is contingent on all or part of the in-  
24 tended tax benefits from the trans-  
25 action being sustained, or



1                   “(IV) as determined under regu-  
 2                   lations prescribed by the Secretary,  
 3                   has a continuing financial interest  
 4                   with respect to the transaction.

5                   “(iii) DISQUALIFIED OPINIONS.—For  
 6                   purposes of clause (i), an opinion is dis-  
 7                   qualified if the opinion—

8                   “(I) is based on unreasonable  
 9                   factual or legal assumptions (includ-  
 10                  ing assumptions as to future events),

11                  “(II) unreasonably relies on rep-  
 12                  resentations, statements, findings, or  
 13                  agreements of the taxpayer or any  
 14                  other person,

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

17                  “(IV) fails to meet any other re-  
 18                  quirement as the Secretary may pre-  
 19                  scribe.”

20                  (2) CONFORMING AMENDMENT.—The heading  
 21                  for subsection (c) of section 6664 is amended by in-  
 22                  serting “FOR UNDERPAYMENTS” after “EXCEP-  
 23                  TION”.

24                  (d) CONFORMING AMENDMENTS.—



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

4           (2) Paragraph (3) of section 1274(b) is  
5 amended—

6           (A) by striking “(as defined in section  
7 6662(d)(2)(C)(iii))” in subparagraph (B)(i),  
8 and

9           (B) by adding at the end the following new  
10 subparagraph:

11           “(C) TAX SHELTER.—For purposes of sub-  
12 paragraph (B), the term ‘tax shelter’ means—

13           “(i) a partnership or other entity,

14           “(ii) any investment plan or arrange-  
15 ment, or

16           “(iii) any other plan or arrangement,  
17 if a significant purpose of such partnership, en-  
18 tity, plan, or arrangement is the avoidance or  
19 evasion of Federal income tax.”

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

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





1 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**  
2 **UTABLE TO TRANSACTIONS LACKING ECO-**  
3 **NOMIC SUBSTANCE, ETC.**

4 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an  
5 noneconomic substance transaction understatement for  
6 any taxable year, there shall be added to the tax an  
7 amount equal to 40 percent of the amount of such under-  
8 statement.

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

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

18 “(1) IN GENERAL.—The term ‘noneconomic  
19 substance transaction understatement’ means any  
20 amount which would be an understatement under  
21 section 6662A(b)(1) if section 6662A were applied  
22 by taking into account items attributable to non-  
23 economic substance transactions rather than items  
24 to which section 6662A would apply without regard  
25 to this paragraph.



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

4           “(A) there is a lack of economic substance  
5 (within the meaning of section 7701(m)(1)) for  
6 the transaction giving rise to the claimed tax  
7 benefit or the transaction was not respected  
8 under section 7701(m)(2), or

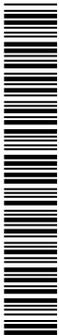
9           “(B) the transaction fails to meet the re-  
10 quirements of any similar rule of law.

11       “(d) RULES APPLICABLE TO COMPROMISE OF PEN-  
12 ALTY.—

13       “(1) IN GENERAL.—If the 1st letter of pro-  
14 posed deficiency which allows the taxpayer an oppor-  
15 tunity for administrative review in the Internal Rev-  
16 enue Service Office of Appeals has been sent with  
17 respect to a penalty to which this section applies,  
18 only the Commissioner of Internal Revenue may  
19 compromise all or any portion of such penalty.

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

23       “(e) COORDINATION WITH OTHER PENALTIES.—Ex-  
24 cept as otherwise provided in this part, the penalty im-



1 posed by this section shall be in addition to any other pen-  
2 alty imposed by this title.

3 “(f) CROSS REFERENCES.—

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

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

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

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

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

11 **SEC. 515. MODIFICATIONS OF SUBSTANTIAL UNDERSTATE-**  
12 **MENT PENALTY FOR NONREPORTABLE**  
13 **TRANSACTIONS.**

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

17 “(B) SPECIAL RULE FOR CORPORA-  
18 TIONS.—In the case of a corporation other than  
19 an S corporation or a personal holding company  
20 (as defined in section 542), there is a substan-  
21 tial understatement of income tax for any tax-



1           able year if the amount of the understatement  
2           for the taxable year exceeds the lesser of—

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

6                   “(ii) \$10,000,000.”

7           (b) REDUCTION FOR UNDERSTATEMENT OF TAX-  
8 PAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED  
9 ITEM.—

10           (1) IN GENERAL.—Section 6662(d)(2)(B)(i)  
11           (relating to substantial authority) is amended to  
12           read as follows:

13                   “(i) the tax treatment of any item by  
14                   the taxpayer if the taxpayer had reason-  
15                   able belief that the tax treatment was more  
16                   likely than not the proper treatment, or”.

17           (2) CONFORMING AMENDMENT.—Section  
18           6662(d) is amended by adding at the end the fol-  
19           lowing new paragraph:

20                   “(3) SECRETARIAL LIST.—For purposes of this  
21                   subsection, section 6664(d)(2), and section  
22                   6694(a)(1), the Secretary may prescribe a list of po-  
23                   sitions for which the Secretary believes there is not  
24                   substantial authority or there is no reasonable belief  
25                   that the tax treatment is more likely than not the



1 proper tax treatment. Such list (and any revisions  
2 thereof) shall be published in the Federal Register  
3 or the Internal Revenue Bulletin.”

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

7 **SEC. 516. TAX SHELTER EXCEPTION TO CONFIDENTIALITY**  
8 **PRIVILEGES RELATING TO TAXPAYER COM-**  
9 **MUNICATIONS.**

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

13 “(b) SECTION NOT TO APPLY TO COMMUNICATIONS  
14 REGARDING TAX SHELTERS.—The privilege under sub-  
15 section (a) shall not apply to any written communication  
16 which is—

17 “(1) between a federally authorized tax practi-  
18 tioner and—

19 “(A) any person,

20 “(B) any director, officer, employee, agent,  
21 or representative of the person, or

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



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

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

7           **SEC. 517. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

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

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

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

15                 “(1) information identifying and describing the  
16          transaction,

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

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

21          Such return shall be filed not later than the date specified  
22          by the Secretary.

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

24                 “(1) MATERIAL ADVISOR.—



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

3                   “(i) who provides any material aid,  
4                   assistance, or advice with respect to orga-  
5                   nizing, promoting, selling, implementing,  
6                   or carrying out any reportable transaction,  
7                   and

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

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

13                   “(i) \$50,000 in the case of a report-  
14                   able transaction substantially all of the tax  
15                   benefits from which are provided to nat-  
16                   ural persons, and

17                   “(ii) \$250,000 in any other case.

18           “(2) REPORTABLE TRANSACTION.—The term  
19           ‘reportable transaction’ has the meaning given to  
20           such term by section 6707A(c).

21           “(c) REGULATIONS.—The Secretary may prescribe  
22           regulations which provide—

23                   “(1) that only 1 person shall be required to  
24                   meet the requirements of subsection (a) in cases in



1 which 2 or more persons would otherwise be re-  
2 quired to meet such requirements,

3 “(2) exemptions from the requirements of this  
4 section, and

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

7 (b) CONFORMING AMENDMENTS.—

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

“Sec. 6111. Disclosure of reportable transactions.”

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

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

15 “(a) IN GENERAL.—Each material advisor (as de-  
16 fined in section 6111) with respect to any reportable  
17 transaction (as defined in section 6707A(c)) shall main-  
18 tain, in such manner as the Secretary may by regulations  
19 prescribe, a list—

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

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



1 This section shall apply without regard to whether a mate-  
2 rial advisor is required to file a return under section 6111  
3 with respect to such transaction.”

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

6 (C) Section 6112(b), as redesignated by sub-  
7 paragraph (B), is amended—

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

10 (ii) by striking “shall prescribe” in para-  
11 graph (2) and inserting “may prescribe”.

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

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

15 (3)(A) The heading for section 6708 is amend-  
16 ed to read as follows:

17 **“SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES**  
18 **WITH RESPECT TO REPORTABLE TRANS-**  
19 **ACTIONS.”**

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

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



1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to transactions with respect to  
3 which material aid, assistance, or advice referred to in sec-  
4 tion 6111(b)(1)(A)(i) of the Internal Revenue Code of  
5 1986 (as added by this section) is provided after the date  
6 of the enactment of this Act.

7 **SEC. 518. MODIFICATIONS TO PENALTY FOR FAILURE TO**  
8 **REGISTER TAX SHELTERS.**

9 (a) IN GENERAL.—Section 6707 (relating to failure  
10 to furnish information regarding tax shelters) is amended  
11 to read as follows:

12 **“SEC. 6707. FAILURE TO FURNISH INFORMATION REGARD-**  
13 **ING REPORTABLE TRANSACTIONS.**

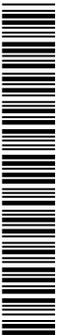
14 “(a) IN GENERAL.—If a person who is required to  
15 file a return under section 6111(a) with respect to any  
16 reportable transaction—

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

19 “(2) files false or incomplete information with  
20 the Secretary with respect to such transaction,

21 such person shall pay a penalty with respect to such return  
22 in the amount determined under subsection (b).

23 “(b) AMOUNT OF PENALTY.—



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

4           “(2) LISTED TRANSACTIONS.—The penalty im-  
5           posed under subsection (a) with respect to any listed  
6           transaction shall be an amount equal to the greater  
7           of—

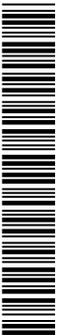
8                     “(A) \$200,000, or

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

15           Subparagraph (B) shall be applied by substituting  
16           ‘75 percent’ for ‘50 percent’ in the case of an inten-  
17           tional failure or act described in subsection (a).

18           “(c) RESCISSION AUTHORITY.—The provisions of  
19           section 6707A(d) (relating to authority of Commissioner  
20           to rescind penalty) shall apply to any penalty imposed  
21           under this section.

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



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

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

8 **SEC. 519. MODIFICATION OF PENALTY FOR FAILURE TO**  
9 **MAINTAIN LISTS OF INVESTORS.**

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

12 “(a) IMPOSITION OF PENALTY.—

13 “(1) IN GENERAL.—If any person who is re-  
14 quired to maintain a list under section 6112(a) fails  
15 to make such list available upon written request to  
16 the Secretary in accordance with section  
17 6112(b)(1)(A) within 20 business days after the  
18 date of the Secretary’s request, such person shall  
19 pay a penalty of \$10,000 for each day of such fail-  
20 ure after such 20th day.

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



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

4 **SEC. 520. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN**  
5 **CONDUCT RELATED TO TAX SHELTERS AND**  
6 **REPORTABLE TRANSACTIONS.**

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

12 “(a) AUTHORITY TO SEEK INJUNCTION.—A civil ac-  
13 tion in the name of the United States to enjoin any person  
14 from further engaging in specified conduct may be com-  
15 menced at the request of the Secretary. Any action under  
16 this section shall be brought in the district court of the  
17 United States for the district in which such person resides,  
18 has his principal place of business, or has engaged in spec-  
19 ified conduct. The court may exercise its jurisdiction over  
20 such action (as provided in section 7402(a)) separate and  
21 apart from any other action brought by the United States  
22 against such person.

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





1 **SEC. 521. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY**  
2 **INCOME TAX RETURN PREPARER.**

3 (a) STANDARDS CONFORMED TO TAXPAYER STAND-  
4 ARDS.—Section 6694(a) (relating to understatements due  
5 to unrealistic positions) is amended—

6 (1) by striking “realistic possibility of being  
7 sustained on its merits” in paragraph (1) and in-  
8 serting “reasonable belief that the tax treatment in  
9 such position was more likely than not the proper  
10 treatment”,

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

14 (3) by striking “UNREALISTIC” in the heading  
15 and inserting “IMPROPER”.

16 (b) AMOUNT OF PENALTY.—Section 6694 is  
17 amended—

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

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

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



1 **SEC. 522. PENALTY ON FAILURE TO REPORT INTERESTS IN**  
2 **FOREIGN FINANCIAL ACCOUNTS.**

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

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

7 “(A) PENALTY AUTHORIZED.—The Sec-  
8 retary of the Treasury may impose a civil  
9 money penalty on any person who violates, or  
10 causes any violation of, any provision of section  
11 5314.

12 “(B) AMOUNT OF PENALTY.—

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

17 “(ii) REASONABLE CAUSE EXCEP-  
18 TION.—No penalty shall be imposed under  
19 subparagraph (A) with respect to any vio-  
20 lation if—

21 “(I) such violation was due to  
22 reasonable cause, and

23 “(II) the amount of the trans-  
24 action or the balance in the account  
25 at the time of the transaction was  
26 properly reported.



1           “(C) WILLFUL VIOLATIONS.—In the case  
2 of any person willfully violating, or willfully  
3 causing any violation of, any provision of sec-  
4 tion 5314—

5           “(i) the maximum penalty under sub-  
6 paragraph (B)(i) shall be increased to the  
7 greater of—

8                   “(I) \$25,000, or

9                   “(II) the amount (not exceeding  
10 \$100,000) determined under subpara-  
11 graph (D), and

12           “(ii) subparagraph (B)(ii) shall not  
13 apply.

14           “(D) AMOUNT.—The amount determined  
15 under this subparagraph is—

16           “(i) in the case of a violation involving  
17 a transaction, the amount of the trans-  
18 action, or

19           “(ii) in the case of a violation involv-  
20 ing a failure to report the existence of an  
21 account or any identifying information re-  
22 quired to be provided with respect to an  
23 account, the balance in the account at the  
24 time of the violation.”



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

4 **SEC. 523. FRIVOLOUS TAX SUBMISSIONS.**

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

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

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

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

12 “(A) does not contain information on  
13 which the substantial correctness of the self-as-  
14 sessment may be judged, or

15 “(B) contains information that on its face  
16 indicates that the self-assessment is substan-  
17 tially incorrect; and

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

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

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

24 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS  
25 SUBMISSIONS.—



1           “(1) IMPOSITION OF PENALTY.—Except as pro-  
 2           vided in paragraph (3), any person who submits a  
 3           specified frivolous submission shall pay a penalty of  
 4           \$5,000.

5           “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For  
 6           purposes of this section—

7                   “(A) SPECIFIED FRIVOLOUS SUBMIS-  
 8                   SION.—The term ‘specified frivolous submis-  
 9                   sion’ means a specified submission if any por-  
 10                   tion of such submission—

11                           “(i) is based on a position which the  
 12                           Secretary has identified as frivolous under  
 13                           subsection (c), or

14                           “(ii) reflects a desire to delay or im-  
 15                           pede the administration of Federal tax  
 16                           laws.

17                   “(B) SPECIFIED SUBMISSION.—The term  
 18                   ‘specified submission’ means—

19                           “(i) a request for a hearing under—

20                                   “(I) section 6320 (relating to no-  
 21                                   tice and opportunity for hearing upon  
 22                                   filing of notice of lien), or

23                                   “(II) section 6330 (relating to  
 24                                   notice and opportunity for hearing be-  
 25                                   fore levy), and



1 “(ii) an application under—

2 “(I) section 6159 (relating to  
3 agreements for payment of tax liabil-  
4 ity in installments),

5 “(II) section 7122 (relating to  
6 compromises), or

7 “(III) section 7811 (relating to  
8 taxpayer assistance orders).

9 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-  
10 SION.—If the Secretary provides a person with no-  
11 tice that a submission is a specified frivolous sub-  
12 mission and such person withdraws such submission  
13 within 30 days after such notice, the penalty im-  
14 posed under paragraph (1) shall not apply with re-  
15 spect to such submission.

16 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-  
17 retary shall prescribe (and periodically revise) a list of po-  
18 sitions which the Secretary has identified as being frivo-  
19 lous for purposes of this subsection. The Secretary shall  
20 not include in such list any position that the Secretary  
21 determines meets the requirement of section  
22 6662(d)(2)(B)(ii)(II).

23 “(d) REDUCTION OF PENALTY.—The Secretary may  
24 reduce the amount of any penalty imposed under this sec-  
25 tion if the Secretary determines that such reduction would



1 promote compliance with and administration of the Fed-  
2 eral tax laws.

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

6 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR  
7 HEARINGS BEFORE LEVY.—

8 (1) FRIVOLOUS REQUESTS DISREGARDED.—

9 Section 6330 (relating to notice and opportunity for  
10 hearing before levy) is amended by adding at the  
11 end the following new subsection:

12 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—

13 Notwithstanding any other provision of this section, if the  
14 Secretary determines that any portion of a request for a  
15 hearing under this section or section 6320 meets the re-  
16 quirement of clause (i) or (ii) of section 6702(b)(2)(A),  
17 then the Secretary may treat such portion as if it were  
18 never submitted and such portion shall not be subject to  
19 any further administrative or judicial review.”

20 (2) PRECLUSION FROM RAISING FRIVOLOUS

21 ISSUES AT HEARING.—Section 6330(c)(4) is  
22 amended—

23 (A) by striking “(A)” and inserting

24 “(A)(i)”;

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



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

3 (D) by inserting after subparagraph (A)(ii)  
4 (as so redesignated) the following:

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

7 (3) STATEMENT OF GROUNDS.—Section  
8 6330(b)(1) is amended by striking “under sub-  
9 section (a)(3)(B)” and inserting “in writing under  
10 subsection (a)(3)(B) and states the grounds for the  
11 requested hearing”.

12 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR  
13 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section  
14 6320 is amended—

15 (1) in subsection (b)(1), by striking “under sub-  
16 section (a)(3)(B)” and inserting “in writing under  
17 subsection (a)(3)(B) and states the grounds for the  
18 requested hearing”, and

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

21 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR  
22 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-  
23 MENTS.—Section 7122 is amended by adding at the end  
24 the following new subsection:



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

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

“Sec. 6702. Frivolous tax submissions.”

14           (f) EFFECTIVE DATE.—The amendments made by  
15 this section shall apply to submissions made and issues  
16 raised after the date on which the Secretary first pre-  
17 scribes a list under section 6702(e) of the Internal Rev-  
18 enue Code of 1986, as amended by subsection (a).

19 **SEC. 524. REGULATION OF INDIVIDUALS PRACTICING BE-**  
20 **FORE THE DEPARTMENT OF TREASURY.**

21           (a) CENSURE; IMPOSITION OF PENALTY.—

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

24                           (A) by inserting “, or censure,” after “De-  
25 partment”, and



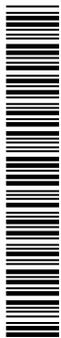
1 (B) by adding at the end the following new  
2 flush sentence:

3 “The Secretary may impose a monetary penalty on any  
4 representative described in the preceding sentence. If the  
5 representative was acting on behalf of an employer or any  
6 firm or other entity in connection with the conduct giving  
7 rise to such penalty, the Secretary may impose a monetary  
8 penalty on such employer, firm, or entity if it knew, or  
9 reasonably should have known, of such conduct. Such pen-  
10 alty shall not exceed the gross income derived (or to be  
11 derived) from the conduct giving rise to the penalty and  
12 may be in addition to, or in lieu of, any suspension, disbar-  
13 ment, or censure.”

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

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

20 “(d) Nothing in this section or in any other provision  
21 of law shall be construed to limit the authority of the Sec-  
22 retary of the Treasury to impose standards applicable to  
23 the rendering of written advice with respect to any entity,  
24 transaction plan or arrangement, or other plan or arrange-



1 ment, which is of a type which the Secretary determines  
2 as having a potential for tax avoidance or evasion.”

3 **SEC. 525. PENALTY ON PROMOTERS OF TAX SHELTERS.**

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

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

16 **SEC. 526. STATUTE OF LIMITATIONS FOR TAXABLE YEARS**  
17 **FOR WHICH LISTED TRANSACTIONS NOT RE-**  
18 **PORTED.**

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

22 “(C) LISTED TRANSACTIONS.—If a tax-  
23 payer fails to include on any return or state-  
24 ment for any taxable year any information with  
25 respect to a listed transaction (as defined in



1 section 6707A(c)(2)) which is required under  
2 section 6011 to be included with such return or  
3 statement, the tax for such taxable year may be  
4 assessed, or a proceeding in court for collection  
5 of such tax may be begun without assessment,  
6 at any time within 6 years after the time the  
7 return is filed. This subparagraph shall not  
8 apply to any taxable year if the time for assess-  
9 ment or beginning the proceeding in court has  
10 expired before the time a transaction is treated  
11 as a listed transaction under section 6011.”

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to transactions after the date of  
14 the enactment of this Act in taxable years ending after  
15 such date.

16 **SEC. 527. DENIAL OF DEDUCTION FOR INTEREST ON UN-**  
17 **DERPAYMENTS ATTRIBUTABLE TO NONDIS-**  
18 **CLOSED REPORTABLE AND NONECONOMIC**  
19 **SUBSTANCE TRANSACTIONS.**

20 (a) IN GENERAL.—Section 163 (relating to deduction  
21 for interest) is amended by redesignating subsection (m)  
22 as subsection (n) and by inserting after subsection (l) the  
23 following new subsection:

24 “(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE  
25 TO NONDISCLOSED REPORTABLE TRANSACTIONS AND



1 NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduc-  
2 tion shall be allowed under this chapter for any interest  
3 paid or accrued under section 6601 on any underpayment  
4 of tax which is attributable to—

5 “(1) the portion of any reportable transaction  
6 understatement (as defined in section 6662A(b))  
7 with respect to which the requirement of section  
8 6664(d)(2)(A) is not met, or

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

11 (b) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to transactions after the date of  
13 the enactment of this Act in taxable years ending after  
14 such date.

15 **Subtitle B—Affirmation of Consoli-**  
16 **dated Return Regulation Au-**  
17 **thority**

18 **SEC. 531. AFFIRMATION OF CONSOLIDATED RETURN REGU-**  
19 **LATION AUTHORITY.**

20 (a) IN GENERAL.—Section 1502 (relating to consoli-  
21 dated return regulations) is amended by adding at the end  
22 the following new sentence: “In prescribing such regula-  
23 tions, the Secretary may prescribe rules applicable to cor-  
24 porations filing consolidated returns under section 1501



1 that are different from other provisions of this title that  
2 would apply if such corporations filed separate returns.”

3 (b) RESULT NOT OVERTURNED.—Notwithstanding  
4 subsection (a), the Internal Revenue Code of 1986 shall  
5 be construed by treating Treasury regulation § 1.1502–  
6 20(c)(1)(iii) (as in effect on January 1, 2001) as being  
7 inapplicable to the type of factual situation in 255 F.3d  
8 1357 (Fed. Cir. 2001).

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

